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A-2★★The Washington Star

Thursday, April 3, 1975

New Ethics Code Goes to Staff At White House

By Ann Blackman

Associated Press

President Ford has had a new ethical code drawn up for all White House employees.

And, to be sure the staffers understand it, they have been asked to attend 90-minute briefing sessions.

agencies and private citizens, to caution them about problems of conflicts of interest, the importance of filing financial statements and the fact that the monkey's on their back to see that they're in compliance."

ASKED IF the code was

4/3/75

1:20

Standards of Official Conduct -- sent us materials on
W.H. staff standards of conduct--really felt terrible
about not having thanked us.

New Code for the W.H. staff --
today's early edition of the Star (A-2

Ann Black ~~more~~

New ethical code?

conflict of interest
acceptance of gifts policy
activities and conduct with regulatory agencies

Mariann MacKenzie

225-7103

House Committee on Standards of Official Conduct

*called
Mr. Ratchford
he said this is
the same*

*4/10/75 called
Mrs MacKenzie
& advised*



Feb. 12, 1975

To: Mrs. Mariann Mackenzie

From: Eva Daughtrey

**Attached is the package of
materials given to the White House
Staff -- on Standards of Conduct.**

**Please let us know if we can help
in any way in the future.**



Wednesday 2/12/75

3:10 Mrs. Mariann Mackenzie called from the House Committee on Standards of Official Conduct and asked about an order or directive put out by the White House on conduct.

225-7103

Checked with Linder's office to see if it would be O. K. to give her a copy of our Standards of Conduct package.

2594

They advised that at the time it was sent to the staff it was also made public through our press office -- so it would be O. K. They sent me copies of the packet and I sent a set to her by messenger.

House Committee on Standards of Official Conduct
Rm. 2360 Rayburn House Office Building
Washington, D. C. 20515

Attention: Mrs. Mariann Mackenzie



**STANDARDS OF CONDUCT
FOR THE
WHITE HOUSE STAFF**

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1. Introduction

The purpose of this document is to acquaint you with some of the ethical concepts and legal restrictions applicable to you as a member of the White House Office staff. It is hoped that by being aware of these standards of official conduct, you will be able to recognize and avoid conflict of interest and other improper conduct situations you may encounter, and will be alert to seek assistance in resolving any questions that may arise. Please note that this memorandum is not designed to cover all situations and problems with which you may be confronted; rather it is only intended to highlight in general terms some of the most reoccurring issues with which you may be confronted.

The official regulation governing the standards of conduct for the White House Office is set forth in 3 CFR Chapter V, Part 100. This regulation was issued pursuant to Executive Order 11222 which prescribes general standards of ethical conduct for all government officers and employees. Copies of the regulation and the Executive Order are attached. It is strongly suggested that they be read thoroughly as soon as possible, and retained for your further reference. In addition, you should be familiar with the federal criminal statutes relating to standards of conduct and conflicts of interest, which are also included in the materials provided.

As a general statement of guidance, it might be said that the statutes and regulations which are applicable to you as a member of the staff are directed to insuring the achievement of the following objectives:

- (a) the fair, impartial and equal treatment of those dealing with the government;
- (b) the assurance that government decisions will not be influenced by an employee's private interests;
- (c) the maintenance of public confidence in the integrity of government operations;
- (d) the prevention of use of public office for private gain; and
- (e) the prevention of any impediment to the efficiency and economy of government business.

At the outset you should be also aware of one very important factor which is relevant to every matter discussed in this document and which should always be part of your evaluation of any situation you encounter: It is just as important to avoid the *appearance* of a conflict or unethical conduct as an actual one. Conduct may be short of a legal infraction but if it leads the public to ques-

tion the integrity of the government and its officials, the harm is done. In such instances, even if there was no impropriety intended or practiced, the Administration or members of the staff may be required to spend an inordinate amount of time explaining or defending innocent actions rather than implementing the objectives of the President and a cloud may be cast over the merits of our decisions. All staff members must, therefore, be constantly aware of improper "appearances" as well as actual conflicts when dealing with others in or outside of the government.

For each area of conduct discussed herein, more detailed information and assistance can be obtained from the Office of the Counsel to the President. Whenever you have a problem or question in this regard, you should immediately contact that Office for a resolution of the matter.

2. Conflicts of Interest

A conflict of interest may exist whenever a member of the staff has a personal or private interest in a matter which is related to his official duties and responsibilities or the activities of the staff. The major prohibitions to which you are subject in order to avoid such situations may be stated generally as follows:

(a) You may not participate in your official capacity in any matter in which you, your spouse, minor child, outside business associate or person with whom you are negotiating for employment has a financial interest.

(b) You may not receive any salary, or supplementation of your government salary, from a private source as compensation for your services to the government. You may, however, continue to participate in a bona fide pension, retirement, group life, health, or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer. But such a financial interest disqualifies you under paragraph (a) in the absence of a waiver.

(c) You may not, except in the discharge of your official duties, represent anyone else before a government agency or a court 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.

Stated another way, government personnel should not step out of their official role and act

in a private capacity to assist private parties in their dealings with the government, whether for compensation or not. Also, a public official must not be in a position of acting for the government where his private interests are involved, nor should he receive payments from private sources for the performance of his governmental duties.

You will also note in reading the standards of conduct regulations that there are some specific exceptions to these prohibitions. If you feel they are applicable to your situation, this should be immediately reviewed with the Counsel to the President.

It should be again stressed that it is of utmost importance to the maintenance of public confidence in the government that you avoid not only these specific prohibitions, but also any conduct or activity which would give the appearance of a conflict or use of your position for the furtherance of personal goals or interests.

3. Financial Interests and Activities

As is noted generally above, a White House staff member may not participate in his official capacity in any decision, recommendation or similar activity involving any matter in which he has a "financial interest." Further, a staff member may not have financial interests which are entered into as a result of information obtained through his employment.

Under this restriction a "financial interest" includes not only that which you may have, but also that of your spouse, minor child, partner, organization in which you have any significant interest, or any person or organization with whom you are negotiating or have any arrangement concerning future employment (including, of course, any company from which you may have a leave of absence).

If you have a financial interest which is involved or may be affected by a matter on which you are to work, you may not so participate until you have reviewed the situation with the Counsel to the President and received a written determination that your interest is not so substantial as to be in conflict with your performance in that matter.

Obviously, most financial interests are in the form of ownership of investment property or stocks and bonds, or a directorship or similar position in a company or organization. Quite often, such interests are not so significant as to be dis-

qualifying. However, you should not take it upon yourself to make such a decision, rather you should submit the matter for review.

Each staff member who is paid at a level equivalent to GS-13 or above, is required to submit to the Counsel to the President, within 30 days after his entrance on duty, or promotion, a confidential statement which discloses all his personal employment and financial interests and activities as well as those of his spouse, minor children and members of his immediate family.

Those filing such statements are required to report any significant changes, and all must file a supplementary statement as of June 30 of each year, even if no changes or additions have occurred.

These statements are reviewed by the Counsel to the President to determine whether a conflict, or appearance of conflict, exists between the interests of the staff member and the performance of his duties, and recommendations for remedial actions are made where appropriate. These statements are held in confidence and no information contained therein may be disclosed except by direction of the President for good cause shown.

If you are required to file such a statement, the appropriate forms should have been supplied to you upon your entrance on duty. Please consult with the Counsel to the President if you have any questions or need specific advice or guidance regarding the retention of former employee benefits, possible divestiture of holdings, or any problems related to the establishment of trusts or other financial arrangements which might be necessary to avoid a conflict of interest with your position.

Please note that the fact that a staff member might not be required to file such a statement does not relieve him of the obligation to refrain from participation in any matter in which he or his immediate family or business associates may have a financial interest. Also, although these statements are a form of notice of a staff member's financial and employment interests, this should not be considered to relieve him of the requirement to disclose his financial interest in a matter upon which he is called to work and to refrain from any further participation until the question of possible conflict of interest is resolved.

