

United States Department of the Interior



PART 370 DEPARTMENTAL MANUAL 735 REGULATIONS GOVERNING RESPONSIBILITIES AND CONDUCT OF EMPLOYEES

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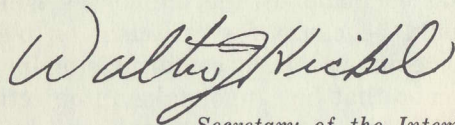
Secretary of the Interior

FOREWORD

Employees of the Department of the Interior have significant responsibilities in the field of natural resources as well as matters affecting their environment. Decisions in this field involve vital policy considerations which have national and international ramifications. It is of vital importance that personnel within the Department set a high standard of performance within the guidelines of unusually high ethical conduct so there will be no basis for criticism from the general public or the private public sectors which we serve. There must be no personal interests or associations held or made by the employees which would be cause for criticism or place the employee in a compromising position so that he cannot take an objective and unbiased view on matters affecting decisions on issues which are sensitive and controversial.

In an effort to achieve such goals and to furnish guidelines for this purpose, I endorse the Department's present instructions on employee responsibility and conduct. So that each employee may be familiar with these guidelines, they are furnished to you in booklet form. You should observe them as a set of principles for your conduct.

I feel confident that by each employee conscientiously making this effort it will materially assist the Department in maintaining the respect and confidence of the public as we manage our programs.



Secretary of the Interior

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Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT

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AUTHORITY: The provisions of this Part 20 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

SOURCE: The provisions of this Part 20 appear at 33 F.R. 1046, Jan. 26, 1968, unless otherwise noted.

Subpart A—General Provisions

§ 20.735-1 Purpose.

(a) *Policy on employee conduct.* The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. Employees of the Department are expected to comply with all Federal statutes and with regulations issued by the Civil Service Commission and by the Department. Legal requirements are essentially concerned with official conduct, i.e., the behavior of the employee in the course of or in relation to his official duties. Employees of the De-

partment are required to conduct themselves in such a manner that the work of the Department is effectively accomplished and to observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public or its clientele. Personal and private conduct of an employee (as opposed to official conduct), that reflects adversely upon the dignity and prestige of the Federal Service, is also a matter of concern to Departmental management. All employees are expected to cultivate those personal qualities which characterize a good civil servant—loyalty to the United States, a deep sense of responsibility for the public trust, and a standard of personal deportment which will be a credit to the individual.

(b) *Subordination to authority.* An employee is required to carry out the announced policies and programs of the Department. While policies related to his work are under consideration, he may, and is expected to express his opinions and points of view; but once a decision has been rendered by those in authority, he will be expected unreservedly to assure the success of programs which it is his responsibility to effectuate. If he fails to carry out any lawful regulation, order, or policy, or deliberately refuses to obey the proper requests of his superiors having responsibility for his performance, he is subject to appropriate disciplinary action.

(c) *Bureau responsibility.* Heads of bureaus and offices shall establish and maintain internal procedures by means of which all employees are adequately and systematically informed of the content, meaning, and im-

portance of the regulations in this part. Copies of the regulations in this part shall be given to each employee and special Government employee within 90 days from the date of the regulations in this part and upon entrance to duty. Each bureau and office shall remind its employees and special Government employees of the regulations in this part periodically, at least once annually, through a publication or memorandum issued to all employees.

(d) *Employee responsibility.* It is the responsibility of employees to familiarize themselves, and to comply with the regulations in this part. Employees are expected to consult with their supervisors and personnel officers on general questions they may have regarding the applicability of the regulations. On specific matters and for guidance on questions of conflict of interest they will receive authoritative advice and guidance from Bureau Counselors, Deputy Counselors, or the Departmental Counselor.

(e) *Supplementary regulations.* The head of the bureau or office may issue supplementary regulations, but such supplementary regulations must be submitted to the Department for approval before they are issued.

§ 20.735-2 Definitions.

(a) "Agency" means the Department of the Interior.

(b) "Employee" means an officer or employee of the Department, but does not include a special Government employee.

(c) "Executive order" means Executive Order 11222 of May 8, 1965.

