

**FFAS**  
**HANDBOOK**

---

**3-PM - Personnel Operations**  
**Part 5 - Conflict of Interest**

---

For FAS Including Overseas, FSA Except  
CO Employees, and RMA

SHORT REFERENCE

**3-PM (Revision 3) Part 5**  
(this copy contains Part 5 only)

UNITED STATES DEPARTMENT OF AGRICULTURE  
Farm Service Agency  
Washington, DC 20250

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

**Personnel Operations  
3-PM (Revision 3)**

**Amendment 13**

Approved by: Deputy Administrator, Management



**Amendment Transmittal**

**A Reason for Amendment**

Part 5 has been amended to:

- incorporate policy changes in the areas of conflict of interest, political activities, confidential financial disclosure reporting, ethics training, outside employment, and post-employment
- include 5 CFR Part 8301
- advise employees that 7 CFR Part 1900 D no longer governs the processing and servicing of FmHA assistance to employees, relatives, and associates as it relates to FSA, FLP
- to incorporate changes to FLP assistance policy, as provided by Section 377 of the CONACT
- incorporate revised forms and update exhibits.

Subparagraph 158 H has been amended to clarify Career Intern Program placement.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
3, 4 5	5-1 through 5-70 5-71 6.5-7, 6.5-8	1, pages 1-4 2, pages 1-6 13, pages 1-12 page 13 page 14 (remove) pages 15-18 (remove) page 19 (remove) 14, pages 1, 2 (add) page 3 (add) 16, page 1 25, pages 1, 2 (add)

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

<b>Personnel Operations 3-PM (Revision 3)</b>	<b>Amendment 14</b>
---	---------------------

Approved by: Deputy Administrator, Management



**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 124 C has been updated to provide a web site for a list of current FFAS ethics officials.

Subparagraph 138 C has been amended to update the example of FFAS-20.

Subparagraph 139 B has been amended to update the example of AD-815.

Subparagraph 142 C has been amended to provide clarification of other conflicting relationships regarding conflicts of interest.

**B 7 CFR 1900, Subpart D and RD Instruction 1900-D**

7 CFR 1900, Subpart D and RD Instruction 1900-D no longer apply to FSA employees. Employees shall follow Part 5 of this handbook for conflict of interest policy and procedure.

**Note:** CFR will be revised to reflect this change.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
3, 4 5	5-7, 5-8 5-51, 5-52 5-55 through 5-60 5-67 through 5-70 5-71	

**Part 5 Conflict of Interest****121 Principles of Ethical Conduct****A Basic Obligation of Public Service**

Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gain.

To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct in subparagraph B, as well as the implementing standards in 5 CFR Part 2635, and in \*--supplemental departmental regulations at 5 CFR Part 8301.--\*

**B General Ethics Principles**

The following general principles apply to every employee. Where a situation is not covered by the standards in 5 CFR Part 2635, employees shall apply the following principles in determining whether their conduct is proper.

- Public service is a public trust, requiring employees to place loyalty to the Constitution, laws, and ethical principles above private gain.
- Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- Employees shall not:
  - engage in financial transactions using nonpublic Government information
  - allow the improper use of this information to further any private interest.
- An employee shall not, except as permitted by 5 CFR Part 2635, Subpart B, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

**121 Principles of Ethical Conduct (Continued)****B General Ethics Principles (Continued)**

- Employees shall put forth honest effort in the performance of their duties.
- Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
- Employees shall not use public office for private gain.
- Employees shall act impartially and not give preferential treatment to any private organization or individual.
- Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those that are imposed by law, such as Federal, State, or local taxes.
- Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards in 5 CFR Part 2635. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

**122 OGE Standards of Ethical Conduct for Employees of the Executive Branch****A OGE Final Rule**

OGE issued a final rule (5 CFR Part 2635) that establishes uniform standards of ethical conduct for offices and employees of the executive branch of the Federal Government.

5 CFR Part 2635 covers the following:

- general provisions
- gifts from outside sources
- gifts between employees
- conflicting financial interests
- impartiality in performing official duties
- seeking other employment
- misuse of position
- outside activities
- related statutory authorities.

**\*--Note:** See 5 CFR Part 2635 on <http://www.gpoaccess.gov/ecfr/> for a detailed explanation of ethical standards of conduct.--\*

**B General Provisions**

The General Provisions subpart contains:

- definitions
- employee coverage
- information on supplemental agency regulations
- disciplinary and corrective actions
- ethics advice.

**C Gifts From Outside Sources**

The Gifts From Outside Sources subpart:

- contains standards that prohibit an employee from soliciting or accepting any gift from a prohibited source or given because of the employee's official position unless the item is excluded from the definition of a gift or falls within 1 of the exceptions set forth in this subpart
- addresses proper disposition of gifts.

**122 OGE Standards of Ethical Conduct for Employees of the Executive Branch (Continued)****D Gifts Between Employees**

The Gifts Between Employees subpart contains standards that prohibit an employee from giving, donating to, or soliciting contributions for, a gift to an official superior and from accepting a gift from an employee receiving less pay than himself, unless the item is excluded from the definition of a gift or falls within 1 of the exceptions set forth in this subpart.

**E Conflicting Financial Interests**

The Conflicting Financial Interests subpart contains 2 provisions relating to financial interests. One is a disqualification requirement and the other is a prohibition on acquiring or continuing to hold specific financial interests.

An employee may acquire or hold any financial interest not prohibited by 5 CFR 2635.403. However, an employee is prohibited according to 5 CFR 2635.402 from participating in an official capacity in any particular matter in which, to his or her knowledge, he or she or any person whose interests are imputed to him or her has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

**F Impartiality in Performing Official Duties**

The Impartiality in Performing Official Duties subpart contains 2 provisions intended to ensure that an employee takes appropriate steps to avoid an appearance of loss of impartiality in the performance of his or her official duties.

Under 5 CFR 2635.502, unless the employee receives prior authorization, he or she should not participate in a particular matter involving specific parties which he or she knows is likely to affect the financial interests of a member of his or her household, or in which he or she knows a person with whom he or she has a covered relationship is or represents a party, if the employee determines that a reasonable person with knowledge of the relevant facts would question his or her impartiality in the matter.

An employee who is concerned that other circumstances would raise a question regarding his or her impartiality should use the process in 5 CFR 2635.502 to determine whether he or she should or should not participate in a particular matter.

**122 OGE Standards of Ethical Conduct for Employees of the Executive Branch (Continued)****G Seeking Other Employment**

The Seeking Other Employment subpart:

- contains a disqualification requirement that applies to employees when seeking employment with persons who otherwise would be affected by the performance or nonperformance of the employees' official duties
- specifically addresses the requirement of 18 U.S.C. 208(a) that an employee disqualify himself or herself from participation in any particular matter that will have a direct and predictable effect of the financial interests of a person "with whom he or she is negotiating or has any arrangement concerning prospective employment"
- beyond this statutory requirement, addresses the issues of lack of impartiality that require disqualification from particular matters affecting the financial interests of a prospective employer when an employee's actions in seeking employment fall short of actual employment negotiations.

**H Misuse of Position**

The Misuse of Position subpart contains provisions relating to the proper use of official time and authority, and of information and resources to which an employee has access because of his or her Federal employment. This subpart sets forth standards relating to the following:

- use of public office for private gain
- use of nonpublic information
- use of Government property
- use of official time.

**I Outside Activities**

The Outside Activities subpart contains provisions relating to outside employment, outside activities, and personal financial obligations of employees that are in addition to the principles and standards in other paragraphs of this part and in 5 CFR Part 2635.

**122 OGE Standards of Ethical Conduct for Employees of the Executive Branch (Continued)****J Related Statutory Authorities**

The Related Statutory Authorities subpart contains additional statutes to which an employee's conduct must conform. 5 CFR 2635.902 references some of the more significant statutes. It is not comprehensive and includes only references to statutes of general applicability. While it includes references to several of the basic conflict of interest statutes whose standards are explained in more detail in 5 CFR Part 2635, it does not include references to statutes of a more limited applicability, such as statutes that apply only to officers and employees of the Department of Defense.

**123 Employee Responsibilities and Conduct****A CFR Standards**

5 CFR Part 735, which became effective February 3, 1993, was revised to address restrictions on certain gambling activities, conduct prejudicial to the Government, and special preparation of persons for civil service and foreign service examinations. See Exhibit 12.

**B USDA Employee Responsibilities and Conduct**

7 CFR Part 0, Appendix I has been replaced with USDA Personnel Bulletin No. 735-1, Employee Responsibilities and Conduct, dated November 12, 1996. This bulletin addresses the following:

- prohibited conduct - general
- foreign gifts
- attendance and leave
- sale of personal property
- use of government vehicles
- activities with regard to farm organizations
- prohibitions on employees serving abroad
- miscellaneous provisions
- computers
- retaliation and reprisal
- reporting misconduct
- miscellaneous statutory provisions.

See Exhibit 13 for details.

**124 Designated Ethics Officials and Advisors****A USDA Ethics Officials**

The following designated ethics officials administer the Department-wide ethics program:

- Designated Agency Ethics Official
- Alternate Designated Agency Ethics Official
- Senior Ethics Specialist.

**B FFAS Ethics Officials and Advisors**

The following designated ethics officials administer the FFAS-wide ethics program:

- Deputy Ethics Official
- Mission Area Ethics Advisor
- Ethics Advisor.

**Note:** Advice and assistance to supervisors, managers, and employees are rendered by both the Mission Area Ethics Advisors and Ethics Advisors.

**\*--C List of FFAS Ethics Officials and Advisors**

A list providing the names, addresses, and telephone numbers of ethics officials and advisors is available at <http://hr.ffas.usda.gov/offices/elrb/ethics.htm>; click on “**Contacts**”.--\*

**125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993****A Background**

The Hatch Act Reform Amendment of 1993, effective February 3, 1994, permits Federal employees to take an active part in political management or in political campaigns.

**Notes:** Career SES members and Senior FSO’s are **not** covered under the Hatch Act Reform Amendment of 1993. See:

- paragraph 126.5 for Special Government Employees
- paragraph 127 for permitted and prohibited political activities
- Exhibit 14 for the political activities quick reference chart.

Additional information on the Hatch Act may be found at the following websites:

- [www.usda-ethics.net/](http://www.usda-ethics.net/); click on “Rules of the Road”
- [www.osc.gov](http://www.osc.gov); click on “Political Activity (Hatch Act)”.

## 125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993 (Continued)

### \*--B Who Is Covered by the Hatch Act

All civilian employees in the executive branch of the Federal Government, except the President and the Vice President, are covered by the provisions of the Hatch Act, including part-time employees.--\*

### C Participating in Nonpartisan Activities

Employees may:

- express their opinion privately and publicly on political subjects
- be politically active in connection with a question that is not specifically identified with a political party

\*--**Examples:** Constitutional amendment referendum, approval of a municipal--\* ordinance, or any other question or issue of similar character.

- participate in the nonpartisan activities of a civic, community, social, labor, or profession organization, or of a similar organization
- participate fully in public affairs, except as prohibited by other Federal law, in a manner that does not compromise their efficiency or the integrity of USDA.

### D Examples of Participating in Nonpartisan Activities

An employee may participate, including holding office, in any nonpartisan group. This participation may include fundraising as long as the fundraising:

- is not in any way connected with any partisan political issue, group, or candidate
- complies with Federal, Agency, and any other applicable regulations, such as property management regulations.

An employee, individually or collectively with other employees, may petition or provide information to Congress as provided in 5 U.S.C. 7211.

**125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****E Participating in Political Organizations**

Employees may:

- be members of a political party or other political group, and participate in its activities
- serve as or be 1 of the following:
  - an officer of a political party or other political group
  - a member of a national, State, or local committee of a political party
  - an officer or member of a committee of a political group
  - a candidate for any of these positions
- attend and participate fully in the business of nominating caucuses of political parties
- organize or reorganize a political party organization or political group
- participate in a political convention, rally, or other political gathering
- serve as a delegate, alternate, or proxy to a political party convention.

**F Example of Participating in Political Organizations**

Employees may:

- make motions or place a name in nomination at a nominating caucus
- serve as a vice president of a political action committee or an officer of a candidate's campaign committee as long as the duties of the office do not involve personal solicitation, acceptance, and receipt of political contributions.

