

2011 USGS Annual Ethics Training

Ethics training is being provided this year in document format so that certain USGS-specific guidance can be explained and details/examples can be provided. This document is a compilation of material from various sources, including the Office of Government Ethics www.oge.gov. It is designed to provide you an overview of the ethics regulations, statutes, rules and policies at the USGS, but is not intended to answer all ethics questions that may arise.

If you have any questions or need additional information, we encourage you to contact the USGS Ethics Office by e-mail, telephone or in person. We are located at the National Center in Reston. As of August 1, 2011, the Ethics Office is part of the Office of Science Quality and Integrity (OSQI) http://internal.usgs.gov/quality_integrity.

USGS Ethics Office	
12201 Sunrise Valley Drive, Mail Stop 603 Reston, Virginia 20192	Fax: 703-648-4132 Email: EthicsOffice@usgs.gov
Nancy Baumgartner , Deputy Ethics Counselor, Room 2B410, National Center (703) 648-7474 nbaumgartner@usgs.gov	
Ken Belongia , Assistant Ethics Counselor, 2B408, National Center (703) 648-7422 kbelongia@usgs.gov	
Sharon Bonney , Ethics Program Specialist, Room 2B121, National Center (703) 648-7439, sbonney@usgs.gov	
Kathy Haumann , Ethics Program Assistant, Room 2B121, National Center (703) 648-7459, khaumann@usgs.gov	

In accordance with Office of Government (OGE) regulations, all annual ethics training must include the 14 Principles of Ethical Conduct; the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. 2635); criminal ethics statutes (18 U.S. Code §§ 201, 203, 205, 207, 208, 209, and 1913); agency-specific supplemental regulations; and contact information for the Ethics Office.

This training will be posted on the Ethics Office webpage. Training presentations from 2010, 2009, and 2008 annual ethics training are available for viewing and download. <http://internal.usgs.gov/ops/hro/ethics/training.html>.

Outline of 2011 USGS Annual Ethics Training

1. “Hatch Act Restrictions on Political Activity by USGS Employees,” USGS Ethics Office Memorandum (August 12, 2011)

This guidance on political activity was posted on the Employee Bulletin Board and announced on the Need To Know blog of the Office of Communication and Publishing. <http://communities.usgs.gov/blogs/news/2011/08/15/hatch-act-restrictions-on-political-activity-by-usgs-employees>

2. “Restrictions on Holding Oil, Gas and Mineral Leases and Receipt of Royalties,” USGS Ethics Office Memorandum (September 1, 2011)

This reminder memo was posted on the Employee Bulletin Board and announced on the Need To Know blog of the Office of Communication and Publishing <http://communities.usgs.gov/blogs/news/2011/09/02/restrictions-on-holding-oil-gas-and-mineral-leases-and-receipt-of-royalties>

3. Form 9-1909 EMPLOYEE FINANCIAL INTERESTS CERTIFICATION

As part of their entry onto duty process, all USGS employees must sign this certification form.

4. Financial Guide for USGS Employees (Version #32)

This version dated December 1, 2011 supersedes prior versions and is posted on the Ethics Office webpage http://internal.usgs.gov/ops/hro/ethics/financial_guide.html.

5. Change in interpretation of sector mutual fund investment restrictions in DOI supplemental ethics regulation 5 C.F.R. 3501.104

Most USGS employees may now invest in sector mutual funds, including energy sector mutual funds. However, there may be circumstances where a USGS employee has job responsibilities that justify continued application of the investment limitation so that actual and perceived conflicts of interest are avoided.

6. Reports of acceptance of travel expenses from non-Federal entities (DI-2000)

The Office of Government Ethics (OGE) will soon be posting semi-annual reports from departments and agencies on its website at www.oge.gov. Please ensure that data entered on Form DI-2000's are accurate.

For more information about when it is appropriate for the USGS to accept travel expenses from non-Federal entities, see <http://internal.usgs.gov/ops/hro/ethics/basic-6.html>, or contact Sharon Bonney, 703-648-7439, sbonney@usgs.gov.

7. 14 Principles of Ethical Conduct

Practical do's and don'ts.