(d) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(e) "Special Government employee" means an officer or employee of the Department of the Interior who is retained, designated, appointed or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

§ 20.735-3 Interpretation and advisory service.

(a) *Designation of Counselors.* (1) The Director of Survey and Review in the Office of the Assistant Secretary for Administration is designated to serve as Counselor for the Department, and shall be responsible for providing direct advice, assistance, interpretation, and guidance to each employee and special Government employee who requests advice on a particular factual situation, or interpretation of the Department's regulations relating to conduct matters.

(2) Each Bureau Head shall immediately designate his bureau personnel officer as Bureau Counselor; he shall further designate each personnel officer at regional level or equivalent as Bureau Deputy Counselor. Each employee and special Government employee shall be informed of the name, address, and telephone number of the Counselor in his area by a Bureau of Office written notice. Any changes shall be communicated to each em-

ployee or special Government employee in the same manner. No designation of Deputy Counselor shall be made at project, reservation, district levels or below.

(3) The Chief, Division of Personnel, Office of Management Operations, is designated Deputy Counselor for employees and special Government employees of the Office of the Secretary and other Offices for which personnel services are provided by his Division.

(b) *Channels for counseling.* (1) It is the Department's policy to encourage responsible disposition of counseling requests by the Bureau Deputy Counselors for matters of field origin or by Bureau Counselors for matters of headquarters origin. Any employee or special Government employee so desiring, however, may refer his request for counseling directly to the Departmental Counselor.

(2) Counseling provided by Bureau Deputy Counselors involving any question of conflict of interest shall be in cooperation with the Regional Solicitor or a Field Solicitor designated by the Regional Solicitor. The Departmental Counselor and Bureau Counselors will similarly cooperate with the headquarters Office of the Solicitor.

(3) In order that the Departmental Counselor may be informed as to the content and scope of counseling at bureau levels, field or headquarters, the Bureau Counselor will be responsible for communicating a summary of each such counseling action to the Departmental Counselor on a concurrent basis: *Provided, however,* That such reporting is required only as to counseling in regard to conflict of inter-

est questions. The Departmental Counselor will coordinate his review of these reported data with the Office of the Solicitor.

§ 20.735-4 Disciplinary and other remedial action.

(a) Violations of the regulations in this part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) After consideration of the statements of employment and financial interests submitted by the employee or special Government employee and the explanation of such employee as required in the regulations in this part (see Subpart D of this part) if the Secretary or his designee decides that remedial action is required, he shall take immediate action to end the conflict or appearance of conflict of interest. Remedial action may include, but is not limited to:

- (1) Changes in assigned duties;
- (2) Divestment by employee or special Government employee of his conflicting interest;
- (3) Disciplinary action; or
- (4) Disqualification for a particular assignment.

(c) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, or regulations.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 20735-11 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (f) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who (1) has, or is seeking to obtain, contractual or other business or financial relations with this Department; (2) conducts operations or activities that are regulated by this Department; or, (3) has interests that may be substantially affected by the performance or nonperformance of his official duty. Except as specifically authorized by law, employees are not authorized to accept on behalf of the United States voluntary donations or cash contributions from private sources for travel expenses, or the furnishing of services in kind, such as hotel accommodations, meals, and travel accommodations.

(b) (1) The prohibitions of paragraph (a) of this section do not apply in the context of obvious family or personal relationships, such as those between the parents, children, or spouse of the employee and the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) An employee may accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or

dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) An employee may accept loans from banks or other financial institutions on customary terms to finance proper and usual activities, such as home mortgage loans;

(4) An employee may accept unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(f) Neither this section nor § 20.735-12 prohibits receipt of bona fide reimbursement, unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, and payment may not be made on his behalf, for excessive personal living expenses, gifts, or entertainment nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement proscribed by Decision B-128527 of the Comptroller General, dated March 7, 1967.

§ 20.735-12 Outside work and interests.

(a) *Policy.* Outside work is permitted to the extent that it does not prevent an employee from devoting his primary interests, talents, and energies to the accomplishments of his work for the Department or tend to create a conflict between the private interests of an employee and his official responsibilities. The employee's outside employment shall not reflect discredit on the Government or his agency.