**Note:** Ministerial activities that precede or follow the official acceptance and receipt, such as handling, disbursing, or accounting for contributions, are not covered under the definitions of "accept" and "receive" in Exhibit 2. See \*--subparagraphs M and 126 B on permitted and prohibited activities related to--\* fundraising.

## 125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993 (Continued)

### G Participating in Political Campaigns

\*--Subject to prohibitions in subparagraph 126 H, employees may:--\*

- display pictures, signs, stickers, badges, or buttons associated with political parties, candidates for partisan political office, or partisan political groups

**Note:** An independent contractor is not covered by the Hatch Act Reform Amendment of 1993 and may display political buttons while performing the duties for which he or she is contracted.

- initiate or circulate a nominating petition for a candidate for partisan political office
- canvass for votes in support of or in opposition to a partisan political candidate or a candidate for political party office
- endorse or oppose a partisan political candidate or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material
- address a convention, caucus, rally, or similar gathering of a political party or political group in support of or in opposition to a partisan political candidate or a candidate for political party office
- take an active part in managing the political campaign of a partisan political candidate or a candidate for political party office.

### H Examples of Participating in Political Campaigns

Employees may:

- broadcast endorsements for a partisan political candidate using a public address system attached to their private automobile
- canvass voters by telephone for a political party or partisan political candidate

**125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****H Examples of Participating in Political Campaigns (Continued)**

- stand outside of polling places on election day and hand out brochures for a partisan political candidate or political party
- appear in a television or radio broadcast that endorses a partisan political candidate and is sponsored by the candidate's campaign committee, a political party, or a partisan political group
- take annual leave, during official travel, to give an address at a breakfast for a candidate for partisan political office
- manage the political campaign of a candidate for public office, including supervising paid and unpaid campaign workers
- place a sign or banner in their front yard supporting a partisan political candidate.

**I Participating in Elections**

Employees may:

- register and vote in any election
- act as recorder, watcher, challenger, or similar officer at polling places
- serve as an election judge or clerk, or in a similar position
- drive voters to polling places for a partisan political candidate, partisan political group, or political party.

**J Example of Participating in Elections**

Employees may drive voters to polling places in a privately owned vehicle, but not in a Government-owned or Government-leased vehicle.

**125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****K Candidacy for Public Office**

Employees may run as:

- an **independent** candidate in a **partisan** election for local offices covered by 5 CFR Part 733 (Exhibit 16)

**Notes:** These employees may accept or receive political contributions in connection with the local elections of the municipality or political subdivision, but employees may not solicit political contributions from the general public.

Candidacy for, and service in, a partisan political office shall not do either of the following:

- result in neglect of, or interference with, the performance of the duties of the employee
  - create a conflict, or apparent conflict, of interest.
- a **candidate** in a **nonpartisan** election.

**L Example of Candidacy for Public Office**

An employee who is a candidate for public office in a **nonpartisan** election is not barred by the Hatch Act Reform Amendment of 1993 from soliciting, accepting, or receiving political contributions for his or her own campaign; however, this solicitation, acceptance, or receipt must comply with Federal, Agency, and other appropriate regulations.

**M Participating in Fundraising**

Employees may make political contributions to a political party, political group, campaign committee of a candidate for public office in a partisan election, and multicandidate political committee of a Federal labor or Federal employee organization.

**125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****M Participating in Fundraising (Continued)**

Subject to the prohibitions in subparagraph 126 B, employees may:

- attend political fundraisers
- accept and receive political contributions in a partisan election described in 5 CFR Part 733
- solicit, accept, or receive uncompensated volunteer services from any individual
- solicit, accept, or receive political contributions, as long as:
  - the person who is solicited for a political contribution belongs to the same Federal labor organization, or Federal employee organization, as the employee who solicits, accepts, or receives the contribution
  - the person who is solicited for a political contribution is not a subordinate employee
  - the request for a contribution is made to the multicandidate political committee of a Federal labor organization or to the multicandidate political committee of a Federal employee organization that was in existence on October 6, 1993.

**N Examples of Participating in Fundraising**

A GS-12 employee who belongs to the same Federal employee organization as a GS-5 employee may solicit a contribution for the multicandidate political committee when the employee is not on duty as long as the GS-5 employee is not under the supervisory authority of the GS-12 employee.

An employee may give a speech or keynote address at a political fundraiser when he or she is **not on duty**, as long as the employee does not solicit political contributions, as prohibited in subparagraph 126 B.

**125 Permitted Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****N Examples of Participating in Fundraising (Continued)**

An employee's name may appear on an invitation to a political fundraiser as a guest speaker as long as the reference in no way suggests that the employee solicits or encourages contributions. See example in subparagraph 126 C.

**Note:** The employee's official title **may not** appear on invitations to any political fundraiser, except that an employee who is ordinarily addressed using a general term of address, such as "The Honorable," may use or permit the use of that term of address for this purpose.

When an employee is **not** on duty, the employee may engage in activities that do not require personal solicitations of contributions, such as organizing mail or telephone solicitations for political contributions and stuffing envelopes with requests for political contributions. However, the employee may not sign the solicitation letter unless the solicitation is for the contribution of uncompensated services of individuals who are not subordinate employees. An employee may not knowingly send a letter soliciting the contributions of their subordinate employee's uncompensated services. However, the employee may sign a letter that solicits contributions of uncompensated volunteer services as part of a general mass mailing that might reach a subordinate, as long as the mass mailing is not specifically targeted to the employee's subordinate employees.

An employee who is **not** on duty may participate in a telephone bank soliciting the uncompensated services of individuals. However, an employee may not make telephone solicitations for political contributions **even if the solicitation is anonymous.**

An employee may serve as an officer or chairperson of a political fundraising organization or committee as long as the employee does not personally solicit, accept, or receive political contributions. For example, the employee may organize or manage fundraising activities as long as he or she does not violate the preceding provisions.

An employee may help organize a fundraiser, including supplying names for the invitation list, as long as the employee does not personally solicit, accept, or receive contributions.

An employee on travel may engage in political activity when the employee is not on duty without taking annual leave.

## 126 Prohibited Political Activities Under the Hatch Act Reform Amendment of 1993

### A Using Official Authority

An employee may not use his or her official authority of influence for the purpose of interfering with or affecting the result of an election.

Activities include, but are not limited to:

- using his or her official title while participating in political activity
- using his or her authority to coerce any person to participate in political activity
- soliciting, accepting, or receiving uncompensated individual volunteer services from a subordinate for any political purpose.

**Examples:** An employee:

- who signs a letter seeking uncompensated volunteer services from individuals may not identify himself or herself by using his or her official title. However, the employee may use a general form of address, such as “The Honorable”
- may not require any person to contribute to a partisan political campaign to win a Federal contract
- may not ask his or her subordinate employees to provide uncompensated individual volunteer services for a political party, partisan political group, or candidate for partisan political office; **moreover, he or she may not accept or receive these services from a subordinate employee who offers to donate them.**

### B Fundraising

Employees may not knowingly:

- personally solicit, accept, or receive a political contribution from another person, except ~~as provided in subparagraph 125 M~~\*
- personally solicit political contributions in a speech or keynote address given at a fundraiser
- allow their official title to be used in connection with fundraising activities
- solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate.

## 126 Prohibited Political Activities Under the Hatch Act Reform Amendment of 1993 (Continued)

### C Examples of Prohibited Fundraising Activities

An employee may not host a fundraiser at his or her home. However, a spouse who is not covered under the Hatch Act Reform Amendment of 1993 provisions may host such a fundraiser and the employee may attend. The employee may not personally solicit contributions to the fundraiser. Moreover, the employee may not accept or receive political \*--contributions, except as provided in subparagraph 125 M.--\*

An employee's name may not appear on an invitation to a fundraiser as a sponsor of the fundraiser, or as a point of contact for the fundraiser.

An employee may not ask a subordinate employee to volunteer for a partisan political campaign.

An employee may not call the personnel office of a business or corporation and request that the corporation or business provide volunteers or services for a campaign. However, an employee may call an individual who works for a business or corporation and request that specific individual's services for a campaign.

### D Candidacy for Public Office

An employee may not run for the nomination or as a candidate for election to a partisan \*--political office, except as specified in subparagraph 125 K.

### E What Constitutes Candidacy

Any action that can reasonably be construed as evidence that the individual is seeking support for or undertaking an initial "campaign" to secure nomination or election to office would be viewed as candidacy for purposes of the Hatch Act. Engaging in the following types of activities directed toward candidacy would violate the Hatch Act:

- taking the action necessary under the law of a State to qualify for nomination for election
- soliciting or receiving contributions or making expenditures
- giving consent to or acquiescing in this activity by others on the employee's behalf
- meeting with individuals to plan the logistics and strategy of a campaign
- **activities that lead to candidacy--\***

**126 Prohibited Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****\*--E What Constitutes Candidacy (Continued)**

- circulating nomination petitions or holding a press conference concerning one's candidacy
- submission of qualifications to local political party
- public declaration
- filing of a nominating petition.

**Note: This list is not intended to be an all inclusive list of examples of preliminary activities towards candidacy.--\***

**F Soliciting or Discouraging the Political Participation of Certain Persons**

Employees may not knowingly solicit or discourage the participation in any political activity of any person who:

- has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before the employee's employing office
- is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by the employee's employing office.

**Note:** FAS, FSA, and RMA shall determine when a matter is pending and ongoing within the employing offices.

**G Example of Soliciting or Discouraging the Political Participation of Certain Persons**

An employee with agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate as long as the group has not been specifically targeted as having matters before FAS, FSA, or RMA.

## 126 Prohibited Political Activities Under the Hatch Act Reform Amendment of 1993 (Continued)

### H Participating in Political Activities While on Duty

Except for employees who are appointed by the President and with the advice and consent of the Senate, employees may not participate in political activities while:

- on duty
- wearing a uniform, badge, insignia, or other similar item that identifies the employing agency or the position of the employee
- in any room or building occupied in the discharge of official duties
- using a Government-owned or Government-leased vehicle in the discharge of official duties.

### I Examples of Participating in Political Activities While on Duty

State and County Office employees who use their private vehicles to perform official duties on a recurrent basis may place a partisan political bumper sticker on the vehicle, as long as the bumper sticker is covered while the vehicle is used for official duties. Employees who use their privately owned vehicle:

- only on an occasional basis to drive to another agency or training course, are not required to cover the partisan political bumper sticker on their vehicle
- for official duties must cover any partisan political bumper stickers while the vehicle is used for official business, if the vehicle is clearly identified as being on official business.

Employees may:

- not place a partisan political bumper sticker on any Government-owned or Government-leased vehicles
- place bumper stickers on their privately owned vehicle and park the vehicle in a parking lot of an Agency or in a non-Federal facility for which the employee receives a subsidy from the Agency

**\*--Example:** A postal service employee who uses their private vehicle to deliver mail may place a political bumper sticker on the vehicle as long as they cover the bumper sticker while they are on duty.--\*

**126 Prohibited Political Activities Under the Hatch Act Reform Amendment of 1993  
(Continued)****I Examples of Participating in Political Activities While on Duty (Continued)**

- not engage in political activity in the cafeteria of a Federal building, even if the cafeteria is in space leased by a contractor
- not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while they are on duty or at their work place.

When FAS, FSA, or RMA leases offices in commercial buildings and those buildings include the headquarters of a candidate for partisan political office, the FAS, FSA, or RMA employee may do volunteer work when he or she is not on duty, at the candidate's headquarters and in other areas of the building that have not been leased by the Government.

**Note:** When the Agency has leased all of the space in a commercial building, employees may not participate in political activity in the public areas of the building.

Officials of labor organizations who are on official time to perform representational duties are on duty.

An employee who works at home may engage in political activities at home when he or she is not in a pay status or representing the Government in an official capacity.

An employee who contributes financially to a political action committee through a voluntary allotment:

- made under 5 CFR 550.311(b) may not complete the direct deposit forms while he or she is on duty, in a room or building defined in 5 CFR 734.101, or in a Federally owned or leased vehicle.
- may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to the payroll employees who would process or administer these forms.