4. Gifts, Loans, Entertainment and Favors

Federal statutes prohibit your acceptance of a gift from a fellow employee receiving less pay than

yourself, and it is also contrary to law to solicit contributions for gifts to an employee in a superior official position or to individually give such a gift or donation. These restrictions are designed to remove any question that a person might attempt to gain favor with a superior by the giving of a gift, and also to resolve that no such gifts are expected, and therefore are not interpreted to preclude the exchange of gifts of nominal value between co-workers within a particular office on traditional occasions.

Members of the White House staff may not solicit or accept a gift, favor, entertainment, loan or any other thing of monetary value from any corporation or person who has or is seeking contractual or business dealings with any department or agency in the Executive Branch, or who conducts activities which are regulated by any department or agency in the Executive Branch, or who has any interests which may be substantially affected by the performance of your job. This latter group may include persons in the federal government as well as those outside the government.

There are, of course, some exceptions to these prohibitions. You may consider accepting a reasonable gift or entertainment from a close personal friend or relative who has dealings with the government, when it is clear that the motivation for the gift is the personal relationship. However, in such a case, due consideration must be given to avoiding an appearance of a conflict of interest. If, for example, the representative of a company having extensive government contracts is a neighbor with whom you have been socially close and exchanged Christmas gifts for years, there would be no real conflict in accepting a gift offered. However, if the appearance created by receipt of such a gift would create a problem, then it would be best not to accept the gift. Again, appearances of conflict often create greater problems than true conflicts.

Any proscribed gift should be returned to the donor, accompanied by a written explanation of the reasons for its necessary return. It is recommended that you retain a copy of this letter in your files. When the return of a gift is not possible for any reason, the gift should be forwarded to the Office of the Counsel to the President with a written explanation of the infeasibility of its return. The gift will then be turned over to charity.

You are not precluded from accepting unsolicited advertising or promotional items of a nominal

intrinsic value, such as pens, pencils, note pads, calendars, etc. As a rule of thumb, gifts having a value of \$10 or less are considered to be of "nominal value." Please note that if the item is not of an advertising or promotional nature, it should be returned, *regardless of its value*, unless there is another justification for its retention.

Nor do these rules preclude your acceptance of food or refreshments of nominal value in the ordinary course of a luncheon or dinner meeting, or while in attendance at a function where you are otherwise properly in attendance.

Likewise, you are obviously not precluded from accepting loans from financial institutions on customary terms for use in financing the purchase of a home, automobile or incurring similar expenditures.

5. Reimbursement of Travel, Lodging and Related Expenses While on Official Business

When a staff member is travelling on official business, the general rule is that it is not permissible for him to accept hotel accommodations or reimbursement for transportation or lodging expenses from any person or non-governmental organization. Likewise, it is not permissible to accept transportation in private aircraft. There are situations, however, in which the staff member may, under limited conditions, accept either transportation reimbursement or accommodations. For example, a staff member could accept an invitation to stay at the private residence of his host if this would be appropriate under the circumstances of his visit. In judging the propriety of staying at the private residence of a close personal friend or any other person, the normal rules apply and the staff member may accept only when this will not create a conflict or appearance of conflict with his position or otherwise be a source of embarrassment to the President.

6. Gifts, Decorations and Awards From Foreign Governments

The Constitution prohibits acceptance from foreign governments, except with the consent of Congress, of any emolument, office, or title. Congress has provided that a staff member may keep courtesy or souvenir gifts of minimal value and that a staff member may accept a gift of more than minimal value on behalf of the U.S. Government, if he concludes that it would cause offense or embarrassment to the donor or adversely affect

foreign relations if refused. Any such gift which cannot appropriately be refused becomes the property of the government and should be submitted immediately to the Counsel to the President for transmittal to the State Department.

7. Honoraria and Compensation for Speeches, Teaching and Writing

As a general policy, a White House staff member should not accept an honorarium or compensation for speeches, lectures, teaching or writing on a subject which is in any way related to his official position or to the operations or activities of the White House staff or the Executive Office of the President.

This restriction does not preclude the acceptance of an award for a meritorious public contribution or achievement given by a charitable, professional, religious, nonprofit, educational, civic or similar organization, but you should consult with the Counsel to the President before accepting any such award which entails a monetary grant or which may raise a question of conflict of interest.

8. Lobbying

The direct or indirect use of appropriated funds for lobbying activities without express authorization by Congress is prohibited by law. This includes use of appropriated funds to pay for personal services, advertisements, communications or devices of any kind to influence a Member of Congress in acting upon legislation. Violators of this prohibition may be criminally prosecuted or removed from office. This prohibition obviously is not intended to prevent staff members from communicating with Members of Congress and providing information about legislation to Members of Congress. However, the line between proper informational publicity in legislative matters and improper lobbying activities should always be kept in mind. Although the sanctions under this law have rarely if ever been used, care should be taken in this regard to avoid criticism by Members of Congress and the Comptroller General.

9. Disclosure or Use of Official Information

There are many types of information to which staff members become privy. With some of this sensitive information, legal and ethical restrictions are imposed upon your disclosure, handling and use of it. The following paragraphs highlight some of the problems of which you should be aware in this regard.

(a) *National Security Information*

The disclosure of classified national security information to unauthorized persons is strictly prohibited by law, and violators may be prosecuted and discharged. The term "national security information" refers to defense information classified pursuant to Executive Order 10501 which bears the markings "Confidential," "Secret" or "Top Secret," restricted data classified under the Atomic Energy Act of 1954 which bears the marking "Restricted Data Atomic Energy Act of 1954," and classified cryptomaterial which bears markings as authorized by the appropriate agencies. Materials classified in this manner involve information concerning national defense, international relations and cryptology, the unauthorized disclosures of which could be prejudicial or damaging to United States security interests.

It should be noted that the terms designated to identify such classified information (e.g., "Confidential," "Secret," and "Top Secret") should not be used on documents which do not fall within the respective definitions.

(b) *Confidential Business and Personal Information*

A number of statutes and regulations restrict the disclosure by federal officials to unauthorized persons of certain confidential information which businesses or individuals disclose officially to a federal agency or employee. Such information is not formally classified but still must be treated in a confidential manner. Types of this information include trade secrets, business operations and statistics, personal and business financial data, tax returns, investigative reports of law enforcement agencies, and personnel and medical information.

Staff members are subject to criminal sanctions if they do not protect this information from use by unauthorized personnel. Care should be exercised in passing any such information to make certain that only authorized persons receive it.

(c) *Administratively Restricted Information*

When it is desired to control materials administratively; i.e., where the contents are not of a national security nature covered by the definitions for security classifications, but are to be restricted to the view of only certain officials, there are administrative classifications which you may use. They are "For Official Use Only," "Administratively Confidential" or "For The Eyes of (particular official or officials) Only." In certain cases,

it also may be desirable to classify confidential business and personal information in this manner. These classifications may also be employed in regard to proposed policies or similar sensitive matters when a limited dissemination is desired. Each staff member must use his own discretion in classifying information administratively.

(d) Official Inside Information

White House staff members are prohibited from using for private gain or personal interest any information obtained as a result of their position which is not available to the public.

Each staff office should establish adequate internal procedures to assure that classified and sensitive documents and related materials are protected at all times. A specific person in each office should be given this responsibility, but it should be made clear that the last person in an office assumes the responsibility for the security of classified material. Such materials should not be taken from the White House or EOB except when operationally necessary, and then only when appropriate measures are taken to safeguard it.

The Executive Protective Service (EPS) has been instructed to conduct a thorough after-hours security inspection of each staff office in the White House and EOB on a nightly basis. Their authority to inspect extends to all exposed classified or sensitive documents, as well as all other related materials not properly secured. Classified material should never be left unattended on desks, and when an office is closed or vacant, materials should be locked in a secure cabinet. In the event of a serious security violation, EPS will file a formal report with the office concerned.

All classified and sensitive materials to be destroyed should be separated from other office trash and waste materials and either destroyed in a shredder or placed in "burn bags" which are collected under EPS supervision and are disposed of in the secure macerator located in the EOB.