(b) *Definitions.* (1) The term "outside work" means all gainful employment other than the performance of official duties. It includes, but is not limited to self-employment, working for another employer, the manage-

ment or operation of a private business for profit (including personally owned businesses, partnerships, corporations, and other business entities).

(2) The term "active proprietary management" as used in relation to outside work refers to a business affiliation in which substantial ownership is coupled with responsibility for day to day management effort in making decisions, supervising operations, dealing with the public and otherwise discharging essential tasks in the direction of the business.

(3) A situation which may involve a "conflict of interest" is one in which a Federal employee's private interest, usually of an economic nature, conflicts or raises a reasonable question of conflict with his public duties and responsibilities. The potential conflict is of concern whether it is real or only apparent.

(c) *Restrictions.* (1) An employee shall not engage in outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Any activity involving an incompatibility of interest is prohibited. Any work assignment or employment affiliation which might encourage on the part of members of the general public a reasonable presumption of a conflict of interest falls in this category. Incompatible activities include but are not limited to:

(i) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(ii) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(2) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government (18 U.S.C. 209).

(3) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, Civil Service regulations, or the regulations in this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Secretary of the Interior or his designee gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by section 401(a) of the Executive order, and the Under Secretary, Assistant Secretaries, heads of bureaus and other Departmental offices, and key fulltime officials who report directly to the Secretary as his principal assistants, shall not receive compensation or anything of monetary value for any consultation lecture, discussion, writing, or appearance the subject matter of

which is devoted substantially to the responsibilities, programs, or operations of this Department, or which draws substantially on official data or ideas which have not become part of the body of public information.

(4) Among other things, abuse of leave privileges to engage in outside work shall be treated as an interference with official performance.

(5) Active proprietary management of any except the smallest business is questionable because of the probability that such management responsibilities may interfere with the employee's obligations to his primary employer, the Federal Government. Employees are especially urged to seek the advice of their counselors before committing themselves to such activities.

(6) An employee shall not perform outside work:

(i) Which is of such a nature that it may be reasonably construed by the public to be the official act of the Department; or

(ii) Which involves the use of Government facilities, equipment, and supplies of whatever kind; or

(iii) Which involves the use of official information not available to the public.

(7) While an employee is not prohibited from performing outside work solely because the work is of the same general nature as the work he performs for the Government, no employee may perform outside work:

(i) If the work is such that he would be expected to do it as a part of his regular duties; or

(ii) If the work involves active proprietary management of a business closely related to the official work of the employee; or

(iii) If the work for a private employer is of the same type as or closely akin to that involved in the program responsibilities of the bureau or office in which he is employed; or

(iv) If the work would tend to influence the exercise of impartial judgment on any matters coming before the employee in the course of his official duties.

(8) This section does not preclude an employee from:

(i) Participation in the activities of national or State political parties not proscribed by law;

(ii) Participation in the affairs of, or acceptance of an award for, meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

[33 F.R. 1046, Jan. 26, 1968, as amended at 33 F.R. 16144, Nov. 5, 1968]

§ 20.735-14 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, the Executive order, Civil Service regulations, or the regulations in this part.

§ 20.735-15 Government property.

(a) *General responsibility.* Employees shall be held accountable for Government property and moneys entrusted to their individual use of in connection with their official duties. It is their responsibility to protect the conserve Government property and to use it economically and for official purposes only.

(b) *Misuse of Government vehicles.* Employees shall not use or authorize the use of a Government owned or leased motor vehicle for other than official purposes. (See Departmental Manual Part 416, Chapter 1.)

§ 20.735-16 Information.

It is the policy of the Department to accord the public access to information about its activities and to make available to the public records of the Department except in the cases where the disclosure of the record is prohibited by statute or Executive order or the record is exempt from the disclosure requirements of the Public Information Act (Public Law 90-23) and sound grounds exist which require application of an applicable exemption. An employee may not testify in any judicial or administrative proceedings concerning matters related to the business of the Government

without the permission of the head of the bureau, his designee, or the Secretary of the Interior, or his designee. (See Part 2 of this subtitle, as revised July 3, 1967.)