**Note:** However, the employee may mail his or her direct deposit form to his or her agency payroll office.

## 126 Prohibited Political Activities Under the Hatch Act Reform Amendment of 1993 (Continued)

### J Campaigning for a Spouse or Family Member

An employee who is the spouse or family member of a candidate for partisan political office, candidate for political party office, or candidate for public office in a nonpartisan election is subject to the same prohibitions as other employees according to this notice.

### K Examples of Campaigning for a Spouse or Family Member

An employee who is married to a candidate for partisan political office may attend a fundraiser for his or her spouse, stand in the receiving line, sit at the head table, and urge others to vote for his or her spouse. However, the employee may not personally solicit, accept, or receive contributions of money or the paid or unpaid services of a business or corporation, or sell or collect money for tickets to the fundraiser.

An employee who is married to a candidate for partisan political office may appear with his or her spouse in a political advertisement or a broadcast, and urge others to vote for his or her spouse, as long as the employee does not personally solicit political contributions.

## \*--126.5 Political Activities for SGE's

### A What Are SGE's

Routinely, FFAS hires experts, consultants, and advisors for specific projects from the private sector under an SGE appointment.

These individuals are appointed to perform temporary duties, with or without compensation, for no more than 130 calendar days during any period of 365 consecutive days. Although there is some supervision, SGE's generally work in an unstructured environment.

**Example:** An example of SGE's is STC members.

### B SGE's Political Activity

SGE's are bound by the same political activity rules as regular Federal employees; however, the rules in subparagraphs C and D only apply to SGE's on the days they serve as SGE's for the Agency.

**Example:** STC members:

- who participate in a STC meeting may not engage in any political activity on that same day
- attending the SED/STC National FSA Conference in Washington, DC, may not engage in any political activity while in office travel duty status.--\*

**\*--126.5 Political Activities for SGE's (Continued)****C Prohibited Political Activities for SGE's**

SGE's may not make calls and set appointments during duty hours for either of the following:

- political campaign or committee activity
- political committee of the labor organization.

SGE's shall not engage in political activity while:

- on duty
- on government-paid travel
- in any room or building occupied in the conduct of government business
- wearing a uniform or official insignia identifying the office or position of the employee
- using any vehicle owned or leased by the government
- using official authority or influence to interfere with or affect the result of an election
- knowingly soliciting, accepting, or receiving political campaign contributions from **any** person, unless:
  - that person is a member of the same labor organization, not a subordinate employee
  - the solicitation is for a contribution to the multi-candidate political committee of the labor organization
- running for a partisan political office
- soliciting or discouraging the political activity of any person who:
  - has any application pending before the Department
  - is a subject or participant in an ongoing audit, investigation, or enforcement action being carried out by the Department.--\*

**\*--126.5 Political Activities for SGE's (Continued)****D Permitted Political Activities for SGE's**

SGE's are permitted to campaign during non-duty hours, on a partisan basis, for or against partisan candidates or issues by:

- distributing campaign literature
- making campaign speeches
- writing or signing letters for publication
- soliciting votes
- registering voters
- driving voters to the polls in "get-out-to vote" efforts
- acting for a political party at a polling office
- organizing, managing, or holding office in campaign organizations
- attending or being active at political rallies and meetings
- taking a prominent part in primary meetings or caucuses
- serving as delegates to party conventions
- initiating or signing nominating petitions
- holding office in partisan political clubs or parties
- voting as individuals
- expressing opinion on political subjects and candidates
- serving as candidates for election in nonpartisan elections
- serving as nonpartisan candidates for election in partisan campaigns in political subdivisions designated by OPM
- contributing money to political organizations
- attending (but not hosting) political fundraising functions.--\*

**127 Political Activities for Career SES Members and SFS Officers****\*--A Permitted Political Activities for Career SES Members and SFS Officers**

Off the job, career SES members and SFS Officers may engage in the political process as an individual citizen, expressing personal views and franchise rights.

Career SES members and SFS Officers may also:

- register and vote in any election
- assist in nonpartisan voter registration drives and “get-out-to vote” drives
- express opinions about candidates, parties, and issues
- be a candidate or actively participate in nonpartisan election campaigns, where none of the candidates represent a political party, such as a school board election
- be an independent candidate in partisan local elections in certain municipalities, including most of the suburban DC metropolitan area (Exhibit 16)
- make contributions to candidates and political organizations and parties
- attend political fundraising functions
- attend political rallies and meetings on personal time
- join political party organizations and political clubs as a member, but not as an officer
- sign nominating petitions
- actively participate in campaigns on referendums, questions, initiative, constitutional amendments, and State and municipal bond drives and ordinances.

**B Prohibited Political Activities for Career SES Members and SFS Officers**

Career SES members and SFS Officers were explicitly excluded from the liberalization embodied in the Hatch Act Amendments of 1993, and many of the restrictions apply both on and off the job. Career SES members and SFS Officers are prohibited from engaging in--\* partisan political management or partisan political campaigns. Specifically, they may not work on campaigns where any of the candidates are running as representatives of a political party, such as the Democratic or Republican party.

**127 Political Activities for Career SES Members and SFS Officers (Continued)****\*--B Prohibited Political Activities for Career SES Members and SFS Officers (Continued)**

SES members and SFS Officers may not:

- solicit political contributions from anyone at anytime

**Note: There is a narrow exception for soliciting within the membership of a Federal employee union for its PAC.**

- seek a nomination for, or election to, a partisan political office

**Note:** There is an exception for running for local office in certain specified areas. See subparagraph 125 K and Exhibit 16.

- wear political buttons at work or display political materials in the office

**Note:** A bumper sticker on a personal vehicle is permitted, even if the car is parked in a government lot.

- campaign for or against partisan political candidates, which precludes the following:
  - making partisan political speeches
  - collecting contributions or selling tickets to political fundraising functions
  - distributing campaign materials in partisan elections
  - organizing or managing political rallies or meetings
  - participating in partisan voter registration drives
  - participating in partisan “get-out-to vote” drives
- hold office, either on a voluntary or a compensated basis, in a political party organization, campaign committee, PAC, or political clubs
- circulate nominating or ballot access petition.

**127.5 Penalty for Violation of the Hatch Act****A Corrective Action**

Any employee who violates the Hatch Act shall be subject to a minimum penalty of suspension for 30 calendar days without pay and a maximum penalty of removal.--\*

\*--128 OGE-450 and OGE-450-A--\*

## A Purpose

OGE-450 is a safeguard for the employee as well as the Government. OGE-450 provides a mechanism for determining actual or potential conflicts between an employee's public responsibilities and his or her private interests and activities.

\*--**Note:** Additional information on filing OGE-450 is in 5 CFR Part 2634, Subpart I.--\*

## B Covered Employee Designation

Agencies are required to designate positions at or below GS-15 or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administering grants and licenses, regulating and auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement.

See Exhibit 20 for a detailed definition of covered employee as stated in 5 CFR Subpart 2634.904.

**Note:** Employees in pay plans SES, FE, SL, and certain GS employees file SF-278. The \*--SF-278 program is administered by USDA's Office of Ethics. SF-278's are due--\* May 15 each year. Employees who fail to file by the due date or after the filing extension date are subject to a \$200 late filing fee.

## C New Entrant Reports

New entrant reports are due within 30 calendar days of assuming a position designated for filing. The reporting period is the preceding 12 months from the date of filing. No report is required if the employee left another filing position within 30 calendar days before assuming the new position.

\*--**Note:** SGE's, such as STC members, must file new entrant reports upon **each** appointment, reappointment, or redesignation.--\*

## D Annual Reports

Annual reports are due no later than October 31, unless extended by HRD \* \* \*. The reporting period covers October 1 through September 30, or that portion not covered by a new entrant report.

No report is required if an employee performed the duties of his or her position for less than 61 calendar days during that 12-month period.

\*--128 OGE-450 and OGE-450-A (Continued)--\*

**E Filing OGE-450**

All **covered** employees shall file OGE-450:

- within 30 calendar days of entering a **covered** position
- on an annual basis thereafter.

Requests for extensions must:

- be in writing and received by the final reviewing official no later than the date provided in the annual OGE-450 filer notice
- \*--provide sufficient justification to show “good cause” for extension request.--\*

**F Where to File**

All covered employees shall complete and submit OGE-450’s according to the following table.

\*--

<b>IF the employee is...</b>	<b>THEN submit OGE 450 to the following office for final reviewing...</b>
<ul style="list-style-type: none"> <li>• National Office employee</li> <li>• FSO (overseas)</li> <li>• RMA employee located in RSO/CFO, except Kansas City</li> <li>• STC member, after intermediate review by SED (subparagraph 129 B)</li> </ul>	HRD, Attn: Mission Area Ethics Advisor.
<ul style="list-style-type: none"> <li>• FSA employee serviced by KCHRO</li> <li>• RMA employee located in Kansas City</li> <li>• AO’s</li> </ul>	KCHRO, ELRS.
<ul style="list-style-type: none"> <li>• State Office Federal employee, except AO’s</li> <li>• County Office Federal employee</li> <li>• APFO employee</li> </ul>	State Office, Attn: AO, APFO, or Caribbean Area Office.

\*--

**\*--128 OGE-450 and OGE-450-A (Continued)****\*--G Accessing Current OGE-450 (September 2002 Edition)**

The April 1999 edition of OGE-450 is obsolete. The September 2002 edition of OGE-450 should be used in place of the previous version. The modified OGE-450 may be accessed through the Internet as follows:

- **[www.usda-ethics.net/](http://www.usda-ethics.net/)**; click on “Forms”
- **[www.usoge.gov](http://www.usoge.gov)**; click on “Forms, Publications & Other Ethics Documents”.

Employees may use the online, web-based reporting version of OGE-450 through NFC’s EPP. However, employees must print out OGE-450, sign it, and mail it to their servicing Agency Ethics Office.

**Note:** To gain access to this system, employees must obtain and use their PIN and go through NFC’s EPP located at **<http://www.nfc.usda.gov>**.--\*

### H Example of OGE-450

Following is an example of OGE-450.

<p><b>INSTRUCTIONS FOR OGE FORM 450, CONFIDENTIAL FINANCIAL DISCLOSURE REPORT</b></p>	<p><b>D. Reporting Periods</b> New entrant reports: The reporting period is the preceding twelve months from the date of filing. Annual reports: The reporting period covers October 1 through September 30 (or that portion not covered by a new entrant report). However, no report is required if you performed the duties of your position for less than 61 days during that twelve-month period. (All reappointed or redesignated SGEs file reports, regardless of the number of days worked.)</p>	<p><b>E. Where To File</b> With ethics officials at the agency in which you serve or will serve, or in accordance with their procedures.</p>	<p><b>F. Definitions</b> <b>Dependent Child</b> - means your son, daughter, stepson, or stepdaughter if such person is either: (1) unmarried, under age 21, and living in your household; or (2) a "dependent" of yours for Federal income tax purposes. See 26 U.S.C. 152. <b>Honoraria</b> - means payments (direct or indirect) of money or anything of value to you or your spouse for an appearance, speech or article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria. <b>Special Government Employee (SGE)</b> - is defined in 18 U.S.C. 202(a) as: an officer or employee of an agency who performs temporary duties, with or without compensation, for not more than 130 days in a period of 365 days, either on a full-time or intermittent basis.</p>
<p><b>A. Why You Must File</b> This report is a safeguard for you as well as the Government. It provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities. This allows you and your agency to fashion appropriate protections against such conflicts.</p>	<p><b>B. Who Must File</b> Agencies are required to designate positions at or below GS-15, O-6, or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administering grants and licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement. All special Government employees (SGEs) must file, unless exempted by their agency or subject to the public reporting system. Agencies may also require certain employees in positions above GS-15, O-6, or a comparable pay rate to file.</p>	<p><b>G. General Instructions</b> 1. Filers must provide sufficient information about outside interests and activities so that ethics officials can</p>	<p><b>Part I: Assets &amp; Income</b> <b>Assets:</b> 1. Report all assets held for investment or for the production of income by you, your spouse, and dependent children, with a value greater than \$1,000 at the end of the reporting period or which produced more than \$200 in income during the reporting period. <b>Salary and Earned Income:</b> 1. <b>For yourself:</b> report all sources of salary and earned income greater than \$200 during the reporting period. 2. <b>For your spouse:</b> report all sources of salary and earned income if greater than \$1,000 (for honoraria, if greater than \$200).</p>