10. Political Activities

Federal law, primarily through the Hatch Act, limits the political activity of federal employees. White House Office staff members (i.e., on the White House budget payroll) are exempt from the Hatch Act prohibitions against engaging in political activity and management.

There are other federal laws dealing with political activity which apply without exception to the

White House Office staff. The principal activities prohibited by these criminal statutes are:

(1) Solicitation or receipt of political contributions by one federal employee from another (18 USC 602).

(2) The giving or handing over of a political contribution by one federal employee to another (18 USC 607).

(3) Solicitation or receipt of political contributions in a federal building by any person, whether or not an employee of the government (18 USC 603).

(4) Solicitation or receipt of anything of value, either for personal reward or as a political contribution, in return for the promise to use, or the use of, influence to secure an appointive office (18 USC 211).

(5) Promising employment, compensation or other benefits made possible by act of Congress as consideration or reward for political activity (18 USC 600).

(6) Discrimination by a federal employee in favor of or against another officer or employee on account of political contributions (18 USC 606).

11. Contact With Independent Regulatory Agencies and Procurement Agencies

You should also be familiar with the standards of conduct governing the activities of the White House staff in its contacts with the regulatory agencies and Executive Branch departments and agencies with procurement responsibilities.

Regulatory Agencies: The cases that come before these agencies are of two general types: rule-making and adjudicative. Both are normally extremely complicated, extremely important to the parties concerned, and involve large amounts of money. While there are exceptional occasions when White House staff contact with agency personnel is justified in rule-making proceedings, there is no justification for involvement in adjudicative proceedings. As a general rule, no member of the staff should make an ex parte contact with a regulatory agency involving any matter pending before that agency, regardless of whether the proceedings are deemed to be rule-making or adjudicative, when such a contact may imply preferential treatment or the use of influence on the decision-making process.

Should you receive inquiries with regard to such matters, you should refer the inquiring party to

the agency involved, and express no opinion on the issues raised. In short, White House staff members should avoid even the mere appearance of interest or influence—and the easiest way to do so is to avoid discussing matters pending before the independent regulatory agencies with interested parties and avoid making ex-parte contacts with agency personnel. Should an occasion arise in the course of your duties where it appears necessary to discuss general policy matters with the staff of an independent regulatory agency, to avoid any appearance of impropriety, you should first consult with the office of the Counsel to the President to determine whether such contact would be appropriate under the circumstances.

Procurement Agencies: In recent years the public has become increasingly sensitive to the allegations of improper influence in the awarding of government contracts. Obviously no member of the White House staff should contact any procurement officer about a contract in which he has a personal financial interest or in which a relative, friend, or business associate has a financial interest. This is true not only as to calls or contacts in which influence is directly exerted, but also as to so-called "status" calls or other communications which might direct the attention of the procurement officer to the fact that the White House staff member has an interest.

There are likely to be occasions when the White House has a legitimate interest in information about procurement matters; in such instances, the communication should be made by persons who have no direct interest themselves, and whose friends or associates have no such interests. It is advisable that the lack of such interest be made known to those receiving the communication so that unintended inferences do not arise. To the extent that it can be done, information should be obtained *after* the contracting procedure is completed, or from persons not involved in the decision-making process. To avoid the appearance of conflict and subsequent embarrassment, White House staff members who must contact procurement agencies with regard to pending contracts should also first contact the Counsel to the President.

12. Standards for Departing Personnel

All departing White House staff members are obligated to observe the following statutory standards of conduct:

(a) *Disqualification in matters connected with former duties or official responsibilities.*

A former staff member is *permanently* barred from acting as an *agent or attorney* for anyone other than the United States in connection with a particular matter in which the United States is a party or has an interest and in which he *participated personally and substantially* for the government.

A former full-time staff member may not for a period of *one year* after the termination of his government employment appear personally before any court, department or agency as agent or attorney for anyone other than the United States in connection with any particular matter in which the United States is a party or has an interest and which was *under the official responsibility* of the former staff member during the last year of his government service.

(b) *Prohibition against receipt of compensation for representative services performed before government agencies by former staff members or others during the period of employment as a staff member.*

A former staff member as well as a present staff member is prohibited from receiving or soliciting any compensation for services rendered before any *department, agency or commission* by himself or *any other person* while he was a staff member in relation to a particular matter in which the United States is a party or has an interest. It should be noted that the representative services covered do not include appearances before courts—only agencies, departments or commissions.

This prohibition affects the circumstances under which a former staff member may join or rejoin a firm which is engaged in his particular business. The statute makes it unlawful for a former employee to share in any fees received by the firm for services in relation to a particular matter, in which the United States is a party or has an interest, performed by the firm at any time during the period of his government employment. This is so even though the matter was not ever before his particular department or agency and did not come to his attention before his separation from the government.

The new firm member and the firm must make an arrangement whereby his share of its income is attributed to sources other than fees of the firm derived from activities covered by this prohibition.

(c) Restrictions on partners of former staff members.

Partners of former staff members are as such not within the scope of the conflict of interest statutes discussed in paragraphs (a) and (b). Partnership with the former staff member does not legally disqualify them in matters in which the staff member is disqualified. However, as indicated above, the law prohibits the partners of

a former staff member from sharing compensation with him for certain services rendered during his period of government service.

In addition to the foregoing, departing staff personnel with a legal background who have served on the staff in a legal capacity should also familiarize themselves with additional restrictions imposed by the Code of Professional Responsibility of the American Bar Association.

THE WHITE HOUSE

Executive Order 11222

PREScribing STANDARDS OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

PART I—POLICY

SECTION 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

PART II—STANDARDS OF CONDUCT

SECTION 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity favor, entertainment, loan, or any other thing of monetary value, from any person, corporation, or group which—

(1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;

(2) conducts operations or activities which are regulated by his agency; or

(3) has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency heads are authorized to issue regulations, coordinated and approved by the Civil Service Commission, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the person concerned which are the motivating factors—the clearest illustration being the parents, children or spouses of federal employees; (2) permitting acceptance of food and refreshments available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This section shall be effective upon issuance of such regulations.

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of—

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding government efficiency or economy;
- (4) losing complete independence or impartiality of action;
- (5) making a government decision outside official channels; or
- (6) affecting adversely the confidence of the public in the integrity of the Government.

SEC. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a

conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and the Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed.

SEC. 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engaging in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

SEC. 204. An employee shall not use Federal property of any kind for other than officially approved activities. He must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him.

SEC. 205. An employee shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

SEC. 206. An employee is expected to meet all just financial obligations, especially those—such as Federal, State, or local taxes—which are imposed by law.

PART III—STANDARDS OF ETHICAL CONDUCT FOR SPECIAL GOVERNMENT EMPLOYEES

SECTION 301. This part applies to all “special Government employees” as defined in Section 202 of Title 18 of the United States Code, who are employed in the Executive Branch.

SEC. 302. A consultant, adviser or other special Government employee must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties.

SEC. 303. A consultant, adviser, or other special Government employee shall not use any inside information obtained as a result of his government service for private personal gain, either by direct action on his part or by counsel, recommendations or suggestions to others, including particularly those with whom he has family, business, or financial ties.

SEC. 304. An adviser, consultant, or other special Government employee shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

SEC. 305. An adviser, consultant, or other special Government employee shall not receive or solicit from persons having business with his agency anything of value as a gift, gratuity, loan or favor for himself or persons with whom he has family, business, or financial ties while employed by the government or in connection with his work with the government.

SEC. 306. Each agency shall, at the time of employment of a consultant, adviser, or other special Government employee require him to supply it with a statement of all other employment. The statement shall list the names of all the corporations, companies, firms, State or local government organizations, research organizations and educational or other institutions in which he is serving as employee, officer, member, owner, director, trustee, adviser, or consultant. In addition, it shall list such other financial information as the appointing department or agency shall decide is relevant in the light of the duties the

appointee is to perform. The appointee may, but need not, be required to reveal precise amounts of investments. The statement shall be kept current throughout the period during which the employee is on the Government rolls.