§ 20.735-17 Indebtedness.

(a) *Employees responsibility.* An employee should pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which a bureau of office or the Department determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require a bureau or office or the Department to determine the validity or amount of the disputed debt. Timely payment of any debt owed to the Government of the United States is an important personal responsibility of each employee concerned. An employee who fails to liquidate an obligation such as refunds of overpayments, travel advances, and income taxes promptly when due is a source of embarrassment to the Department and his salary is subject to seizure. He is also subject to removal from the service or to other disciplinary action. An employee who fails promptly to liquidate a final administrative determination of indebtedness for State or local taxes when due is a source of embarrassment to the Department and is subject to re-

moval from the service or to other disciplinary action.

(b) *Departmental responsibility.* The Department will not act as a collection agency for private debts owed by its employees. Each bureau shall handle debt complaint letters received by it. Debt letters concerning bureau employees received in the Office of the Secretary shall be referred to the Director of Personnel for handling with the bureau concerned. Debt letters concerning employees in the Office of the Secretary or in other departmental units shall be referred to the Director of Management Operations for handling.

(c) *Routine debt letters.* Normally, the original letter shall be routed to the employee and he shall be instructed to handle the transaction direct with the creditor. When the creditor's letter is routed to the employee for direct handling, it should also be acknowledged with advice that the matter is being called to the attention of the employee. If a debt letter does not contain sufficient information to provide a basis for satisfactory handling with the employee, the creditor may be requested to furnish information such as the following: The method used in establishing the employee's credit; the date and amount of original debt; the schedule of payments agreed upon; the date and amount of each payment made; the current balance owed; the action taken to collect. When it is deemed advisable, the employee may be called upon to furnish a written statement concerning the claim of he may be interviewed for the purpose of arranging an equitable settlement with the creditor. If a statement is furnished by the employee or if

he is interviewed, the creditor may be sent a copy of the statement of may be informed of the results of the interview with the employee.

(d) *Access to employees.* Whether by telephone or otherwise, creditors or collectors shall not have access to employees on premises occupied by the Department during working hours. If, nevertheless, the employee is approached during working hours, he shall inform the creditor or collector that he is not allowed to transact private business during official hours and that any discussions must be held after hours and away from Departmental premises.

(e) *Disciplinary action.* An employee may be subject to removal if his failure to meet just financial obligations becomes chronic, or causes embarrassment to or places undue burden on the Department. A decision to remove an employee for these reasons must be taken with full consideration for any extenuating circumstances over which he has no control, such as sickness, accident, or death in the family.

§ 20.735-18 Gambling, betting, and lotteries.

An employee shall not participate, while on Government owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this section does not preclude activities:

(a) Necessitated by the employee's law enforcement duties; or

(b) Under section 3 of Executive Order 10927 and similar agency-approved activities.

§ 20.735-19 Habitual use of intoxicants.

An employee who habitually uses intoxicants to excess is subject to removal (5 U.S.C. 7352).

§ 20.735-20 Specific types of conduct.

(a) *Misconduct.* Civil Service regulations state that any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct on the part of a Federal employee is cause for his removal from the service of the Government (Title 5, Code of Federal Regulations, § 731.201 and 752.104; see also Federal Personnel Manual, Chapter 735).

(b) *Negotiations for employment.* It is the policy of the Department that employees shall not, without proper clearance, negotiate for future non-Federal employment with persons or organizations having business with the Department as to which the employee is called upon officially to render advice or make judgments. (See also, the related criminal provision referred to in section 20.735-21(b)). In the event an employee desires to negotiate for such employment, he shall inform his supervisor of his intentions. If the supervisor determines that the proposed negotiations will not adversely affect the Government's interests, he may authorize the employee to proceed.

(c) *Selling or soliciting.* Employees and other persons are prohibited from selling or soliciting for personal gain within any building occupied or used by the Department with-

out proper permission. This prohibition does not apply to:

(1) Authorized and installed business activities, e.g., Indian Arts and Crafts Shop; Employees' Cafeteria;

(2) Solicitation for Government bonds, United Givers Fund, and other purposes approved under the President's fund-raising policy; or

(3) Token solicitations for floral remembrances, retirement gifts, and similar purposes.