H Example of OGE-450 (Continued)

<p><b>3. For dependent children:</b> no earned income needs to be reported.</p> <p><b>Examples of Assets:</b></p> <ul style="list-style-type: none"> <li>- Stocks</li> <li>- Tax Shelters</li> <li>- Mutual Funds</li> <li>- Annuities</li> <li>- Trust Holdings</li> <li>- Trades &amp; Businesses</li> <li>- Investment Life Insurance</li> </ul> <p><b>Examples of Income:</b></p> <ul style="list-style-type: none"> <li>- Investment Income</li> <li>- Dividends</li> <li>- Rents and Royalties</li> <li>- Interest</li> <li>- Capital Gains</li> </ul> <p><b>Earned/Other Income</b></p> <ul style="list-style-type: none"> <li>- Fees</li> <li>- Salaries</li> <li>- Commissions</li> <li>- Retirement Benefits</li> <li>- Honoraria</li> </ul>	<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>1. Your personal residence, unless you rent it out;</li> <li>2. Federal Government salary or retirement benefits such as the Thrift Savings Plan;</li> <li>3. Social Security benefits;</li> <li>4. Money owed to you, your spouse, or dependent child by a spouse, parent, sibling or child;</li> <li>5. Accounts including certificates of deposit, savings accounts, interest-bearing checking accounts, or any other forms of deposit in a bank, savings and loan association, credit union or similar financial institution;</li> <li>6. Money market mutual funds and money market accounts;</li> <li>7. U.S. Government obligations (including Treasury bonds, bills, notes and savings bonds);</li> <li>8. Government securities issued by U.S. Government agencies or Government-sponsored corporations, such as TVA, GNMA, FNMA; and</li> <li>9. The underlying holdings of a trust that: 1) was not created by you, your spouse, or dependent children, and 2) the holdings or sources of income of which you, your spouse, and dependent children have no past or present knowledge. An example is a trust created by a relative, from which you receive periodic income but have no knowledge about its assets. Just identify the trust by name and date of creation.</li> </ol>	<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>1. Mortgages on your personal residence unless you rent it out;</li> <li>2. Personal liabilities owed to a spouse, or the parent, sibling, or child of you, your spouse, or dependent child;</li> <li>3. Loans for personal automobiles, household furnishings, or appliances, where the loan does not exceed the purchase price; and</li> <li>4. Revolving charge accounts where the outstanding liability does not exceed \$10,000 at the end of the reporting period.</li> </ol>
<p><b>Notes:</b></p> <ol style="list-style-type: none"> <li>1. For pensions, you will ordinarily just need to indicate the name of the sponsoring employer. However, if you have control over the specific investment assets held in your pension account (it is not independently managed), you must also list those underlying investments or attach an account statement that lists them.</li> <li>2. For publicly available mutual funds, you are only required to indicate the name of the fund, not the investments that the mutual fund holds in its portfolio. You must, however, always indicate the full name of the specific mutual fund in which you hold shares, not just the general family fund name.</li> <li>3. For other publicly available investment funds, such as publicly offered units of limited partnerships, the disclosure requirements are the same as for mutual funds -- list the full name of the limited partnership, but not its underlying portfolio investments.</li> <li>4. For a privately held trade or business, report its name, location, and description of activity.</li> </ol>	<p><b>Part III: Outside Positions</b></p> <p><b>Report for Yourself:</b></p> <ol style="list-style-type: none"> <li>1. All positions outside the U.S. Government held at any time during the reporting period (including positions no longer held), whether or not paid.</li> </ol> <p><b>Positions include</b> an officer, director, trustee, general partner, proprietor, representative, executor, employee, or consultant of any of the following:</p> <ol style="list-style-type: none"> <li>1. A corporation, company, firm, partnership, trust, or other business enterprise;</li> <li>2. A non-profit organization;</li> <li>3. A labor organization; and</li> <li>4. An educational or other institution outside the Federal Government.</li> </ol>	<p><b>Part II: Liabilities</b></p> <p><b>Report for Yourself, Spouse, and Dependent Children:</b></p> <ol style="list-style-type: none"> <li>1. Liabilities over \$10,000 owed to any creditor at any time during the reporting period.</li> </ol>
<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>1. Positions held in any religious, social, fraternal, or political entity;</li> <li>2. Positions solely of an honorary nature; and</li> <li>3. Positions held by a spouse or dependent child.</li> </ol>		

H Example of OGE-450 (Continued)

<p style="text-align: center;"><b>Part IV: Agreements or Arrangements</b></p> <p><b>Report Your Agreements or Arrangements for:</b></p> <ol style="list-style-type: none"> <li>Current or future employment;</li> <li>A leave of absence from private or other non-Federal employment;</li> <li>Continuation of payment by a former employer other than the Federal Government (including severance payments); and</li> <li>Continuing participation in an employee pension or benefit plan maintained by a former employer other than the Federal Government.</li> </ol>	<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>Anything received from relatives, the U.S. Government, D.C., State, or local governments;</li> <li>Bequests and other forms of inheritance;</li> <li>Gifts and travel reimbursements given to your agency in connection with your official travel;</li> <li>Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and</li> <li>Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (<i>Example: a spouse's reimbursement in connection with private employment.</i>)</li> </ol>	<p><b>Penalties</b></p> <p>Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.</p>
<p style="text-align: center;"><b>Part V: Gifts and Travel Reimbursements</b></p> <p><b>Note:</b> Part V is not applicable to new entrants and SGEs.</p> <p><b>Report for You, Your Spouse, and Dependent Children:</b></p> <ol style="list-style-type: none"> <li>Travel-related cash reimbursements received from one source during the reporting period totaling more than \$285.</li> <li>Any other gifts totaling more than \$285 from any one source. A "gift" is defined as anything of value, unless you give something of equal or greater value to the donor. This includes tangible items and in-kind transportation, food, lodging, and entertainment.</li> </ol> <p><b>Note:</b> Gifts or reimbursements valued at \$114 or less need not be included in determining the over \$285 reporting threshold.</p>	<p><b>Public Burden Information</b></p> <p>This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Deputy Director for Administration and Information Management, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. Do not send your completed OGE Form 450 to this address. See Section E for where to file.</p>	<p><b>Privacy Act Statement</b></p> <p>Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records.</p>
<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>Travel-related cash reimbursements received from one source during the reporting period totaling more than \$285.</li> <li>Any other gifts totaling more than \$285 from any one source. A "gift" is defined as anything of value, unless you give something of equal or greater value to the donor. This includes tangible items and in-kind transportation, food, lodging, and entertainment.</li> </ol> <p><b>Note:</b> Gifts or reimbursements valued at \$114 or less need not be included in determining the over \$285 reporting threshold.</p>	<p><b>Public Burden Information</b></p> <p>This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Deputy Director for Administration and Information Management, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. Do not send your completed OGE Form 450 to this address. See Section E for where to file.</p>	<p><b>Penalties</b></p> <p>Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.</p>
<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>Anything received from relatives, the U.S. Government, D.C., State, or local governments;</li> <li>Bequests and other forms of inheritance;</li> <li>Gifts and travel reimbursements given to your agency in connection with your official travel;</li> <li>Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and</li> <li>Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (<i>Example: a spouse's reimbursement in connection with private employment.</i>)</li> </ol>	<p><b>Privacy Act Statement</b></p> <p>Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records.</p>	<p><b>Public Burden Information</b></p> <p>This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Deputy Director for Administration and Information Management, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. Do not send your completed OGE Form 450 to this address. See Section E for where to file.</p>
<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>Anything received from relatives, the U.S. Government, D.C., State, or local governments;</li> <li>Bequests and other forms of inheritance;</li> <li>Gifts and travel reimbursements given to your agency in connection with your official travel;</li> <li>Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and</li> <li>Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (<i>Example: a spouse's reimbursement in connection with private employment.</i>)</li> </ol>	<p><b>Privacy Act Statement</b></p> <p>Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records.</p>	<p><b>Penalties</b></p> <p>Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.</p>
<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>Anything received from relatives, the U.S. Government, D.C., State, or local governments;</li> <li>Bequests and other forms of inheritance;</li> <li>Gifts and travel reimbursements given to your agency in connection with your official travel;</li> <li>Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and</li> <li>Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (<i>Example: a spouse's reimbursement in connection with private employment.</i>)</li> </ol>	<p><b>Privacy Act Statement</b></p> <p>Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records.</p>	<p><b>Public Burden Information</b></p> <p>This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Deputy Director for Administration and Information Management, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. Do not send your completed OGE Form 450 to this address. See Section E for where to file.</p>
<p><b>Do Not Report:</b></p> <ol style="list-style-type: none"> <li>Anything received from relatives, the U.S. Government, D.C., State, or local governments;</li> <li>Bequests and other forms of inheritance;</li> <li>Gifts and travel reimbursements given to your agency in connection with your official travel;</li> <li>Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and</li> <li>Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (<i>Example: a spouse's reimbursement in connection with private employment.</i>)</li> </ol>	<p><b>Privacy Act Statement</b></p> <p>Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records.</p>	<p><b>Penalties</b></p> <p>Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution.</p>

H Example of OGE-450 (Continued)

Form Approved:  
OMB No. 3209-0006

Page Number

**Executive Branch CONFIDENTIAL FINANCIAL DISCLOSURE REPORT**

OGE Form 450, 5 CFR Part 2634, Subpart I  
U.S. Office of Government Ethics (9/02)  
(Replaces 4/99 edition)

Employee's Name (Last, first, middle initial) \_\_\_\_\_ Position/Title \_\_\_\_\_ Grade \_\_\_\_\_ Reporting Status:  New entrant  Annual

Agency \_\_\_\_\_ Branch/Unit and Address \_\_\_\_\_ Work Phone \_\_\_\_\_ If New Entrant, Date of Appointment \_\_\_\_\_

Check box if special Government employee (SGE) If an SGE, Home Address (Number, Street, City, State and ZIP Code) \_\_\_\_\_ Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

*I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.*

Date Received by Agency \_\_\_\_\_ Signature and Title of Supervisor/Other Intermediate Reviewer (If agency requires) \_\_\_\_\_ Date \_\_\_\_\_

Signature of Agency's Final Reviewing Official and Title \_\_\_\_\_ Date \_\_\_\_\_ Comments of Reviewing Officials \_\_\_\_\_ (Check box if continued on reverse)

**Part I: Assets and Income**  None

**Identify for you, your spouse, and dependent children:** 1) assets with a fair market value greater than \$1,000 at the close of the reporting period or producing income over \$200; and 2) sources of earned income such as salaries, fees, honoraria (other than U.S. Government salary or retirement benefits, such as the Thrift Savings Plan) which generated over \$200 in income during the reporting period. Earned income sources of your spouse must be reported if greater than \$1,000 (greater than \$200 for honoraria). No earned income needs to be reported for dependent children.

Assets include (but are not limited to): stocks, bonds, tax shelters, real estate, mutual funds, pensions, annuities, IRAs, trusts, commodity futures, trades and businesses, and partnership interests.

Exclude your personal residence, unless you rent it out, and deposit accounts in financial institutions. See instructions for additional exclusions.

Authorized for local reproduction

Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, type/location of real estate, etc.)	(X) if no longer held	Nature of Income over \$200 (Rent, interest, dividends, capital gains, salary, etc.)	Date (Only for honoraria)
Examples Rental Condo, Anchorage, Alaska Dee, Jones & Smith, Hometown, USA (S) Alexandria Medical Clinic, Alexandria, VA Franklin Equity Mutual Fund	X	Rent Salary Salary Dividends/Capital Gains	
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			



H Example of OGE-450 (Continued)

OGE Form 450, 5 CFR Part 2634, Subpart I  
 U.S. Office of Government Ethics (9/02)  
 (Replaces 4/99 edition)

Page Number \_\_\_\_\_  
 Work Phone \_\_\_\_\_

Employee's Name (Last, first, middle initial) \_\_\_\_\_

**Part II: Liabilities**  None

Report for you, your spouse, and dependent children liabilities over \$10,000 owed at any time during the reporting period (over \$10,000 at the end of the period if revolving charge accounts). Exclude a mortgage on your personal residence unless it is rented out; loans for autos, household furniture or appliances; and liabilities owed to certain family members (see instructions).