PART IV—REPORTING OF FINANCIAL INTERESTS

SECTION 401. (a) Not later than ninety days after the date of this order, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and each full time member of a committee, board, or commission appointed by the President, shall submit to the Chairman of the Civil Service Commission a statement containing the following:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions—

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant; or

(B) in which he has any continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or

(C) in which he has any financial interest through the ownership of stocks, bonds, or other securities.

(2) A list of the names of his creditors other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses.

(3) A list of his interests in real property or rights in lands, other than property which he occupies as a personal residence.

(b) Each person who enters upon duty after the date of this order in an office or position as to which a statement is required by this section shall submit such a statement not later than thirty days after the date of his entrance on duty.

(c) Each statement required by this section shall be kept up to date by submission of amended statements of any changes in, or additions to, the information required to be included in the original statement, on a quarterly basis.

SEC. 402. The Civil Service Commission shall prescribe regulations, not inconsistent with this part, to require the submission of statements of financial interests by such employees, subordinate to the heads of agencies, as the Commission may designate. The Commission shall prescribe the form and content of such statements and the time or times and places for such submission.

SEC. 403. (a) The interest of a spouse, minor child, or other member of his immediate household shall be considered to be an interest of a person required to submit a statement by or pursuant to this part.

(b) In the event any information required to be included in a statement required by or pursuant to this part is not known to the person required to submit such statement but is known to other persons, the person concerned shall request such other persons to submit the required information on his behalf.

(c) This part shall not be construed to require the submission of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social fraternal, educational, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

SEC. 404. The Chairman of the Civil Service Commission shall report to the President any information contained in statements required by

Section 401 of this part which may indicate a conflict between the financial interests of the official concerned and the performance of his services for the Government. The Commission shall report, or by regulation require reporting, to the head of the agency concerned any information contained in statements submitted pursuant to regulations issued under Section 402 of this part which may indicate a conflict between the financial interests of the officer or employee concerned and the performance of his services for the Government.

SEC. 405. The statements and amended statements required by or pursuant to this part shall be held in confidence, and no information as to the contents thereof shall be disclosed except as the Chairman of the Civil Service Commission or the head of the agency concerned may determine for good cause shown.

SEC. 406. The statements and amended statements required by or pursuant to this part shall be in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or order. The submission of a statement or amended statements required by or pursuant to this part shall not be deemed to permit any person to participate in any matter in which his participation is prohibited by law, regulation, or order.

PART V—DELEGATING AUTHORITY OF THE PRESIDENT UNDER SECTIONS 205 AND 208 OF TITLE 18 OF THE UNITED STATES CODE RELATING TO CONFLICTS OF INTEREST

SECTION 501. As used in this part, "department" means an executive department, "agency" means an independent agency or establishment or a Government corporation, and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

SEC. 502. There is delegated, in accordance with and to the extent prescribed in Sections 503 and 504 of this part, the authority of the President under Sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.

SEC. 503. Insofar as the authority of the President referred to in Section 502 extends to any appointee of the President subordinate to or subject to the chairmanship of the head of a department or agency, it is delegated to such department or agency head.

SEC. 504. Insofar as the authority of the President referred to in Section 502 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

SEC. 505. Notwithstanding any provision of the preceding sections of this part to the contrary, this part does not include a delegation of the authority of the President referred to in Section 502 insofar as it extends to:

- (a) The head of any department or agency in the Executive Branch;
- (b) Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and
- (c) Presidential appointees to committees, boards, commissions, or similar groups established by the President.

PART VI—PROVIDING FOR THE PERFORMANCE BY THE CIVIL SERVICE COMMISSION OF CERTAIN AUTHORITY VESTED IN THE PRESIDENT BY SECTION 1753 OF THE REVISED STATUTES

SECTION 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) as relates to establishing regulations for the conduct of persons in the civil service.

SEC. 602. Regulations issued under the authority of Section 601 shall be consistent with the standards of ethical conduct provided elsewhere in this order.

PART VII—GENERAL PROVISIONS

SECTION 701. The Civil Service Commission is authorized and directed, in addition to responsibilities assigned elsewhere in this order:

(a) To issue appropriate regulations and instructions implementing Parts II, III, and IV of this order;

(b) To review agency regulations from time to time for conformance with this order; and

(c) To recommend to the President from time to time such revisions in this order as may appear necessary to ensure the maintenance of high ethical standards within the Executive Branch.

SEC. 702. Each agency head is hereby directed to supplement the standards provided by law, by this order, and by regulations of the Civil Service Commission with regulations of special applicability to the particular functions and activities of his agency. Each agency head is also directed to assure (1) the widest possible distribution of regulations issued pursuant to this section; and (2) the availability of counseling for those employees who request advice or interpretation.

SEC. 703. The following are hereby revoked:

(a) Executive Order No. 10939 of May 5, 1961.

(b) Executive Order No. 11125 of October 29, 1963.

(c) Section 2(a) of Executive Order No. 10530 of May 10, 1954.

(d) White House memorandum of July 20, 1961, on "Standards of Conduct for Civilian Employees."

(e) The President's Memorandum of May 2, 1963, "Preventing Conflicts of Interest on the Part of Special Government Employees." The effective date of this revocation shall be the date of issuance by the Civil Service Commission of regulations under Section 701(a) of this order.

SEC. 704. All actions heretofore taken by the President or by his delegates in respect of the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by the President or by his delegates in respect of such matters, shall, except as they may be inconsistent with the provisions of this order or terminate by operation of law, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 705. As used in this order, and except as otherwise specifically provided herein, the term "agency" means any executive department, or any independent agency or any Government corporation; and the term "employee" means any officer or employee of an agency.

LYNDON B. JOHNSON

THE WHITE HOUSE,
May 8, 1965.

CHAPTER V—EXECUTIVE OFFICE OF THE PRESIDENT

Part

100 Standards of conduct.

PART 100—STANDARDS OF CONDUCT

Subpart A—General Standards

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Subpart B—Special Procedures; Counsel to the President

- 100.735-31 Members of part-time committees, boards, and commissions.
- 100.735-32 Special delegation of authority to the Counsel to the President.

AUTHORITY: The provisions of this Part 100 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 100 appear at 33 F.R. 3602, Feb. 29, 1968, unless otherwise noted.

Subpart A—General Standards

§ 100.735-1 Purpose and scope.

(a) The maintenance of the highest standards of honesty, integrity, impartiality, and conduct by regular employees and special Government employees is essential to assure the proper performance of Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of regular employees and special Government employees through informed judgment is indispensable to the maintenance of these standards.

(b) This part is intended to foster the foregoing concepts. It is issued in compliance with the requirements of Executive Order No. 11222 of May 8, 1965, and is based upon the provisions of that order, the regulations of the Civil Service Commission issued thereunder (Part 735 of 5 CFR Ch. I), and the statutes cited elsewhere in this part.

(c) This part, among other things, reflects prohibitions and requirements imposed by the criminal and civil laws of the United States. However, the paraphrased restatements of criminal and civil statutes contained in this part are designed for informational purposes only and in no way constitute an interpretation or construction thereof that is binding upon the Federal Government. Moreover, this part does not purport to paraphrase or enumerate all restrictions or requirements imposed by statutes, Executive orders, regulations or otherwise upon Federal employees and former Federal employees. The omission of a reference to any such restriction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement, as the case may be, continues to be applicable to employees and former employees in accordance with its own terms. Furthermore, attorneys employed by an agency are subject to the canons of professional ethics of the American Bar Association.

§ 100.735-2 Definitions.

In this subpart:

(a) "Agency" means the following agencies in the Executive Office of the President: The White House Office, the Council of Economic Advisers, the National Security Council, the National Aeronautics and Space Council, the Office of Science and Technology, and the Office of the Special Representative for Trade Negotiations, and any committee, board, commission, or similar group established in the Executive Office of the President.