(d) *Money lending.* The practice of money lending between or among employees is to be discouraged. Organized financial lending activities by employees, except when officially sponsored by the Department, is prohibited. Properly constituted employee credit unions that provide various financial services to employee members are sanctioned.

(e) *Endorsements.* Employees are prohibited from endorsing the proprietary products or processes of manufacturers or the services of commercial firms for advertising, publicity, or sales purposes. Use of materials, products, or services by the Department does not contribute official endorsement, and employees are cautioned not to make statements, written or oral, that can be exploited to the advantage of one firm over another.

(f) *Contracts with employees.* Because contracts with its own employees are considered to be against public policy, contracts with employees or business concerns or organizations which are substantially owned or controlled by employees are not permitted in the Department except where it is clearly shown that the

interest of the United States is the major consideration to be served thereby.

(g) *Supplies for, and purchases from, Indians.* No Federal employee may have an interest in a contract with the Government or with the Indians for the purchase, transportation, or delivery of goods or supplies for the Indians (18 U.S.C. 437). While Federal employees may, under regulations of the Secretary of the Interior, purchase products, services, or commodities from Indians, such purchases may not be made for the purposes of resale (25 U.S.C. 87a). Regulations on purchases are found on 25 CFR 251.5.

(h) *Interests in lands.* Part 7 of this title (Title 43 of the Code of Federal Regulations) prohibits employees and their spouses from acquiring voluntarily or retaining an interest in any lands or resources administered by the Bureau of Land Management, unless specifically excepted or authorized.

(i) *Community and professional activities.* Employees are encouraged to participate in the activities of professional societies and of civic organizations whose purpose and objectives are not inconsistent with those of the bureau in which they are employed or of the Department. Affiliation with such groups may be mutually beneficial to the employee and to the Government; however, such participation must not affect adversely an employee's performance of his regularly assigned duties.

(j) *Records and testimony.* Part 2 of this title (Title 43 of the Code of Federal Regulations) contains the regulations and procedures of the Department which govern the availability of official records and the testimony of em-

ployees concerning matters related to the business of the Government or the contents of official records. Appeals regarding an interpretation of these regulations as applied to a particular set of circumstances are decided by the Solicitor.

(k) *Budget estimates and legislation.* Since the enactment of the Budget and Accounting Act of 1921, it has been Executive policy to consider budget estimates transmitted to the Congress with the approval of the President to be binding upon the executive departments and agencies. Employees are expected to conform to this policy by refraining from efforts to promote an increase in the departmental budget as approved by the President. Employees are also required to refrain from promoting or opposing legislation relating to programs of the Department without the official sanction of the proper departmental authority. It should be clearly understood, however, that nothing in this policy is to be considered as restraining or interfering with the obligation of employees to respond freely and candidly to any congressional inquiries made of them in regard to appropriations or related matters.

(l) *Political activity.* Subchapter III of chapter 73 of Title 5, United States Code (the former Hatch Act) states generally that employees may not use their official authority or influence for the purpose of interfering with an election or affecting its results, and they may not take an active part in political management or in political campaigns. An employee is subject to dismissal for violation. (See 5 CFR Part 733 and Chapter 733, Fed-

eral Personnel Manual.) Information regarding prohibition against employees engaging in political activity, including certain exceptions, is contained in Pamphlet 20, "Political Activity of Federal Officers and Employees", issued by the Civil Service Commission.

(m) *Equal Government employment opportunity policy.* It is the policy of the Federal Government that there shall be no discrimination based on such factors as race, creed, color, national origin, political affiliation, physical handicap, sex, and similar matters not related to merit and fitness. Part 370, Chapter 713, of the Departmental Manual contains departmental regulations implementing Executive Order 11246 relating to equal Government employment opportunity policy (see also 5 CFR, Part 713 and Chapter 713, Federal Personnel Manual).

(n) *Nepotism.* Employment by reason of blood or marriage relationships rather than merit is prohibited. No employee shall supervise a member of his family except in emergency situations such as forest fires, floods, earthquakes, or at isolated field stations or where there is a shortage of quarters. Exceptions in other situations may be made with the approval of the head of the Bureau. (Regarding summer employees, refer to current departmental directives.)