Creditors (Name and address)	Type of Liability (Mortgage, promissory note, etc.)
Example 1 First Alaska Bank, Anchorage, Alaska	Mortgage on rental property in Anchorage, AK
2	
3	

**Part III: Outside Positions**  None

Report any positions, whether or not compensated, which you held outside the U.S. Government during the reporting period. Positions include (but are not limited to) employee, officer, director, trustee, general partner, proprietor, representative, executor, or consultant for a business, non-profit or labor organization, or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature. You need not report any positions of your spouse or dependent children.

Organization (Name and address)	Type of Organization	Position	If no longer held (X)
Example 1 Dec, Jones & Smith, Hometown, USA	Law Firm	Associate	X
2			
3			
4			

**Part IV: Agreements or Arrangements**  None

Report your agreements or arrangements for current or future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. You need not report agreements or arrangements of your spouse or dependent children.

Terms of Any Agreement or Arrangement	Parties	Date
Example 1 Will receive retained pension benefits (independently managed, fully funded, defined contribution plan)	Dec, Jones & Smith, Hometown, USA	2/99
2		
3		

**Part V: Gifts and Travel Reimbursements**  None

Do not complete this part if you are a new entrant or special Government employee.

Report for you, your spouse, and dependent children gifts or travel reimbursements you have received from one source totaling more than \$285. Exclude anything valued at \$114 or less; anything received by your spouse or dependent child totally independent of their relationship to you; anything from a relative or from the U.S. Government; anything given to your agency in connection with your official travel, and food, lodging, or entertainment received as personal hospitality at the donor's residence or premises.

Source	Description (For travel-related items, include itinerary)	Date
Example 1 Dec, Jones & Smith, Hometown, USA	Leather briefcase as a departing gift	2/99
2		
3		
4		

\*--128 OGE-450 and OGE-450-A (Continued)--\*

## I Filing OGE-450-A

OGE-450-A is to be used **only**:

- by current employees of the executive branch, other than SGE's , according to 5 CFR 2634.905(d)
- if a previous OGE-450 is on file with FFAS and the employee can certify to the following information:
  - no new reportable assets or sources of income for the employee, spouse, or dependent children
  - neither the employee nor spouse has new reportable sources of income from non-Federal employment
  - no new reportable liabilities (debts) for the employee, spouse, or dependent children
  - no reportable outside positions for the employee
  - no reportable agreements or arrangements concerning future, current, or past non-Government employment for the employee
  - no new reportable gifts or travel reimbursements for the employee, spouse, or dependent children
  - no change in the employee's position or duties.

**Note:** Falsification of this certificate may subject an employee to disciplinary action by the Agency or other authority. Knowing and willful falsification of the certificate may also subject the employee to criminal prosecution.

**J Example of OGE-450-A**

Following is an example of OGE-450-A.

U.S. Office of Government Ethics  
OGE Optional Form 450-A (03/2004)

---

**Confidential Certificate of No New Interests (Executive Branch)**  
In Lieu of Annual OGE Form 450

---

This optional form is to be used **only** by current employees of the executive branch (other than special Government employees), in accordance with 5 CFR 2634.905(d). If you have a previous OGE Form 450 on file with your agency and can certify to all of the following statements, your agency may permit you to use this OGE Optional Form 450-A instead of filing an annual OGE Form 450. If you cannot certify to all of the following statements or otherwise do not wish to use this OGE Optional Form 450-A, you must complete a new OGE Form 450 as your annual report. Consult your agency ethics office for more information.

After examining a copy of my last confidential financial disclosure report (OGE Form 450), I certify to the following:

**A. No New Interests.** Since filing my last OGE Form 450:

1. I have no new reportable assets or sources of income, for myself, my spouse, or my dependent children;
2. I have no new reportable liabilities (debts), for myself, my spouse, or my dependent children;
3. I have no new reportable outside positions for myself;
4. I have no new reportable agreements or arrangements concerning future, current, or past non-Government employment for myself;
5. I have no new reportable gifts or travel reimbursements for myself, my spouse, or my dependent children.

(For a description of what interests are reportable, see OGE Form 450 and its accompanying instructions, and/or other agency guidance.)

**B. No Change in Position/Duties.** Since filing my last OGE Form 450, I have not changed jobs at my agency. (The term "changed jobs" includes a new position description or other significant change in duties.)

I certify that the above statements are true, complete, and correct, to the best of my knowledge.

Signature of Employee \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Work Phone \_\_\_\_\_

Position/Title \_\_\_\_\_ E-mail Address \_\_\_\_\_

Agency/Unit and Address \_\_\_\_\_

---

For Agency Use \_\_\_\_\_ Date Received by Agency: \_\_\_\_\_

Notes:

---

--\*

\*--128 OGE-450 and OGE-450-A (Continued)

**J Example of OGE-450-A (Continued)**

U.S. Office of Government Ethics  
OGE Optional Form 450-A (03/2004)

**Privacy Act Statement**

Pursuant to Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) and Executive Order 12674, (as modified by Executive Order 12731) the Office of Government Ethics regulations at 5 CFR Part 2634, Subpart I, permit the completion of this Certificate of No New Interests in lieu of an annual OGE Form 450, in appropriate cases.

The primary use of this form is for review by Government officials at your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of this certificate may be made: (1) to a Federal, State, or local law enforcement agency, if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter; (7) to reviewing officials in a new office, department or agency when an employee transfers from one covered position to another; (8) to a Member of Congress or a congressional office in response to an inquiry made on behalf of an individual who is the subject of the record; and (9) to contractors and other non-Government employees working for the Federal Government to accomplish a function related to an OGE Governmentwide system of records.

This Certificate of No New Interests is confidential. No member of the public shall have access to it, except as authorized by law.

**Penalties**

Falsification of this certificate may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of the certificate may also subject you to criminal prosecution.

--\*

\*--128 OGE-450 and OGE-450-A (Continued)--\*

## **K File Retention**

Completed OGE-450's shall be maintained separately by the officials designated as custodians for these OGE-450's and shall not be made a part of OPF.

OGE-450's and any required supplemental forms shall be held in confidence and afforded adequate physical security, such as a filing cabinet with lock.

OGE-450's and supplemental forms shall be retained for a period of 6 years.

**Note:** See subparagraph 129 F for designation of custodian.

## **L Disclosure of Information**

\*--[5 CFR Part 2634.901 Subpart I] The reports filed pursuant to this Part are specifically characterized as "Confidential" and are required to be withheld from the public, pursuant to section 107(a) of the Privacy Act. These confidential reports contain sensitive commercial and financial information, as well as personal privacy protected information. These reports and the information which they contain are exempt from being released to the public, under exemptions 3(A) and (B), 4 and 6 of the Freedom of Information Act (FOIA).

Therefore Agency personnel shall not publicly release these reports or the information which these reports contains except pursuant to an order issued by a Federal court, or as otherwise provided under the applicable provisions of the Privacy Act.

## **128.5 Executive Branch Personnel, SF-278**

### **A SF-278's**

SF-278's are administered by:

USDA-OE  
1400 Independence Avenue, S.W., Room 348-W  
Washington, DC 20250-0122.

Senate-confirmed Presidential appointees, all SES employees (and equivalent), most Schedule C staff, FE's, and certain GS employees are required to file SF-278's:

- within 30 calendar days of entering and leaving a position at USDA
- annually while serving in a covered position.

Annual SF-278's, covering the previous calendar year, should be filed with OE between January 1<sup>st</sup> and May 15<sup>th</sup> each year.

Employees who fail to file by the due date or after the filing extension date are subject to a \$200 late filing fee.--\*

**129 OGE-450 Responsibilities****\*--A HRD, KCHRO, and AO Responsibilities**

HRD, KCHRO, and AO shall:--\*

- provide new entrant filers with instructions and OGE-450 to complete
- prepare a list of covered employees to serviced activities by no later than September 15 of each year
- review and file OGE-450's
- follow up on delinquent filers
- provide advice and assistance
- recommend appropriate administrative action for covered employees to the agency head as provided in 5 CFR 2634.701(d).

**\*--Note:** AO's OGE-450's shall be forwarded to KCHRO for review. No review of--\*  
AO's OGE-450 shall be conducted at the State Office.

**B SED Responsibilities**

SED's or their designees shall serve as an intermediate reviewer for each STC member's OGE-450. This includes reviewing the STC member's OGE-450, paying particular attention to those areas that may pose a conflict of interest or the appearance of a conflict of interest, such as financial institution-related activities, such as ownership of bank stock, board of directors, banker, ownership interests, or other involvement with a commercial lender. A final review of OGE-450 will be conducted by HRD.

**129 OGE-450 Responsibilities (Continued)****C Office and Staff Directors' Responsibilities Serviced by HRD**

Office and Staff Directors shall:

- inform covered employees of the requirement to complete OGE-450's using the list provided by HRD
- provide covered employees with a pre-addressed envelope labeled as follows:
  - employee's name
  - division or office
  - "For Official Use Only: Contains OGE-450. To Be Opened by Addressee Only."
- inform covered employees to address questions on completing OGE-450's to:
  - \*--Mission Area Ethics Advisor, HRD
  - Ethics Advisors--\*
- obtain sealed envelopes from covered employees containing completed OGE-450's in sufficient time to respond to HRD by the due date provided
- prepare a memorandum listing the name and position of covered employees whose OGE-450's are not submitted and the reason
- submit all collected and completed OGE-450's to:

\*--ATTN: Mission Area Ethics Advisor  
USDA/FSA/HRD/STOP 0591  
1280 Maryland Ave SW  
Washington DC 20024-0591.--\*

## 129 OGE-450 Responsibilities (Continued)

**\*--D Office and Staff Directors' Responsibilities Serviced by KCHRO**

Office and Staff Directors shall:

- inform covered employees of the requirement to complete OGE-450's using the list provided by KCHRO--\*
- provide covered employees with a pre-addressed envelope labeled as follows:
  - division or office
  - "For Official Use Only: Contains OGE-450. To Be Opened by Addressee Only."
- inform covered employees to address questions on completing OGE-450's to:
  - \* \* \*
  - \*--Chief, ELRS, KCHRO
  - Ethics Advisor
- obtain sealed envelopes from covered employees containing completed OGE-450's in sufficient time to respond to KCHRO by the due date provided
- prepare a memorandum listing the name and position of covered employees whose OGE-450's are not submitted and the reason
- submit the completed OGE-450 to KCHRO, ELRS.--\*

**E Employee Responsibilities**

All covered employees who received OGE-450 shall:

- complete OGE-450
  - Note:** OGE-450's shall be returned if they are incomplete or completed in pencil.
- sign and date OGE-450 with an ink pen
  - \*--Note:** FFAS does not require supervisory review of OGE-450, except STC members.
- seal OGE-450 in the envelope provided and forward to Office or Staff Director or Administrative Officer by the due date.

**Note:** KCAO, KCCO, and RMA employees located in Kansas City shall send completed OGE-450 directly to KCHRO, ELRS.--\*

129 OGE-450 Responsibilities (Continued)

**F Agency’s Final Reviewing Official**

The Agency’s final reviewing official for OGE-450’s is as follows.

<b>Location</b>	<b>Final Reviewing Official</b>
*--KCAO-serviced activities	The KCHRO, ELRS, Agency Ethics Advisor shall be the final reviewer and custodian of completed OGE-450’s.
National Office-serviced activities	The HRD, ELRB, Mission Area Ethics Advisor shall be the final reviewer and custodian of OGE-450’s.
Federal employees located in State	The Administrative Officer shall be the final reviewer and custodian of OGE-450’s, except for their own OGE-450 and those of STC members. AO’s OGE-450 shall be forwarded to KCHRO, for review and final--* adjudication. STC member’s OGE-450 shall be forwarded to HRD for review and final adjudication.

**G FSO’s Located Overseas**

HRD shall:

- review FSO logs annually to determine the location of FSO’s overseas
- prepare and issue annual memorandum that includes the annual filing requirements and \*--instructions on where to send the completed OGE-450 and a blank OGE-450. See subparagraph 128 C.--\*

**130 Conflict of Interest Situations****A Resolving Conflict of Interest Situations**

Every effort shall be taken to resolve any conflict of interest situations or appearance of conflict of interest situations at the lowest possible management level.