(b) "Agency head" means the President for the White House Office, the Chairman of the Council of Economic Advisers for the Council of Economic Advisers, the Executive Secretary of the National Security Council for the National Security Council, the Executive Secretary of the National Aeronautics and Space Council for the National Aeronautics and Space Council, the Director of the Office of Science and Technology for the Office of Science and Technology, and the Special Representative for Trade Negotiations for the Office of the Special Representative for Trade Negotiations, and the Chairman or comparable member of any committee, board, commission, or similar group established by the President.

(c) "Employee" or "regular employee" means an officer or employee of an agency but does not include a special Government employee.

(d) "Special Government employee" means an officer or employee of an agency 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.

(e) The term "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.

§ 100.735-3 Special Government employees.

Except where specifically provided otherwise, or where limited in terms or by the context to regular employees, all provisions of this subpart relating to employees are applicable also to special Government employees.

§ 100.735-4 General standards of conduct.

(a) All employees shall conduct themselves on the job in such a manner that the work of their

agency is efficiently accomplished and courtesy, consideration, and promptness are observed in dealings with the Congress, the public, and other governmental agencies.

(b) All employees shall conduct themselves off the job in such a manner as not to reflect adversely upon their agency or the Federal service.

(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. 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.

§ 100.735-5 Responsibilities of employees.

(a) The Executive Clerk for the White House Office and the Counselor for each other agency shall distribute copies of this subpart to each employee and special Government employee within 30 days after the effective date thereof. In the case of a new employee or special Government employee entering on duty after the date of such distribution, a copy shall be furnished at the time of his entrance on duty. All employees and special Government employees shall familiarize themselves with the contents of this subpart.

(b) Copies of Executive Order 11222, regulations, and statutes referred to in § 100.735-1, together with various explanatory materials, are available for inspection in the Office of the Executive Clerk for the White House Office and the Counselor for each other agency at any time during regular business hours. Employees are encouraged to consult these basic materials in any case of doubt as to the proper application or interpretation of the provisions of this subpart.

(c) Attention of all employees is directed to House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service", which is attached to this subpart as Appendix A.

§ 100.735-6 Interpretation and advisory service; counseling.

(a) The agency head shall appoint a Counselor for the agency who shall serve also as the agency's designee to the Civil Service Commission on matters covered by this part. Communications between the Counselor and an employee shall be confidential, except as otherwise determined by the agency head.

(b) The Counselor for the agency shall notify all employees and special Government employees of the availability of counseling services, and of how and where such services are available. Such notification shall be made within 90 days after the effective date of this subpart, and periodically thereafter. In the case of a new employee or special Government employee appointed after the date of such notification, notification shall be given at the time of his entrance on duty.

§ 100.735-7 Disciplinary action.

(a) A violation of any provision of this subpart by an employee may be cause for appropriate disciplinary action which may be in addition to any penalties prescribed by law. (As to remedial action in cases where an employee's financial interests result in a conflict or apparent conflict of interest, see § 100.735-26.)

(b) Any disciplinary or remedial action taken pursuant to this subpart shall be effected in accordance with any applicable laws, Executive orders, and regulations.

§ 100.735-8 Conflicts of interest.

(a) A conflict of interest may exist whenever an employee has a substantial personal or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interests. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage.

(b) Neither the pertinent statutes nor the standards of conduct prescribed in this subpart are to be regarded as entirely comprehensive. Each employee must, in each instance involving a personal or private interest in a matter which also involves his duties and responsibilities as an employee, make

certain that his actions do not have the effect or the appearance of the use of his official position for the furtherance of his own interests or those of his family or his business associates.

(c) The principal statutory provisions relating to bribery, graft, and conflicts of interest are contained in Chapter 11 of the Criminal Code, 18 U.S.C. 201-224. Severe penalties are provided for violations, including variously fine, imprisonment, dismissal from office, and disqualification from holding any office of honor, trust, or profit under the United States.

§ 100.735-9 Disqualification because of private financial interests.

(a) Unless authorized to do so as provided hereafter in this section, no employee shall participate personally and substantially as a Government employee in a particular matter in which, to his knowledge, he has a financial interest (18 U.S.C. 208).

(1) For the purposes of this section—

(i) An employee participates personally and substantially in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise;

(ii) A particular matter is a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter; and

(iii) A financial interest is the interest of the employee himself or his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment.

(b) An employee who has a financial interest (other than a financial interest exempted under paragraph (c) of this section) in a particular matter which is within the scope of his official duties shall make a full disclosure of that interest to the Counselor for the agency in writing. He shall not participate in such matter unless and until he receives a written determination by the agency head pursuant to section 203 of Title 18, United States Code, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him. If the agency head does not make such a determination, he shall direct such remedial action as may be appropriate under the provisions of § 100.735-26.

(c) The financial interests described in this paragraph are hereby exempted, pursuant to the provisions of section 208 of Title 18, United States Code, from the restrictions of paragraph (a) of this section and of section 208 of Title 18 as being too remote or inconsequential to affect the integrity of an employee's services in a matter:

(1) Stocks, bonds, policies, properties, or interests in a mutual fund, investment company, trust, bank, or insurance company, as to which the employee has no managerial control or directorship. In the case of a mutual fund or investment company, this exemption applies only where the assets of the fund or company are diversified; it does not apply where the fund or company advertises that it specializes in a particular industry or commodity.

(2) Interest in an investment club: *Provided*, That the fair value of the interest involved does not exceed \$5,000, and that the interest does not exceed one-fourth of the total assets of the investment club.

§ 100.735-10 Additional prohibitions—regular employees.

(a) In addition to the disqualification described in § 100.735-9, a regular employee is subject to the following major prohibitions.

(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, 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)).

(3) 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 is permanent if the matter is one in which he participated personally and substantially. See subparagraph (2) of this paragraph.

(4) He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 229). (See § 100.735-13.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances. For the method of obtaining such exemptions or exceptions, see paragraph (d) of § 100.735-12.

§ 100.735-11 Additional prohibitions—special Government employees.

(a) In addition to the disqualification described in § 100.735-9, a special Government employee is subject to the following major prohibitions.

(1) He may not, except in the discharge of his official duties—

(i) 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), or

(ii) Represent anyone else in a matter pending before his agency unless he served there no more than 60 days during the previous 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.

(2) 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)).

(3) 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 is permanent if the matter is one in which he participated personally and substantially. See subparagraph (2) of this paragraph.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances; for the method of obtaining such exemptions or exceptions, see paragraph (d) of § 100.735-12.

§ 100.735-12 Exemptions and exceptions from prohibitions of conflict of interest statutes.

(a) Nothing in this subpart shall be deemed to prohibit an employee, if it is not otherwise inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person in a disciplinary, loyalty, or other Federal personnel administration proceeding involving such person.

(b) Nothing in this subpart shall be deemed to prohibit an employee from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, as defined in section 202(b) of Title 18 of the United States Code, provided that the agency head approves.

(c) Nothing in this subpart shall be deemed to prohibit an employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(d) In addition to the exemptions and exceptions described in this section and in § 100.735-9, the conflict of interest statutes permit certain exemptions and exceptions in specific circumstances. The procedure for effecting such exemptions or exceptions is as follows:

(1) Any regular employee or special Government employee who desires approval or certification of his activities as provided for by section 205 of Title 18, United States Code, shall make application therefor in writing to the Counselor for the agency.

(2) A former employee, including a former special Government employee, who desires certification with regard to his activities under section 207 of Title 18, United States Code, shall make application therefor in writing to the Counselor for the agency.

(3) The Counselor for the agency shall report promptly to the agency head all matters reported to him under this subpart which require consideration of approvals, certifications, or determinations provided for in sections 205, 207, or 208 of Title 18, United States Code.

§ 100.735-13 Salary of employee payable only by United States.

(a) No employee, other than a special Government employee or an employee serving without compensation, shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (18 U.S.C. 209).

(b) Nothing in this subpart shall be deemed to prohibit an employee from continuing to participate in a bona fide pension, retirement, group life, health, or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer, nor from accepting contributions, awards, or other expenses under Chapter 41 of Title 5, United States Code (the former Government Employees Training Act).