(o) *Political affiliation.* Under the Civil Service regulations, no person in the Executive branch with authority to take or recommend a personnel action relative to a person in, or an eligible or applicant for, a position in the competitive service, may make inquiry concerning his political affiliation. All disclosures con-

cerning political affiliation shall be ignored, except as to membership in political parties or organizations constituted by law as a disqualification for Government employment. Except as may be authorized or required by law, discrimination may not be exercised, threatened, or promised by any person in the Executive branch against or in favor of an employee in, or an eligible or applicant for, a position in the competitive service because of his political affiliation (see also 5 CFR, Part 733 and Chapter 733, Federal Personnel Manual).

(p) *Employee organizations.* An employee may not be a member of an organization of Government employees that asserts the right to strike against the Government or an organization that advocates the overthrow of our constitutional form of Government in the United States (5 U.S.C. 7311). Further information regarding employee affiliation with employee organizations will be found in the Departmental Manual, Part 370, Chapter 711, Employee Management Cooperation.

(q) *Patents.* Patent regulations issued by the Secretary, Part 6 of this title (Title 43, Code of Federal Regulations), define the rights and obligations of employees with respect to any inventions made or developed while they are employed in the Department. Under the regulations each employee shall submit a report on any invention made or developed to the Solicitor, through supervisory channels.

(r) *Practitioners.* The Department has adopted regulations applicable to individuals who practice before the Department, which place certain restrictions upon its present and former employees. These restrictions are con-

tained in Part 1 of this title (Title 43, Code of Federal Regulations).

(s) *Indian employee and tribal representatives.* An Indian who is employed in a regularly established position in the Bureau of Indian Affairs within the jurisdiction of which his tribal body is a part, may not serve as a representative of his tribe, band, or pueblo. Neither may an Indian who is serving in such a representative capacity be employed in a regularly established position in the Bureau of Indian Affairs within the jurisdiction of which his tribal body is a part.

(1) These restrictions do not apply to Indians who are employed on an intermittent or irregular basis where such employment does not require decisions or actions which might be influenced by their official connection with the tribe, band, or pueblo. Nor shall these restrictions prevent an Indian serving as a representative from being employed on such a basis.

(2) The Commissioner of Indian Affairs may make exceptions to the restrictions contained in this paragraph when circumstances justify.

(3) The term "representative" as used in this paragraph means the occupant of an elective or other position in the official governing body of the tribe, band, or pueblo, or any position established by such governing body which carries with it the right to vote in the proceedings of that body.

(t) *Coercion.* A Government employee shall no use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another

person, particularly one with whom he has family, business or financial ties.

§ 20.735-21 Statutes relating to conduct.

(a) Certain restrictions are imposed by statute upon employees of the Bureau of Land Management (43 U.S.C. 11), of the Bureau of Mines (30 U.S.C. 6), and of the Geological Survey (43 U.S.C. 31), and upon employees engaged in Indian Affairs (25 U.S.C. 68). These restrictions must be complied with, and the heads of the bureaus mentioned and of bureaus and offices whose employees are engaged in Indian Affairs have a particular responsibility both to inform their employees of the restrictions and to enforce them.

(b) The statutes generally spoken of as the conflicts of interest laws, insofar as they relate to regular employees, are sections 203, 205, 207, 208, and 209 of Title 18 of the United States Code. The Department of Justice, in a memorandum of January 28, 1963 (28 F.R. 985; 18 U.S.C. 201, note) summarized the main provisions of conflict of interest laws as follows:

A regular officer or employee of the Government—that is, one appointed or employed to serve more than 180 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the new sections of title 18 of the United States Code):

1. He may not, except in the discharge of his official duties represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207 (a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially.

5. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation of his services to the Government (18 U.S.C. 209).

(c) Miscellaneous statutory provisions and restrictions: Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of the Department and of the Government and to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employee concerned.

(3) The prohibition against lobbying with

(4) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). appropriated funds (18 U.S.C. 1913).

(5) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(6) The prohibitions against (i) the disclo-

sure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (ii) the disclosure of confidential information (18 U.S.C. 1905).