If the matter cannot be resolved at the lowest management level, it shall be elevated to the \*--Mission Area Ethics Advisor in HRD or KCHRO.

The Mission Area Ethics Advisor or designee shall resolve easily recognized or possible--\* conflict of interest situations in consultation with the appropriate management official.

**B Employee's Request for Final Determination**

When a determination has been made concerning a possible conflict, or resolution of a conflict, the employee shall have an opportunity to request a final determination from the \*--Mission Area Ethics Advisor.

The employee needs to provide supporting justification and documentation to ensure that all relevant facts are known to the Mission Area Ethics Advisor before the final determination. The employee may also offer any suggestions for resolution.

The Mission Area Ethics Advisor or designee may consult with any of the following in making a determination:

- Chief, ELRB
- Director, HRD
- respective Deputy Administrator
- FAS, FSA, or RMA Administrator
- Director, Office of Ethics--\*
- Departmental Ethics Counselor, OGC
- Office of the Secretary
- OGE.

**C Final Determination**

When a final determination has been made that requires action by the employee, such as divestiture, recusal, or resignation from an outside position, the employee shall take the required action or be subject to administrative action.

**131 Outside Employment or Activities****\*--A Prior Approval Requirements of Outside Employment or Activities**

On October 2, 2000, USDA issued final regulations at 5 CFR Part 8301 requiring all employees (other than SGE), who are required to file either a public or confidential financial disclosure report (SF-278 or OGE-450), or an alternative form of reporting approved by OGE, to obtain written approval before engaging in outside employment.--\*

**B Conflicting Outside Employment or Activities**

An employee shall not engage in outside employment or any other outside activity that conflicts with his or her official duties. Any activity conflicts with an employee's official duties if:

- it is prohibited by statute or by an agency supplemental regulation
- under the standards in 5 CFR 2635.402 and 2635.502, it would require the employee's disqualification from matters so central or critical to the performance of his or her official duties that the employee's ability to perform the duties of his or her position would be materially impaired.

**Note:** Employees are cautioned that even though an outside activity may not be prohibited under 5 CFR Part 2635, Subpart H, it may violate other principles or standards in 5 CFR Part 2635 or require the employee to disqualify himself or herself from participation in certain particular matters under 5 CFR Part 2635, Subpart D or E.

Employees are encouraged to consult with their \* \* \* Ethics Advisors. See 5 CFR Part 2635, Subpart H, and USDA Personnel Bulletin No. 735-1 (Exhibit 13).

**131 Outside Employment or Activities (Continued)****\*--C Additional Prior Approval Requirements of Outside Employment or Activities for FSA Employees**

FSA employees not otherwise required to obtain approval for outside employment under subparagraph A must obtain written approval in accordance with this subparagraph before engaging in outside employment, as that term is defined in Exhibit 2, with or for a person whom the FSA employee knows, or reasonably should know, is an:

- FSA program participant
- who is directly affected by decisions made by the particular FSA office in which the FSA employee serves.

**D Submitting Requests for Prior Approval**

An employee seeking to engage in employment for which advance approval is required shall submit a written request for approval to the employee's supervisor, in a reasonable time, before the employee proposes to begin the employment. Upon a significant change in the nature of the outside employment or in the employee's official position, the employee shall submit a revised request for approval. The supervisor shall forward written requests for approval to the agency designee through normal supervisory channels. All requests for prior approval shall include the following information:

- the employee's name, organizational location, occupational title, grade, and salary
- the nature of the proposed outside employment, including a full description of the specific duties or services to be performed
- a description of the employee's official duties that relate in any way to the proposed employment
- the name and address of the person or organization for whom or with which the employee is to be employed, including the location where the services will be performed
- the method or basis of any compensation, such as fee, per diem, honorarium, royalties, stock options, travel and expenses, or other
- a statement as to whether the compensation is derived from a USDA grant, contract, cooperative agreement, or other source of USDA funding--\*

**131 Outside Employment or Activities (Continued)**

**\*--D Submitting Requests for Prior Approval (Continued)**

- for employment involving the provision of consultative or professional services, a statement indicating whether the client, employer, or other person on whose behalf the services are performed is receiving, or intends to seek, a USDA grant, contract, cooperative agreement, or other funding relationship
- for employment involving teaching, speaking, writing, or editing, the proposed text of any disclaimer required by 5 CFR 2635.807(b).

**E Standard of Approval**

Approval shall be granted by the agency designee unless it is determined that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR Part 2635.

**F Approving Office**

Employees shall use this table to determine where to send requests.

<b>IF the submitting employee is...</b>	<b>THEN send requests to...</b>
headquarter-serviced employees	HRD, Mission Area Ethics Advisor.
KCAO-serviced employees	KCHRO, ELRS.
State Office employees	SED.

--\*

\* \* \*

**132-137 (Reserved)**



## 138 Ethics Training

### A Regulatory Basis for Initial and Annual Ethics Training

5 CFR 2638.703 and 2638.704 provide:

- the regulatory basis for providing initial ethics orientation to all FFAS employees
- annual ethics training for certain FFAS employees.

### B Initial Ethics Training

Upon entrance to an FFAS position, all employees shall receive:

•\*--the following materials, which are included in the new Employee Ethics Package:

- Ethics at a Glance
- Standards of Ethical Conduct for Employees of the Executive Branch
- Principles of Ethical Conduct: 2635.101 through 2635.107
- Supplemental Agency Regulations: 5 CFR Part 8301
- USDA Employee Responsibilities and Conduct in Personnel Bulletin No. 735-1 (Exhibit 13)
- Political Activity and the Federal Employee
- list of ethics advisors
- Certification of Accomplished Initial Agency Ethics Training
- 1 hour of official duty time to review and become familiar with the ethics rules, regulations, and policies--\*
- FFAS-20 (subparagraph C). Employees are required to complete and submit the certification to the servicing personnel office within **1 month** of their entrance on duty.

**Note:** The new employee ethics package may be accessed electronically at <http://hr.ffas.usda.gov/offices/elrb/ethics.htm>. Click “New Employee Package”.

138 Ethics Training (Continued)

C Example of FFAS-20

Following is an example of FFAS-20.

\*--

This form is available electronically.

**FFAS-20**  
(03-21-06)

**U.S. DEPARTMENT OF AGRICULTURE**  
Farm and Foreign Agricultural Services

**ETHICS TRAINING CERTIFICATION**

Please complete your review of all the Ethics Orientation Briefing materials that have been provided to you within **14 days** of receiving them. After reviewing all of the Ethics materials, please sign and return this Certification to your servicing personnel office.

I reviewed the Ethics Orientation Briefing materials on \_\_\_\_\_  
(Date)

I certify that I have read and understand the following materials:

- Ethics at a Glance pamphlet
- Standards of Ethical Conduct for Employees of the Executive Branch (including the Principles of Ethical Conduct: 2635.101 through 2635.107)
- Supplemental Agency Regulations 5 CFR 8301
- USDA Employee Responsibilities and Conduct 735-101 through 735-212.
- Political Activity and the Federal Employee

I agree to follow the rules and principles written in these documents. I further comprehend that failure to comply with the rules and regulations may either lead to disciplinary action or removal from the Federal Service.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Please Print:

Name	Work Phone
Title	Grade
Organization	E-mail Address

Note: This certification will be filed in your Official Personnel Folder

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

--\*

**138 Ethics Training (Continued)****D Annual Ethics Training**

\*--FFAS is required to provide ethics training to all employees who are designated filers of either OGE Form 450 or SF-278, each calendar year. Each training course must include,--\* as a minimum:

- a reminder of the employees' responsibilities under Executive Order 12674, as modified, the Standards of Ethical Conduct for Employees of the Executive Branch, and any supplemental agency regulation
- a reminder of the employees' responsibilities under the conflict of interest statutes in 18 U.S.C. Chapter 11
- the names, titles, office addresses, and telephone numbers of the Designated Agency Ethics Official and other Agency Ethics Officials available to answer questions regarding the employees' ethical responsibilities.

**E Employees Subject to Attend Annual Ethics Training**

The following employees are subject to annual ethics training:

- OGE-450 filers
- SF-278 filers
- political appointees, such as SED's and STC's
- contracting officials
- personnel specialists
- management analysts
- computer analysts
- other positions as designated by the Department or FFAS.

## 138 Ethics Training (Continued)

**F Course Presentation**

\*--The annual ethics training for designated employees, who are not SF-278 filers, may be presented verbally or by written means. Designated employees must receive a 1-hour--\* verbal briefing at least once every 3 calendar years. There is no minimum time requirement for the written briefing.

SF-278 filers shall continue receiving 1-hour verbal briefings annually and must have a \*--qualified individual present (see subparagraph H). Presence is defined as direct and--\* immediate access on the part of public filers to a qualified individual by physical presence or other appropriate means of access, such as telecommunications or a telephone hook-up.

**G Qualified Individual**

A qualified individual shall:

- present the training, if the training is presented in person
- prepare the recorded materials or presentation, if the training is presented by telecommunications, computer-based methods, or recorded means.

Qualified individuals include the following:

- Designated Agency Ethics Official
- Alternate Agency Ethics Official
- Deputy Ethics Official
- any OGE employee whose services are made available by OGE
- \*--Mission Area Ethics Advisor--\*
- \* \* \* Ethics Advisor
- individual determined by the Designated Agency Ethics Official or his or her designee to possess sufficient familiarity with the conflict of interest statutes and standards of ethical conduct regulation applicable to agency employees to respond to routine questions raised during training.

**Note:** Administrative Officers are qualified individuals.

**138 Ethics Training (Continued)****\*--H Interactive Computer-Based Ethics Training Modules**

Computer-based training is considered verbal training as defined by 5 CFR Part 2638. Computer-based training modules have been created so that employees may satisfy their annual ethics training requirements.

To complete the annual training requirement, employees must go to **www.Aglearn.usda.gov** and take a minimum of 3 modules. The program has automatic self-certification of completed training modules. Each employee should print and maintain a copy of the computer-generated certificate of all modules taken for their records.--\*

**139 AD-815, Post-Employment Restrictions****A Restrictions**

Effective January 1, 1991, Title 18, Section 207 sets forth 6 substantive prohibitions restricting the activities of individuals who leave Government service or who leave certain high-level positions in the executive branch. Each of these restrictions is summarized in AD-815 (subparagraph B).

None of the provisions bar any individual, regardless of rank or position, from accepting employment with any private or public employer after Government service. Section 207 only prohibits individuals from engaging in certain activities for persons or entities other than the United States, whether or not done for compensation. None of these restrictions bar self-representation.

## 139 AD-815, Post-Employment Restrictions (Continued)

**B Example of AD-815**

Following is an example of AD-815.

\*--

AD-815  
(02-22-04)

UNITED STATES DEPARTMENT OF AGRICULTURE  
**Post-Employment Restrictions**

The "Ethics Reform Act of 1989" revised the law governing post-employment activities of Federal employees (18 U.S.C. 207). The law, as revised applies to Federal employees who terminated their employment on or after **January 1, 1991**.

**Note:** Employees who terminated on or before December 31, 1990, are covered by the post-employment law in existence at that time, not by the revised law.

The following **summarizes** the criminal post-employment restrictions now in effect. It is a **guide** only. Additional civil post-employment restrictions under 41 U.S.C. 423(f) may be applicable to certain employees involved in Federal procurements of over \$10 million. For informal assistance in interpreting and applying the post-employment restrictions, you may contact the Department's ethics counselors, identified in Department and agency employee conduct regulations.

**I. RESTRICTION ON ALL FORMER EMPLOYEES**

**A. Permanent Restriction on Representation on Particular Matters.**

1. After you leave Federal employment, you may not knowingly communicate with, or appear before, a current employee of the United States, on behalf of any other person (except the United States), with the intent to influence the current employee's actions in a specific matter in which you participated for the Government.
2. For a violation to occur, your participation as a Federal employee must have been: personal (for example, you personally gave advice or made a recommendation or decision); substantial (for example, your advice or recommendation was considered by the agency in making a decision or taking action); and at a time when the matter involved one or more specific parties. Also, at the time of your communication with, or appearance before, a current employee, the United States must either be a party to the matter or have a direct and substantial interest in the matter.
3. Example of violation — A Federal employee considers a claim made by an outside party, then retires and represents the same claimant in a continuation of the same claim.

