

This Notice Expires 1 January 1983

PERSONNEL

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1 June 1982

CONFLICTS OF INTEREST

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Field Counterpart: dated 1 June 1982

1. It is important that Agency personnel be reminded periodically of their obligation to observe the various conflict of interest laws to which they are subject as Government employees. Such a reminder is particularly appropriate in light of a recently filed Securities and Exchange Commission complaint charging a Navy Department employee with illegally profiting from "material nonpublic information" which the employee had access to only through his Navy position. The complaint alleges that the employee, upon learning that a major Navy contract was to be awarded to a particular company, purchased 800 shares of stock in that company. When the contract award was publicly announced, the company's stock more than doubled in value with a resulting \$9,000 profit for the Navy employee.

2. Agency employees should be fully aware that the use of official information in furtherance of private financial interests is clearly contrary to law. Agency employees should avoid entering into financial transactions in reliance upon information, contacts, or relationships developed through and available only as a result of Agency employment. The use of such "insider information" for personal profit adversely affects the confidence of the public in the integrity not only of the individual employee involved, but also of the Agency and its mission.

3. In addition to prohibiting the use of "insider information," certain other restrictions limit participation by Agency personnel in matters in which they have a personal or derivative financial interest (18 U.S.C., Section 208). Section 208 addresses those cases in which an employee's participation in an Agency matter will have a direct and predictable effect upon the financial interests of the employee, the employee's spouse, dependent children, partner, or an enterprise with which the employee is affiliated. This provision thus would prohibit an employee from participating in the award of a contract to a company in which the individual owns stock. An employee also should avoid involvement in the administration or evaluation of a company's performance under a contract to the extent that the individual has a financial interest or other relationship with that company. Section 208 also prohibits employees from participating personally and substantially in matters in which an organization with which they are negotiating for or have an arrangement concerning prospective employment has a financial interest. A waiver of the above prohibitions is available

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if the Agency determines that the financial interest is too remote or too inconsequential to affect the integrity of the services which the Government may expect from the particular individual involved.

4. In addition to the above criminal conflict of interest statute, Executive Order 11222 prescribes comprehensive standards of ethical conduct for Federal officials. This order operates essentially as a compact between the President and the employees of the executive branch. The order provides that Government employees should avoid taking any action which may result in or create the appearance of:

- a. Using public office for private gain.
- b. Giving preferential treatment.
- c. Impeding Government efficiency or economy.
- d. Losing complete independence or impartiality of action.
- e. Making Government decisions outside official channels.
- f. Affecting adversely the confidence in the integrity of the Government.

5. The order sets forth more specific standards with respect to:

- a. Gifts, entertainment, and favors.
- b. Outside employment.
- c. Reporting of financial interests.
- d. Use of Government property.
- e. Misuse of information.
- f. Indebtedness.
- g. Gambling, betting, and lotteries.

6. The principal conflict of interest prohibitions which apply to Agency employees both during and after their Government service are collected in [redacted]. Supervisors should ensure that this Agency regulation and handbook are reviewed periodically by all employees under their supervision. A continuing dialogue between supervisors and employees concerning conflict of interest matters is essential to ensure that employees

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avoid becoming involved unwittingly in situations in which an employee's private financial interests conflict or appear to conflict with the individual's Agency duties and responsibilities.

7. The Agency's obligation to report to the Department of Justice possible violations of these conflict of interest laws further emphasizes the need for continuing education and periodic review of these prohibitions. For the protection of both individual employees and the Agency and its mission, Agency employees, especially those in supervisory positions who review financial disclosure statements, are encouraged to seek advice from the Office of General Counsel in any instance in which the application of the above prohibitions is unclear. Identifying and anticipating potential conflict of interest problems provide the best means of ensuring that the integrity of the Agency and its employees is above reproach.

Harry E. Fitzwater
Deputy Director
for
Administration

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