(7) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(8) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(9) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(10) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(11) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(12) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(13) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(14) The prohibitions against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(15) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(16) The prohibition against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(17) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(d) Miscellaneous restrictions: (1) An employee is prohibited from accepting employment, regardless of whether he is on annual leave or leave without pay, with or without remuneration by any foreign government, corporation, partnership, or individual that is in competition with American industry (E.O. 5221, Nov. 11, 1929).

(2) An employee is prohibited from charging fees for performing any notarial act for any employee of the Federal Government in his official capacity or for any person during the hours of such notary's service to the Government (E.O. 977, Nov. 24, 1908).

(3) Nonofficial expression by employees is covered in Part 487 of the Departmental Manual.

Subpart C—Special Government Employees: Responsibilities, Ethical and Other Conduct

§ 20.735–31 Statutes relating to conflict of interest.

The Department of Justice in a memorandum of January 28, 1963 (28 F.R. 985; 18 U.S.C. 201 note), summarized the major provisions of the conflict of interest laws insofar as special Government employees are concerned as follows:

1. (a) He may not, except in the discharge of his official duties, represent anyone else before a court or

Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(b) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

The restrictions described in subparagraphs (a) and (b) apply to both paid and unpaid representation of another. These restrictions in combination are, of course, less extensive than the one described in the corresponding paragraph 1 in the list set forth above with regard to regular employees.

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restriction described in paragraph 3 if the matter is one in which he participated personally and substantially.

§ 20.735-32 Use of Government employment.

A special Government employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 20.735-33 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his Government employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has familiarity of this paragraph "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with the provisions governing employees (see § 20.73512(c)(3)).

§ 20.735-34 Coercion.

A special Government employee shall not use his Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 20.735-35 Gifts, entertainment, and favors.

Except as provided in section 20.735-11(b), a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 20.735-36 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with each statute listed in § 20.735-21.

Subpart D—Statements of Employment and Financial Interests

§ 20.735-41 Employees required to file statements: Manner of filing.

(a) *Who shall file.* The following employees shall file statements of employment and financial interests:

(1) Employees paid at a level of the Federal Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(2) Employees listed in the appendix to this part. These employees are included pursuant to the criteria set forth in 5 CFR 735.403 (b) and (d) and in grades GS-13 and above or the equivalent thereof except as otherwise provided.

(3) Employees in hearing examiner positions.

(4) Employees in positions listed in the appendix to this part.

(b) *Time for filing.* Each employee required to file a statement of employment and financial interests shall file such a statement (on Form DI-212):

(1) Within 90 days from the date of publication of the regulations in this part in the

FEDERAL REGISTER, if employed on or before that date, or

(2) At the time of entrance on duty, but not earlier than 90 days after the publication of the regulations in this part in the FEDERAL REGISTER, if appointed after that date.

An employee shall file his statement with the appropriate counselor or with the Secretary as provided in paragraph (c) of this section.

(c) *Channels for filing statements.* (1) Statements of the following will be filed originally with the Secretary: The Under Secretary; Assistant Secretaries; Heads of Bureaus and other Departmental Offices; the High Commissioner and Deputy High Commissioner of the Trust Territory; Governors of Guam, the Virgin Islands and American Samoa; and such others as the Secretary may designate.

(2) Statements of the following will be filed with the Chief, Division of Personnel, Office of Management Operations: Employees and special Government employees in the Office of the Secretary and in other Departmental offices except those employees mentioned in subparagraph (1) of this paragraph; associate, deputy and assistant heads of bureaus and their equivalents, administrative officers and others who supervise the work of Bureau Counselors.

(3) Statements of the following will be filed with Bureau Counselors: Regional or area directors and assistant directors and others who supervise the work of Deputy Bureau Counselors. Statements of all other employees and special Government employees in bureaus will be filed with Bureau or Deputy Bureau

Counselors as the head of the bureau may direct.

(4) All statements of employment and financial interests will be classified "Nonsecurity Confidential" and will be transmitted, in a blue envelope so classified, by the employee to the receiving official designated in this paragraph.