**B. Two-Year Restriction Concerning Particular Matters Under Official Responsibility.**

1. You cannot knowingly communicate with, or appear before, a current employee of the United States on behalf of any other person (except the United States), with the intent to influence the current employee in a particular matter involving one or more specific parties which you knew or should have known was under your official responsibility within a period of 1 year before the date of the termination of your Federal employment. For a violation to occur, the United States must be a party or have a direct and substantial interest in the particular matter.
2. Example of violation — A division director retires. Within 2 years, he or she contacts a current department employee with the intent to influence that employee's recommendation on a specific loan

--\*

## 139 AD-815, Post-Employment Restrictions (Continued)

## B Example of AD-815 (Continued)

\*--

application from a specific applicant, (the same loan prior to the date of the division director's retirement.)

**II. ONE-YEAR RESTRICTION ON AIDING OR ADVISING**

- A. This restriction prohibits changing sides in trade or treaty negotiations. It applies to any former Federal employee:
1. Who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her employment with the United States terminated; and
  2. Who had access to information concerning such trade or treaty negotiation which is exempt by law from disclosure and which is so designated by the department or agency.
- B. If you are such a former Federal employee, you shall not, on the basis of that information which you knew or should have known was so designated, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiations for 1 year after your employment with the United States Government terminates.
- C. Example of violation — A former Department employee participated as an employee of the Department in trade negotiations. He or she had access to information exempt by law from disclosure. Using that information, the employee advises another person as to strategy to follow in the ongoing trade negotiation.

**III. ONE-YEAR RESTRICTION ON CERTAIN SENIOR PERSONNEL**

- A. You are a "Senior Employee," for purposes of this section if you:
- **Terminated service prior to November 23, 2003.**
    - All Executive Level (EL) officials.
    - Senior Executive Service employees at pay levels ES 5 and 6.
  - **Terminated service between November 23, 2003 and January 10, 2004.**
    - Any Federal employee who, as of November 23, 2004, was paid at the above levels.
  - **Terminated on or after January 11, 2004.**
    - All Executive Level (EL) officials.
    - All employees paid at a rate of basic pay that exceeds 86.5 percent of the rate of basic pay for Level II of the Executive Schedule (ES II). This effectively includes all employees who, under the former SES pay scheme, would have been paid at SES levels ES 2-6, as well as all SES employees in San Francisco.
- B. Within 1 year after service as a "Senior Employee," you may not knowingly make, with the intent to influence, any communication to or appearance before any current Department employee in connection with any matter on which you seek official action by any current Department employee.
- C. Example of violation — Within 1 year of leaving the Department, an employee who qualified as a "Senior Employee" contacts a current employee of the Department of Agriculture with the intent to influence official action by the contacted employee, or any other employee, on a matter within the Department.
- Note:** A "Senior Employee" need not have participated in the matter in any degree whatsoever, as a Department employee, nor must the matter have been under his or her official responsibility before termination of employment, to violate this provision.

--\*

## 139 AD-815, Post-Employment Restrictions (Continued)

**B Example of AD-815 (Continued)**

\*--

**IV. ONE-YEAR RESTRICTION ON VERY SENIOR PERSONNEL**

- A. "Very Senior Personnel" includes only the Secretary within the Department of Agriculture.
- B. For 1 year after service as a "Very Senior Employee," the Secretary may not knowingly communicate with, or appear before, on behalf of another person, either any employee of the Department or any Executive Level employee in any agency of the Government with the intent to influence the action of the employee on any matter (see note, above).

**V. ONE-YEAR RESTRICTION RELATING TO FOREIGN ENTITIES**

If you are a Senior Employee or Very Senior Employee, you may not, within 1 year of leaving your position, knowingly represent the interests of the government of a foreign country or a foreign political party before any current employee of any department or agency of the United States with the intent to influence a decision of the employee in carrying out this or her official duties. You also may not aid or advise a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States in carrying out his/her official duties.

**VI. SPECIAL RULES FOR DETAILEES**

If you are detailed from one department or agency to another, you are an employee of both departments or agencies for purpose of the post-employment rules.

**VII. DEFINITIONS. FOR PURPOSES OF SECTION 207.**

- A. "Intent to influence" is the intent to affect any official action by a Government entity of the United States through any employee of the United States, including Members of Congress.
- B. "Participated" is an action taken as an employee through decision approval, disapproval, recommendation, the rendering of advice, investigation, or other such action.
- C. "Particular matter" is any investigation, application, request for ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

**VIII. EXCEPTIONS.**

Certain limited exceptions permit activities which otherwise would be restricted. If you believe an exception may apply, you should make appropriate inquires of the Department counselors or of your attorney. Briefly, the exceptions include:

- A. For all employees:
1. Activities as an employee of the United States or as an elected official of State or local Government; or
  2. Giving testimony under oath or making statements required to be made under penalty of perjury.
- B. For Senior Employees and Very Senior Employees:
1. Carrying out official duties for State and Local Governments; accredited, degree-granting institutions of higher education; or nonprofit hospitals or medical research institutions.
  2. Appearing or communication for international organizations of which the United States is a member.

--\*

139 AD-815, Post-Employment Restrictions (Continued)

**B Example of AD-815 (Continued)**

\*--

- 3. Appearing or communicating on matters of a personal and individual nature (such as income taxes or pension benefits); or providing a statement which is based on the former officers' or employee's own special knowledge if no compensation is received other than witness fees provided by law.
- 4. Communication to furnish scientific or technological information, under procedures acceptable to the Department, in consultation with OGE.
- 5. Giving testimony under oath or making statements required to be made under penalty of perjury.

**IX. PENALTIES.**

- A.** Criminal: Imprisonment for not more than 1 year, or both; or for willfully engaging in the prohibited conduct, imprisonment for not more than 5 years, or fine, or both.
- B.** Civil: Up to \$50,000 for each violation, or the amount the person received for the prohibited conduct, whichever is greater.
- C.** Injunctive: Prohibiting a person from engaging in conduct that violates the post-employment restrictions.

--\*

**\*--140 Prohibited Financial Interests: 5 CFR 8301.103****A Real Estate Purchases**

FSA employees, spouses, and minor children **may not** directly or indirectly purchase real estate held in the FSA inventory, for sale under forfeiture to FSA, or from an FSA program participant.

**Note:** See Exhibit 25 for a copy of 5 CFR 8301.103.

**Exception:** A waiver may be granted by SED where:

- jointly requested in writing by the FSA program participant and FSA employee
- based on a determination by SED and, if needed, the clearance and advice of the FSA Ethics Advisor that:
  - the waiver is not inconsistent with 5 CFR Part 2635 or otherwise prohibited by law
  - under the circumstances, application of the prohibition is not necessary to avoid appearances of misuse of position or loss of impartiality or otherwise to ensure confidence in the impartiality and objectivity of agency program administration.

**B Business Transactions**

FSA employees, spouses, and minor children **may not** directly or indirectly perform any of the following for a person whom the employee knows or reasonably should know is an FSA program participant directly affected by the decisions of the particular office in which the employee serves:

- sell real property to
- lease real property to or from
- sell to, lease to or from, or purchase personal property from
- employ for compensation.--\*

**\*--140 Prohibited Financial Interests: 5 CFR 8301.103 (Continued)****B Business Transactions (Continued)**

**Exception:** This prohibition does not apply:

- to a sale, lease, or purchase of personal property involving:
  - goods available to the public at posted prices that are customary and usual within the community
  - property obtained at public auction
- if the appropriate SED determines in advance, after consulting with the FSA headquarters ethics advisor, that the transaction is consistent with 5 CFR Part 2635 and otherwise not prohibited by law.

**Note:** On occasion, employees will not know if they are doing business with or contemplating doing business with an FSA applicant, borrower, or program participant. In these situations, once an employee becomes aware of their FSA affiliation, the employee shall immediately contact their supervisor or agency designee so that a conflict of interest analysis and determination can be made.--\*

**141 FLP Issues****A Availability of FLP Assistance**

\*--Section 377(a) of the CONACT (7 U.S.C. 2008) provides that employees may receive a direct or guaranteed FLP loan. FSA employees, including relatives residing in their households, may be considered for FLP assistance in the form of:

- direct loans of all types
- guaranteed loans of all types.--\*

**Note:** Changes may occur in rules, regulations, and departmental and agency policy concerning FLP loans; however, these changes do not diminish the government-wide conflict of interest statutes or the standards of conduct regulations.

**B Employees as Cosigners**

\*--Cosigners are considered borrowers under FLP regulations. Requests where an employee is, or will be, a cosigner will be handled as if the employee is the primary recipient of the--\* FLP assistance.

141 FLP Issues (Continued)

**\*--C Processing Loan or Servicing Requests and Maintaining Files of FSA Employees**

Loan and servicing requests received from an applicant who is an FSA employee shall be processed according to this table.

<b>IF the employee is...</b>	<b>THEN the request will be processed by, and the file maintained in...</b>	<b>AND the request will be reviewed and approved or denied by the...</b>
a County Office employee, other than FLM, and is headquartered in an office other than the County Office that would normally process the request	the County Office that would normally process the request	State Office.
a County Office employee, other than FLM, and is headquartered in the County Office that would normally process the request	a neighboring County Office with FLP loan making and servicing responsibilities	
FLM who is not responsible for the supervision of FLP activity in the County Office that would normally process the request	the County Office that would normally process the request	
FLM who is responsible for the supervision of FLP activity in the County Office that would normally process the request	a neighboring County Office not under FLM's supervision	
a State Office employee other than DD or SED	the County Office that would normally process the request	National Office.
DD who is not responsible for the supervision of FLP activity in the County Office that would normally process the request		
DD who is responsible for the supervision of FLP activity in the County Office that would normally process the request		
SED or STC	a neighboring State Office	

**Notes:** FLP files for COC may be maintained in the County Office that would normally process the request. Loan and servicing requests may be approved by FLO or FLM subject to the approval limitations established in 1-FLP, paragraph 29.

If the employee is reassigned to another office, or their employment with the Agency ends for any reason, the file may be transferred back to the County Office that would normally process loan making and servicing requests.--\*

## 141 FLP Issues (Continued)

**D Restrictions in Processing, Approving, or Servicing Any FSA Program Applicant, Borrower, or Participant**

All FSA employees, including STC members, must recuse themselves from acting in any official capacity involving any program applicant, borrower, or participant with whom they have any business, contractual, or other financial relationship, other than a routine consumer transaction, if that decision involves a particular matter involving specific parties. This recusal shall include any meeting or any part of a decision making process related to the program applicant, borrower, or participant.

In considering whether a relationship would cause a reasonable person to question the employee's impartiality, employees shall seek the assistance of an agency official, such as their supervisor, agency ethics advisor, or agency designee. The agency official shall review the information in paragraph 142 to provide guidance.

Employees may not recuse themselves to the extent that they are no longer able to function the essential duties of their positions.

\*--See 5 CFR Part 2635, Subpart E on <http://www.gpoaccess.gov/ecfr/> for standards of conduct.--\*

**E Examples of Restrictions in Processing, Approving, or Servicing Any FSA Program Applicant, Borrower, or Participant**

**Example of recusal situation:** An employee in a County Office is the sister of an applicant applying for a loan in that County Office. That employee may not be involved in the decision making, reviewing, or servicing process for that applicant, her sibling. See subparagraph G for proper handling of this loan.

**Example of a situation where an employee may be involved:** An employee is asked to participate in drafting proposed regulations for EM loan making. The employee's father is a borrower. Because the proposed regulation is not a particular matter involving specific parties, the employee may continue to work on the regulation and need not be concerned that a relationship with a borrower would raise a question concerning his impartiality.

**Note:** Changes may occur in rules, regulations, and departmental and agency policy concerning FLP loans; however, these changes do not diminish the government-wide conflict of interest statutes or the standards of conduct regulations.