§ 100.735-14 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) 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 his agency;

(2) Conducts operations or activities which are regulated by his agency; or

(3) Has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Notwithstanding paragraph (a) of this section, an employee may:

(1) Accept a gift, gratuity, favor, entertainment, loan, or other thing of monetary value from a friend, parent, spouse, child, or other close relative when the circumstances make it clear that the family or personal relationships involved are the motivating factors;

(2) Accept food or 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) Accept loans from banks or other financial institutions on customary terms to finance proper or usual activities of employees, such as home mortgage loans; and

(4) Accept unsolicited advertising or promotional materials such as pens, pencils, note pads, calendars, or other items of nominal intrinsic value.

(c) An employee shall not solicit contributions from another employee for a gift to an employee in a superior official position. An employee in a superior official position shall not accept a gift presented as a contribution from employees receiving less salary than himself. An employee shall not make a donation as a gift to an employee in a superior official position (5 U.S.C. 7251). 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.

(d) The Constitution (Art. 1, sec. 9, par. 8) prohibits acceptance from foreign governments, except with the consent of Congress of any emolument, office, or title. The Congress has provided for the receipt and disposition of foreign gifts and decorations in 5 U.S.C. 7342. See also Executive Order 11320, 31 F.R. 13739, and the regulations pursuant thereto in 22 CFR Part 3 (as added, 32 F.R. 6569). Any such gift or thing which cannot appropriately be refused shall be submitted to the Counselor for transmittal to the State Department.

§ 100.735-15 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include, but are not limited to:

(1) 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, a conflict of interests; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) Within the limitations imposed by this section, employees are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing 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 agency head gives written authorization for the use of non-public 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 Executive Order No. 11222 of May 8, 1965, 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 his agency, or which draws substantially on official data or ideas which have not become part of the body of public information.

(c) An employee shall not engage in outside employment under a State or local government, except in accordance with applicable regulations of the Civil Service Commission (Part 734 of 5 CFR Ch. I).

(d) Neither this section nor § 100.735-14 precludes an employee from:

(1) Receipt of bona fide reimbursement unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this subpart and 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, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967.

(2) Participation in the activities of national or State political parties not proscribed by law. (See paragraph (o) of § 100.735-22 regarding proscribed political activities.)

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

(e) An employee who intends to engage in outside employment shall obtain the approval, through his official superior, of his agency head. A record of each approval under this paragraph shall be filed in the employee's official personnel folder.

(f) This section does not apply to special Government employees, who are subject to the provisions of § 100.735-23.

§ 100.735-16 Financial interests.

(a) An employee may not have financial interests which—

(1) Establish a substantial personal or private interest in a matter which involves his duties and responsibilities as an employee (an employee may not have financial interests, except as permitted by § 100.735-9(c) or authorized pursuant to § 100.735-12(d)); or

(2) Are entered into in reliance upon, or as a result of, information obtained through his employment; or

(3) Result from active and continuous trading (as distinguished from the making of bona fide investments) which is conducted on such a scale as to interfere with the proper performance of his duties.

(b) Aside from the restrictions prescribed or cited in this subpart, employees are free to engage in lawful financial transactions to the same extent as private citizens. Employees should be aware that the financial interests of their wives or minor children and blood relatives who are full-time residents of their households may be regarded, for the purposes of this section, as financial interests of the employees themselves.

(c) This section does not apply to special Government employees, who are subject to the provisions of § 100.735-23.

§ 100.735-17 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him.

§ 100.735-18 Misuse of information.

For the purpose of furthering a private interest, an employee shall not, except as provided in paragraph (b) of § 100.735-15, directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

§ 100.735-19 Indebtedness.

An employee shall 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 his agency 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 an agency to determine the validity or amount of the disputed debt.

§ 100.735-20 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.

§ 100.735-21 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§ 100.735-22 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of his agency and of the Government. In particular, attention of employees is directed to the following statutory provisions:

(a) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned (see §§ 100.735-9, 100.735-10, and 100.735-11).

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

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

(e) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (18 U.S.C. 1905).

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

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

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

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (5 U.S.C. 1917).

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

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

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

(m) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) 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).

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

(o) 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.

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

§ 100.735-23 Conduct and responsibilities of special Government employees.

(a) 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.

(b) 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 whether by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purposes of this section, "inside information" means information obtained under Government

authority which has not become part of the body of public information.

(c) A special Government employee who engages in teaching, lecturing, or writing, whether for or without compensation, shall not for such purposes make use of 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 agency head gives written authorization for the use of nonpublic information on the basis that such use is in the public interest.

(d) 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.

(e) Except as provided in paragraph (f) of this section, 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.

(f) Notwithstanding paragraph (e) of this section, a special Government employee shall be allowed the same latitude as is authorized for regular Government employees by paragraph (b) of § 100.735-14.

(g) Attention of special Government employees is directed to the provisions of § 100.735-3, making the provisions of this subpart generally applicable to their activities.

§ 100.735-24 Reporting of employment and financial interests—regular employees.

(a) Not later than 90 days after the effective date of this subpart, an employee designated in paragraph (d) of this section shall submit to his agency head a statement, on a form made available in the office of the Executive Clerk for the White House Office and the Counselor for each other agency, setting forth the following information:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions with or in which he, his spouse, minor child or other member of his immediate household has—

(i) Any connection as an employee, officer, owner, director, member, trustee, partner, adviser or consultant; or

(ii) Any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or

(iii) Any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

However, an employee need not report any financial interest exempted under § 100.735-9(c) as too remote or inconsequential to affect the integrity of an employee's services in a matter.

(2) A list of the names of his creditors and the creditors of his spouse, minor child or other member of his immediate household, other than those creditors to whom they may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom they may be indebted for current and ordinary household and living expenses such as those incurred for household furnishings, an automobile, education, vacations, or the like.

(3) A list of his interests and those of his spouse, minor child or other member of his immediate household in real property or rights in lands, other than property which he occupies as a personal residence.

(b) For the purpose of this section "member of his immediate household" means a full-time resident of the employee's household who is related to him by blood.

(c) Each employee designated in paragraph (d) of this section who enters on duty after the effective date of this subpart shall submit such statement not later than 30 days after the date of his entrance on duty, but not earlier than 90 days after the effective date of this subpart.

(d) Statements of employment and financial interests are required of the following:

(1) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, except a Presidential appointee required to file a statement of financial interests under section 401 of Executive Order No. 11222 of May 8, 1965.

(2) Employees in classified positions of grade GS-13 or above, or the equivalent thereof.

(e) 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 or additions occur, a negative report

is required. Notwithstanding the filing of the annual report required by this paragraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208 or this subpart.

(f) 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 the information in his behalf.

(g) Paragraph (a) of this section does not require an employee to submit any information relating to his 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.

(h) Each agency shall hold each statement of employment and financial interests in confidence. Each person designated to review a statement of employment and financial interests under section 100.735-26 is responsible for maintaining the statement 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 subpart. An agency may not disclose information from a statement except as the Civil Service Commission or the agency head may determine for good cause shown.

(i) The statements of employment and financial interests and supplementary statements required 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 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.

(j) An employee who believes that his position has been improperly included as one requiring the submission of a statement of employment and financial interests is entitled to obtain a review of

his complaint under his agency's grievance procedure.

(k) This section does not apply to special Government employees, who are subject to the provisions of § 100.735-25.

§ 100.735-25 Reporting of employment and financial interests—special Government employees.

(a) A special Government employee shall submit to the agency head a statement of employment and financial interests which reports (1) all current Federal Government employment, (2) the names of all corporations, companies, firms, State or local governmental organizations, research organizations, and educational or other institutions in or for which he is an employee, officer, member, owner, trustee, director, adviser, or consultant, with or without compensation, (3) those financial interests which the agency determines are relevant in the light of the duties he is to perform, and (4) the names of all partnerships in which he is engaged.