(d) The appendix to this part may be revised, either by the addition or deletion of positions, when the Secretary determines such revisions are required to carry out the purpose of law, the Executive Commission, and the regulations in this order, the regulation of the Civil Service part. Additions to, deletions from, and other amendments of the list of positions in the appendix are effective upon actual notification to the incumbents. The amended appendix shall be submitted annually for publication in the FEDERAL REGISTER.

§ 20.735-42 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes occur a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking action that would result, in a violation of the conflict of interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

§ 20.735-42a Employee's complaint on filing requirement.

Any employee required to file a statement of employment and financial interest under § 20.735-41(a) shall be given an opportunity for review through the Department's grievance procedure as to whether his position has been improperly included.

§ 20.735-43 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

§ 20.735-44 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 20.735-45 Information prohibited.

This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement

any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 20.735-46 Confidentiality of employees' statements.

Each statement of employment and financial interests and each supplementary statement are classified "Nonsecurity Confidential" and will be held in confidence. Receiving officials designated in § 20.735-41(c) are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. Information will not be disclosed from a statement except as the Secretary of the Interior or the U.S. Civil Service Commission may determine for good cause shown.

§ 20.735-47 Effect of employees' statements on other requirements.

The statement of employment and financial interests and supplementary statements re-

quired of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

§ 20.735-48 Special Government employees —specific provisions.

(a) Each special Government employee who occupies a position of consultant or expert shall file a statement of employment and financial interests as provided in paragraph (b) of this section. A special Government employee who does not occupy a position of consultant or expert shall, nonetheless, file such a statement of responsibility that the submission of a statement if the position is found by the appointing officer to be of such a nature or at such a level of the Government. Special Government employment statement is necessary to protect the integrity of employees occupying positions other than those mentioned in this paragraph are not required to file statements.

(b) Special Government employees who are required to submit statements of employment and financial interests pursuant to paragraph (a) of this section shall fill out and submit to the appropriate counselor designated in § 20.735-41, Form DI-213, "Statement of Employment and Financial Interests." This form provides for the reporting of:

(1) All employment, including employment without compensation; and

(2) All financial interests, including any interest held by the spouse or minor child of a special Government employee.

In an instance involving the proposed employment of a special Government employee for highly specialized and limited duties, the head of a bureau or office may propose to the Departmental Counselor a reporting of financial interests restricted to such interests as may be determined to be relevant to the duties the special Government employee is to perform. If a restricted reporting of financial interests is approved by the Departmental Counselor in advance of employment, Form DI-213 may be revised to reflect the narrower requirement.

(c) For the purpose of this section the terms "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(d) The statement of employment and financial interests shall be submitted before the special Government employee enters on duty. Each special Government employee shall keep his statement current through his employment with the Department by the submission of supplementary statements.

§ 20.735-49 Review and analysis of statements.

(a) Employee and special Government employee statements shall be reviewed by the receiving official at the receiving location and in cooperation with the Regional Solicitor, or the Office of the Solicitor in Washington, as the case may be.

(b) Any statements revealing a conflict, or a situation creating the appearance of conflict, between the private interests of an employee and his official responsibilities, shall be identified in the review process. If the matter cannot be resolved within the bureau, it shall be forwarded through the Bureau Counselor to the Departmental Counselor for appropriate action in cooperation with the Office of the Solicitor and other officials such as the Director of Personnel as necessary. Cases to be referred must include a file containing the employee's statement, a summary of the issue, and the circumstances precluding settlement at the original reviewing level. On those cases wherein a conflict, or appearance of conflict, has been disclosed but as to which the matter is resolved at the original review point, a similar documented report shall be submitted to the Departmental Counselor for informational purposes.

(c) At all stages in the review process employees shall be provided full opportunity to offer information and explanation prior to a final determination.

(d) Unresolved questions of real or apparent conflicts of interest referred to the Depart-

mental Counselor shall be by him reported to the Secretary and a final decision, involving, if necessary, the disciplinary and remedial actions provided in the regulations in this part will be rendered.

(e) After the review process has been fully completed employee's and special Government employee's and special Government employee's statements will be returned to the Personnel Office having custody of the employee's official personnel file.