141 FLP Issues (Continued)

**\*--F Processing Requests From FSA Employees**

To comply with Section 377(b) of the CONACT and ensure impartiality, as well as remove any appearance of a conflict of interest, FLP direct and guaranteed loan applications submitted by FSA employees shall be handled as follows.

<b>IF the loan applications from an employee are located in a...</b>	<b>THEN the request shall be approved and reviewed by the...</b>
County Office	State Office.
State Office	National Office.

**G Restrictions When an Applicant or Borrower Has a Covered Relationship With an FSA Employee**

FSA assistance shall be handled according to this table when an applicant or borrower has a covered relationship with an FSA employee.

<b>IF the applicant or borrower has a covered relationship with an...</b>	<b>THEN the requests will be processed by, and the file maintained in...</b>	<b>AND requests will be reviewed and approved or denied by the...</b>
employee, other than FLM, DD, or SED, who is headquartered in an office other than the County Office that would normally process the request	the County Office that would normally process the request	County Office that processes the request, subject to the approval limitations established in 1-FLP, paragraph 29.
employee, other than FLM, DD, or SED, who is headquartered in the County Office that would normally process the request	a neighboring County Office with FLP loan making and servicing responsibilities  <b>Exception:</b> This requirement is not applicable to youth loans; however, the employee must recuse himself or herself.	
FLM or DD who is not responsible for the supervision of FLP activity in the County Office that would normally process the request	the County Office that would normally process the request	

--\*

141 FLP Issues (Continued)

**\*--G Restrictions When an Applicant or Borrower Has a Covered Relationship With an FSA Employee (Continued)**

<b>IF the applicant or borrower has a covered relationship with an...</b>	<b>THEN the requests will be processed by, and the file maintained in...</b>	<b>AND requests will be reviewed and approved or denied by the...</b>
FLM or DD who is responsible for the supervision of FLP activity in the County Office that would normally process the request	a neighboring County Office not under FLM's or DD's supervision  <b>Note:</b> The exception for youth loans does not apply for FLM or DD.	County Office that processes the request, subject to the approval limitations established in 1-FLP, paragraph 29.
SED	a County Office in a neighboring State  <b>Note:</b> The exception for youth loans does not apply for SED.	

**Notes:** If the employee with whom the applicant or borrower had a covered relationship is re-assigned to another office, or their employment with the Agency ends for any reason, the file may be transferred back to the County Office would normally process loan making and servicing requests.

FLP files for COC may be maintained in the County Office that would normally process the request. Loan and servicing requests may be approved by FLO or FLM subject to the approval limitations established in 1-FLP, paragraph 29.

**H Preventing the Appearance of Loss of Impartiality in Performing Official Duties**

In some situations, an FLP applicant or borrower may not be covered by the definition of “covered relationship,” as defined in subparagraph 142 B; however, the employees participation may result in the appearance of the loss if impartiality. In these cases, the employee may participate in processing loan or servicing requests; however, the employee should forward the following actions to the next level of supervision for review and approval:

- direct and guaranteed loans
- primary and preservations loan servicing
- disaster set-aside
- subordinations
- partial releases
- interest assistance.

**Example 1:** The first cousin of FLM submits an application for a direct operating loan. The applicant’s farming operation is headquartered in a county under FLM’s supervision. FLM has historically had limited contact with the applicant. FLM may process the application; however, the application should be reviewed and approved or denied by DD.--\*

## 141 FLP Issues (Continued)

**\*--H Preventing the Appearance of Loss of Impartiality in Performing Official Duties (Continued)**

**Example 2:** If the employee in Example 1 was FLO, FLO may process the application and should be reviewed and approved by FLM.

**Example 3:** If the employee in Example 1 was DD, the application should be processed in the County Office where the applicant's operation is headquartered, but reviewed and approved or denied by the State Office.

**Note:** The request may be processed, and the file maintained, by a neighboring County Office at the request of the applicant.

**I 7 U.S.C. 1986 Violations**

CONACT Section 336 (a) (7 U.S.C. 1986) provides that FSA employees and their family members residing in the same household are prohibited from purchasing any real property on which the employee reviewed an FLP application within 3 years of the date of the review. Violations can result in a fine of \$2,000, 2 years imprisonment, or both.--\*

**J General Standards of Conduct Restrictions**

Employees shall follow all government ethics rules and regulations, including, but not limited to, prohibitions on taking any official action on a matter in which they have conflicting financial interests, losing official impartiality, and misusing their official position, particularly through the misuse of nonpublic information for their own benefit or the benefit \*--of others. The restrictions are in 5 CFR Part 2635. See <http://www.gpoaccess.gov/ecfr/> for 5 CFR Part 2635 and Exhibit 25 for 5 CFR 8301.103.--\*

These restrictions are particularly relevant to situations where an employee considers purchasing or knows of a family member, close relative, or household member who is considering purchasing or leasing 1 of the following:

- property in FSA inventory
- property securing outstanding FLP debt on which foreclosure action has been initiated by FSA or any other party
- real or personal property mortgaged or pledged as FLP security.

\*--If such a purchase is contemplated, the employee shall advise their supervisor and agency ethics advisor or designee. Violations of the regulations may be grounds for adverse--\* administrative actions, and, if rising to a level of financial self-interest, they can be prosecuted as a criminal conflict of interest under 18 U.S.C. 208.

**Note:** Changes may occur in rules, regulations, and departmental and agency policy concerning FLP loans; however, these changes do not diminish the government-wide conflict of interest statutes or the standards of conduct regulations.

## 142 Information Used in Determining if There Is a Conflict of Interest Regarding the Impartiality of Official Duties

### A Considerations of Appearances by Employee

Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his or her household, or knows that a person with whom he or she has a covered relationship is or represents a party to this matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter, the employee should not participate in the matter unless he or she has informed the agency designee of the appearance problem and received authorization from the agency designee according to subparagraph G.

**Note:** An employee's reputation for honesty and integrity is not a relevant consideration for purposes of any determination required in this analysis and authorization.

### B Covered Relationships

An employee has a covered relationship with any 1 of the following:

- a person, other than a prospective employer, with whom the employee has or seeks a business, contractual, or other financial relationship that involves other than a routine consumer transaction

**Note:** An employee who is seeking employment shall comply with 5 CFR Part 2635, Subpart F.

- a person who is a member of the employee's household or who is a relative \*--(see Exhibit 2) with whom the employee has a close personal relationship--\*
- a person for whom the employee's spouse, parent, or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee

## 142 Information Used in Determining if There Is a Conflict of Interest Regarding the Impartiality of Official Duties (Continued)

### B Covered Relationships (Continued)

- an organization, other than a political party as described in 26 U.S.C. 527(e), in which the employee is an active participant. Participation is active if, for example, it involves service as an official of the organization or in a capacity similar to that of a committee or subcommittee chairperson or spokesperson, or participation in directing the activities of the organization.

**Note:** Nothing in this subparagraph shall be construed to suggest that an employee should not participate in a matter because of his or her political, religious, or moral views.

### \*--C Other Conflicting Relationships (5 CFR Part 2635.502)

Even where not prohibited as a conflicting financial interest, certain other interests and relationships can affect your ability to do your job and may lead to the appearance of a loss of impartiality which, depending upon the circumstances can result in administrative discipline.

Absent authorization to do so, you may not participate in any fashion in a matter that affects the financial interests of a member of your household, or in which any other person with whom you have a **covered relationship** is, or represents a party to that matter. An appearance of a loss impartiality could occur should you participate in official actions involving the following persons/entities with whom you have a **covered relationship**:

- a “significant other” with whom you cohabit
- a lessee of your farm property
- your adult child who owns his own farm
- a land grant college that your spouse serves as trustee
- a farm on which your minor child has a summer job
- a farm-related organization from which you resigned as an officer within the last year
- a farm-related organization in which you currently participate as a committee chair.--\*

### D Direct and Predictable Effect

A particular matter will have a direct effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest; however, if the chain of causation is attenuated or is contingent on the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter that has an effect on a financial interest only as a consequence of its effects on the general economy does not have a direct effect within the meaning of 5 CFR Part 2635, Subpart D.

**142 Information Used in Determining if There Is a Conflict of Interest Regarding the Impartiality of Official Duties (Continued)****D Direct and Predictable Effect (Continued)**

A particular matter will have a predictable effect if there is a real, as opposed to a speculative, possibility that the matter will affect the financial interest. It is not necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial.

**E Particular Matter Involving Specific Parties**

Particular matter involving specific parties means any judicial or other proceeding, application, request for a ruling, or other determination, contract, claim, controversy, investigation, 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.

**F Determination by Agency Designee**

Where the agency designee has information concerning a potential appearance problem arising from the financial interest of a member of the employee's household in a particular matter involving specific parties, or from the role in such a matter of a person with whom the employee has a covered relationship, the agency designee may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question the employee's impartiality in the matter. Ordinarily, the agency designee's determination will be initiated by information provided by the employee. However, at any time, including after the employee has disqualified himself or herself from participation in a matter, the agency designee may make this determination on his or her own initiative or when requested by the employee's supervisor or any other person responsible for the employee's assignment.

- If the agency designee determines that the employee's impartiality is likely to be questioned, he or she shall use subparagraph G to determine whether the employee should be authorized to participate in the matter. Where the agency designee determines that the employee's participation should **not** be authorized, the employee will be disqualified from participation in the matter according to subparagraph H.
- If the agency designee determines that the employee's impartiality is not likely to be questioned, he or she may advise the employee, including an employee who has reached a contrary conclusion, that the employee's participation in the matter would be proper.

## 142 Information Used in Determining if There Is a Conflict of Interest Regarding the Impartiality of Official Duties (Continued)

### G Agency Designee

The agency designees for the FFAS mission area are the mission area Deputy Ethics Official and the mission area ethics advisors. The mission area Deputy Administrator for Management serves as the mission area Deputy Ethics Official. The mission area ethics advisors are designated as follows:

- Washington, DC, HRD,
  - Chief, ELRB
  - designated Employee Relations Specialists
  
- KCHRO
  - Chief, ELRS
  - designated Employee and Labor Relations Specialists.

A notice shall be issued annually to notify employees of agency designee names, titles, addresses, and telephone and FAX numbers.

**Note:** Employees shall go to the FFAS Ethics web site at <http://HR.FFAS.usda.gov> and click “Employees” and scroll down to “Ethics” and click on “Contacts” to view a list of the Agency’s designee by name, titles, addresses, and telephone number.

### H Authorization by Agency Designee

Where an employee’s participation in a particular matter involving specific parties would not violate 18 U.S.C. 208(a), but would raise a question in the mind of a reasonable person about his or her impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the agency’s programs and operations. Factors that may be taken into consideration include the following:

- nature of the relationship
  
- effect that resolution of the matter would have upon the financial interests of the person involved in the relationship
  
- nature and importance of the employee’s role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter
  
- sensitivity of the matter

**142 Information Used in Determining if There Is a Conflict of Interest Regarding the Impartiality of Official Duties (Continued)****H Authorization by Agency Designee (Continued)**

- difficulty of reassigning the matter to another employee
- adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

Authorization by the agency designee shall be documented in writing. An employee who has been authorized to participate in a particular matter involving specific parties may not thereafter disqualify himself or herself from participation in the matter on the basis of an appearance problem involving the same circumstances that have been considered by the agency designee.

**Note:** Agency designees shall consult 5 CFR Part 2635 before making a determination.

**I Disqualification**

Unless the employee is authorized to participate in the matter according to subparagraph G, an employee shall not participate in a particular matter involving specific parties when he or she or the agency designee has concluded, according to subparagraphs A and E, that the financial interest of a member of the employee's household, or the role of a person with whom he or she has a covered relationship, is likely to raise a question in the mind of a reasonable person about his or her impartiality. Disqualification is accomplished by not participating in the matter.

An employee who becomes aware of the need to disqualify himself or herself from participation in a particular matter involving specific parties to which he or she has been assigned should notify the person responsible for his or her assignment. An employee who is responsible for his or her own assignment should take whatever steps necessary to ensure that he or she does not participate in the matter from which he or she is disqualified. Appropriate written notification of the employee's disqualification may be made to coworkers by the employee or a supervisor to ensure that the employee is not involved in a particular matter involving specific parties from which he or she is disqualified.

**143-150 (Reserved)**