(b) A statement required under this section shall be submitted at the time of employment and shall be kept current throughout the term of a special Government employee's service with an agency. A supplementary statement shall be submitted at the time of any reappointment; a negative report will suffice if no changes have occurred since the submission of the last statement.

§ 100.735-26 Reviewing statements of financial interests.

(a) A designee of the agency head shall review the statements required by §§ 100.735-24 and 100.735-25 to determine whether there exists a conflict, or appearance of conflict, between the interests of the employee or special Government employee concerned and the performance of his service for the Government. If the designee determines that such a conflict or appearance of conflict exists, he shall provide the employee with an opportunity to explain the conflict or appearance of conflict. If he concludes that remedial action should be taken, he shall refer the statement to the agency head, through the Counselor for the agency designated pursuant to § 100.735-6, with his recommendation for such action. The agency head, after consideration of the employee's explanation and such investigation as he deems appropriate,

shall direct appropriate remedial action if he deems it necessary.

(b) Remedial action pursuant to paragraph (a) of this section may include, but is not limited to:

(1) Changes in assigned duties.

(2) Divestment by the employee of his conflicting interest.

(3) Disqualification for a particular action.

(4) Exemption pursuant to paragraph (b) of § 100.735-9 or paragraph (d) of § 100.735-12.

(5) Disciplinary action.

§ 100.735-27 Supplemental regulations or instructions.

An agency head may issue supplemental and implementing regulations or instructions not inconsistent with this subpart as necessary to carry out the full purpose and intent of Executive Order 11222 and this subpart as may be required by the particular circumstances of his agency. Such regulations or instructions may include, but are not limited to, delegations of any authority allowed by law pertaining to the functions placed upon the agency head by this subpart. Such regulations or instructions must be made available to employees and special Government employees in the same manner as this subpart (see § 100.735-5).

Subpart B—Special Procedures; Counsel to the President

§ 100.735-31 Members of part-time committees, boards, and commissions.

(a) This section applies to each part-time member of a committee, board, or commission appointed by the President (referred to in this section as a Member).

(b) When the Counsel to the President determines that the functions and responsibilities of a committee, board, or commission are such that consistent with the policy and purpose of Executive Order 11222 the Members thereof should submit statements of employment and financial interests, he shall request each Member thereof to submit such a statement to the Chairman of the Civil Service Commission.

(c) A statement of employment and financial interests required under this section shall be submitted not later than 30 days after the Member's receipt of the request therefor from the Counsel to the President, and shall be kept up to date by sub-

mission of amended statements of any changes in, or additions to, the information required to be included in the original statement, on a quarterly basis. The statement shall be submitted in the format prescribed by the Chairman of the Civil Service Commission.

(d) The Chairman of the Civil Service Commission shall review each statement of employment and financial interests and any amendment thereto submitted under this section and shall report to the Counsel to the President any information contained in a statement which may indicate a conflict between the financial interests of the Member con-

cerned and the performance of his services for the Government.

§ 100.735-32 Special delegation of authority to the Counsel to the President.

The authority of the President under sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible, reserved to the President by section 505(c) of Executive Order 11222, is delegated to the Counsel to the President.

Public Law 87-849
87th Congress, H. R. 8140
October 23, 1962



An Act

76 STAT. 1119.

To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) so much of chapter 11 of title 18 of the United States Code as precedes section 214 is amended to read as follows:

Bribery, graft,
and conflicts
of interest.
18 USC 201
et seq.

"CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

"Sec.

- "201. Bribery of public officials and witnesses.
- "202. Definitions.
- "203. Compensation of Members of Congress, officers and others, in matters affecting the Government.
- "204. Practice in Court of Claims by Members of Congress.
- "205. Activities of officers and employees in claims against and other matters affecting the Government.
- "206. Exemption of retired officers of the uniformed services.
- "207. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.
- "208. Acts affecting a personal financial interest.
- "209. Salary of Government officials and employees payable only by United States.
- "210. Offer to procure appointive public office.
- "211. Acceptance or solicitation to obtain appointive public office.
- "212. Offer of loan or gratuity to bank examiner.
- "213. Acceptance of loan or gratuity by bank examiner.
- "214. Offer for procurement of Federal Reserve bank loan and discount of commercial paper.
- "215. Receipt of commissions or gifts for procuring loans.
- "216. Receipt or charge of commissions or gifts for farm loan, land bank, or small business transactions.
- "217. Acceptance of consideration for adjustment of farm indebtedness.
- "218. Voiding transactions in violation of chapter; recovery by the United States.

"§ 201. Bribery of public officials and witnesses

"(a) For the purpose of this section:

"'public official' means Member of Congress, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror; and

Definitions.

"'person who has been selected to be a public official' means any person who has been nominated or appointed to be a public official, or has been officially informed that he will be so nominated or appointed; and

"'official act' means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity, or in his place of trust or profit.

"(b) Whoever, directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

"(1) to influence any official act; or

"(2) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or



October 23, 1962

"(3) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of his lawful duty; or

"(c) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:

"(1) being influenced in his performance of any official act; or

"(2) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

"(3) being induced to do or omit to do any act in violation of his official duty; or

"(d) Whoever, directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom; or

"(e) Whoever, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity in return for being influenced in his testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom—

"Shall be fined not more than \$20,000 or three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

"(f) Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

"(g) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him; or

"(h) Whoever, directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of his absence therefrom; or

"(i) Whoever, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of the testimony under oath or affirmation given or to be given by him as a witness upon any such trial, hearing, or other proceeding, or for or because of his absence therefrom—

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

"(j) Subsections (d), (e), (h), and (i) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or, in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

"(k) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

62 Stat. 769.

"§ 202. Definitions

"(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term 'special Government employee' shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, or a part-time United States Commissioner. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29 (c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms 'officer or employee' and 'special Government employee' as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

"(b) For the purposes of sections 205 and 207 of this title, the term 'official responsibility' means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

"§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

"(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

"(1) at a time when he is a Member of Congress, Member of Congress Elect, Resident Commissioner, or Resident Commissioner Elect; or

"(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

"(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Commissioner, officer, or employee—

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

"(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

"§ 204. Practice in Court of Claims by Members of Congress

"Whoever, being a Member of Congress, Member of Congress Elect, Resident Commissioner, or Resident Commissioner Elect, practices in the Court of Claims, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both, and shall be incapable of holding any office of honor, trust, or profit under the United States.

"§ 205. Activities of officers and employees in claims against and other matters affecting the Government

"Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

"(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

"(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest—

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

"A special Government employee shall be subject to the preceding paragraphs only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the

case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

"Nothing herein prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

"Nothing herein or in section 203 prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

"Nothing herein or in section 203 prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that the head of the department or agency concerned with the grant or contract shall certify in writing that the national interest so requires.

"Such certification shall be published in the Federal Register.

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F. R.

"Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

"§ 206. Exemption of retired officers of the uniformed services

"Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress.

"§ 207. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

"(b) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or department or agency of the Government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under

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his official responsibility as an officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility—

"Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a) or (b) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

"(c) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility—

"Shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

"A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia or of a present or former special Government employee shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section.

"§ 208. Acts affecting a personal financial interest

"(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

"Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

"(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such

official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services.

Publication in
F. R.

"§ 209. Salary of Government officials and employees payable only by United States

"(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

"Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection—

"Shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

"(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

"(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

Exception.

"(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of the Government Employees Training Act (Public Law 85-507, 72 Stat. 327; 5 U.S.C. 2301-2319, July 7, 1958)."

(b) Sections 214 and 215 of chapter 11 of title 18 of the United States Code are respectively redesignated sections 210 and 211;

(c) Sections 216 and 223 of chapter 11 of title 18 of the United States Code are repealed; Repeal.

(d) Sections 217, 218, 219, 220, 221, and 222 of chapter 11 of title 18 of the United States Code are respectively redesignated sections 212, 213, 214, 215, 216, and 217;

(e) Chapter 11 of title 18 of the United States Code is further amended by adding at the end thereof the following new section: 18 USC 201 et seq.

"§ 218. Voiding transactions in violation of chapter; recovery by the United States

"In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of any service or transfer or delivery of any thing to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there

October 23, 1962

has been a final conviction for any violation of this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof."

Repeal. SEC. 2. Sections 281 and 283 (except as they may apply to retired officers of the armed forces of the United States), 282 and 284 of chapter 15 of title 18, section 434 of chapter 23 of title 18, and section 1914 of chapter 93 of title 18 of the United States Code are repealed and will, respectively, be supplanted by sections 203, 205, 204, 207, 208, and 209 of title 18 of the United States Code as set forth in section 1 of this Act. All exemptions from the provisions of sections 281, 282, 283, 284, 434, or 1914 of title 18 of the United States Code heretofore created or authorized by statute which are in force on the effective date of this Act shall, on and after that date, be deemed to be exemptions from sections 203, 204, 205, 207, 208, or 209, respectively, of title 18 of the United States Code except to the extent that they affect officers or employees of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, as to whom they are no longer applicable.

Exemptions. SEC. 3. Section 190 of the Revised Statutes (5 U.S.C. 99) is repealed.

Repeal. SEC. 4. This Act shall take effect ninety days after the date of its enactment.

Effective date.

Approved October 23, 1962.

April 14, 1975

Dear Mr. Attorney General:

In response to your letter of April 9, 1975, to Philip Buchen, enclosed please find a packet of materials on the Standards of Conduct applicable to White House personnel.

I trust this satisfies your inquiry.

Sincerely,

Kenneth A. Lazarus
Associate Counsel
to the President

Honorable William F. Hyland
Attorney General
State House Annex
Trenton, New Jersey 08625

Enclosure - Standards of Conduct package

KAL:dln

bcc: PWB





STATE OF NEW JERSEY
WILLIAM F. HYLAND
ATTORNEY GENERAL
STATE HOUSE ANNEX
TRENTON, N.J. 08625
609 292-4919

April 9, 1975

Honorable Philip W. Buchen
Counsel to the President
White House
Washington, D. C.

Dear Mr. Buchen:

I would very much appreciate receiving a copy of the new ethical code promulgated for employees of the Executive Office. We have formulated codes of ethics for all of the departments and the executive branch of our administration and have imposed additional requirements on the Deputy Attorneys General employed in my Department. While I feel that our regulations have provided a basis for achieving the result that we are all interested in, I maintain a continuing interest in seeing what has been done in other jurisdictions.

Incidentally, I had corresponded with you while you were working in the initial stages of the studies of privacy to which the President had been assigned while Vice President. I hope that your transfer to new duties will not cause a decline of interest in this important subject.

Sincerely yours,

WILLIAM F. HYLAND
Attorney General

WFH/jck



THE WHITE HOUSE
WASHINGTON

6/12

Phil -

CSC has imposed certain deadlines on the collection of these forms, and with which this memo does comply. Ken asked if I would be responsible for this.

If you sign, I will of course take care of all the details, including clearance through the Staff Secretary.

Bany



THE WHITE HOUSE
WASHINGTON

Barry said
it would be
a great help if
he could get
this signed tonight
or first thing in the
morning.

Jack



THE WHITE HOUSE

WASHINGTON

June 13, 1975

MEMORANDUM FOR:

FROM:

PHILIP W. BUCHEN *P.W.B.*

SUBJECT:

Supplemental Statement of
Employment and Financial Interests

Each employee of the White House Office and the Domestic Council, paid at a level equivalent to GS-13 (\$21,816) and above, is required by law to file a current Statement of Employment and Financial Interests covering their interests as of June 30 of each year. These statements are to be returned, no later than July 18, 1975.

For your convenience, if no changes or additions have occurred from your previous filing, you may simply so indicate on the attached form. It is recommended that you keep a copy of the information you provide this office for future reference. Please send your form marked "Personal and Confidential" to Mr. Barry Roth, Room 106, Old Executive Office Building.

If your substantive duties have changed since the time of your last filing, please submit a revised job description form along with the statement. Copies of this form may be obtained by calling X2397. Notwithstanding the filing of the original or supplemental reports, you must, at all times, avoid acquiring a financial interest or taking any action which could result in either an actual or apparent conflict of interest, as described in the materials that have previously been provided to you.

If you have any questions in this regard, please do not hesitate to contact Mr. Roth who would be happy to discuss these matters with you.

Your assistance is appreciated.

Attachment



*Conflict of
interest*

THE WHITE HOUSE
WASHINGTON

October 8, 1975

MEMORANDUM FOR: PHILIP BUCHEN
FROM: JIM CONNOR

Phil, Don Rumsfeld has requested that we send this memo out under his signature. Does this present any problems for you. If so, please let me know and I'll be glad to discuss it with you. Thanks.

encl.

(p. s. obviously if Don sends it, there would be a change in the first sentence.)

*O.K. with me.
J.*



*Revised
1st page
now
attached*

THE WHITE HOUSE

WASHINGTON

October 10, 1975

MEMORANDUM FOR: ALL EMPLOYEES OF THE WHITE
HOUSE OFFICE AND THE
DOMESTIC COUNCIL

FROM: DONALD RUMSFELD

SUBJECT: Standards of Conduct: Contacts
with Regulatory Agencies and
Procurement Officers

The Standards of Conduct for the White House Staff which were distributed with my covering memorandum of October 28, 1974, bar all ex parte contacts with regulatory agencies and procurement officers unless there is prior clearance with the Counsel's office (par. 11). The prohibition extends to both regulatory agencies which are independent of the Executive Branch and those which are within the Executive Branch. Some agencies have both regulatory and executive functions, and no prior clearance is needed for contacts concerning purely executive matters.

The following breakdown of federal agencies is provided to assist you in determining which agency contacts require prior clearance with the Counsel's office.

I. Independent Regulatory Agencies

(All contacts other than simple referrals of mail must be cleared.)

Civil Aeronautics Board
Commodity Futures Trading Commission
Consumer Product Safety Commission
Federal Communications Commission
Federal Deposit Insurance Corporation



Federal Election Commission
Federal Maritime Commission
Federal Reserve System
Federal Trade Commission
Interstate Commerce Commission
National Credit Union Administration
National Labor Relations Board
National Transportation Safety Board
Nuclear Regulatory Commission
Occupational Safety and Health Review Commission
Renegotiation Board
Securities and Exchange Commission
United States International Trade Commission

The foregoing agencies are regarded by the Justice Department as clearly falling within the category of independent regulatory agencies, in that they are both independent and exercise regulatory authority over some class of persons or businesses.

II. Combined Executive/Regulatory Agencies

(To be treated as independent agencies on matters involving the regulatory functions i.e., rule making and adjudication):

Environmental Protection Agency
Federal Energy Administration
United States Civil Service Commission

III. Quasi-Regulatory Agencies

The following agencies do not exercise regulatory powers comparable to the independent regulatory agencies but do have comparable independence and should be treated as equivalent to the regulatory agencies with respect to commenting on particular cases, applications and the like:

Equal Employment Opportunity Commission
Federal Home Loan Bank Board
Foreign Claims Settlement Commission of the United States
Indian Claims Commission



Overseas Private Investment Corporation
Pension Benefit Guaranty Corporation
National Selective Service Appeal Board

In addition, the ban on contacts extends to the litigating and adjudicatory divisions of the Department of Justice and the IRS.

IV. Procurement Activities

The same rules applicable to independent regulatory functions should be followed with respect to all government procurement activities.



THE WHITE HOUSE

WASHINGTON

October 10, 1975

MEMORANDUM FOR: ALL EMPLOYEES OF THE
WHITE HOUSE OFFICE AND
THE DOMESTIC COUNCIL

FROM:

DONALD RUMSFELD *DR*

SUBJECT:

Standards of Conduct: Contacts
with Regulatory Agencies and
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Federal Deposit Insurance Corporation



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Federal Reserve System
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National Labor Relations Board
National Transportation Safety Board
Nuclear Regulatory Commission
Occupational Safety and Health Review Commission
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