8. Standards of Ethical Conduct for Employees of the Executive Branch

5 C.F.R. 2635

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=5:3.0.10.10.9&idno=5>

9. Summary of criminal ethics statutes

18 U.S. Code §§ 201, 203, 205, 207, 208, 209 and 1913

10. Outside work and activities

Outside work and activities (paid or unpaid) that are related to your USGS job duties or the mission of the USGS must be approved by the Ethics Office via a Form 9-1510.

Ethics considerations regarding working for outside entities during a Federal Government shutdown <<http://internal.usgs.gov/ops/hro/ethics/shutdown.html>>

11. Procurement Integrity

41 U.S. Code § 2102; 48 C.F.R. §§ 3.104-1 to 3.104-9

12. Scientific Integrity

305 DM 3 Integrity of Scientific and Scholarly Activities 1/28/2011
SM Chapter 500.25, Scientific Integrity (1/5/07)

1. “Hatch Act Restrictions on Political Activity by USGS Employees,” USGS Ethics Office Memorandum (August 12, 2011)

MEMORANDUM

August 12, 2011

To: All Employees

From: Nancy H. Baumgartner (Signed)
Deputy Ethics Counselor

Subject: Hatch Act Restrictions on Political Activity by USGS Employees

The purpose of this memorandum is to remind USGS employees of the restrictions on political activity imposed on Federal employees by the Hatch Act, 5 U.S.C. §§ 7321-7326. “Political activity” means activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

The penalty for violating the Hatch Act is removal from a Federal position. Imposition of this penalty may be reviewed by the Merit Systems Protection Board (MSPB), and if the MSPB finds by unanimous vote that the violation does not warrant removal, a penalty of not less than a 30-day suspension without pay shall be imposed by direction of the Board
<http://www.osc.gov/haFederalPenalties.htm> .

The U.S. Office of Special Counsel (OSC) is the independent investigative and prosecutorial agency with exclusive jurisdiction over the Hatch Act. The OSC website, <www.osc.gov>, contains a wealth of information and training material on the Hatch Act
<http://www.osc.gov/hatchact.htm> .

There are three classifications of Federal employees under the Hatch Act:

Most Federal employees (including non-career SES and Schedule C employees) may participate in political activity, but only in a purely private capacity and subject to restrictions. Here is

Office of Special Counsel guidance on the Hatch Act - Permitted and Prohibited Activities For Employees Who May Engage in Partisan Political Management and Campaigns

<http://www.osc.gov/documents/hatchact/federal/HA%20Poster/HA%20Poster%20-%20The%20Hatch%20Act%20and%20Federal%20Employee.pdf> .

Career SES employees, Administrative Appeals Judges, and those that serve on the Contract Appeals Board have additional restrictions. Here is Office of Special Counsel guidance on the Hatch Act - Permitted and Prohibited Activities For Employees Subject to Additional Restrictions

[http://www.osc.gov/documents/hatchact/federal/HA%20Poster/HA%20Poster%20_Further%20Restricted%20Employees%20-%20with%20OSC%20contact%20info%20\(5-11\).pdf](http://www.osc.gov/documents/hatchact/federal/HA%20Poster/HA%20Poster%20_Further%20Restricted%20Employees%20-%20with%20OSC%20contact%20info%20(5-11).pdf) .

Political appointees are subject to separate restrictions. The only political appointee at USGS is Director McNutt.

Federal employees may only engage in political activity while on annual leave or during non-duty hours and they may not engage in political activity in any buildings owned or leased by the Federal government. Additionally, Federal employees may not use government resources (including copiers, fax machines, computers, e-mail systems, government websites or government-issued e-mail addresses) for political activity. If you receive a political message on your government e-mail address, you should not forward the message to any individual, including your own personal e-mail account. No campaign buttons or posters for current political candidates may be displayed by Federal employees in a Federal government building. However, you may display a political bumper sticker on your personal car, even if parked in a Federal government parking lot.

When making political comments in your personal capacity (and subject to the restrictions noted above), you must not reference your USGS title or position. The Office of Special Counsel has posted FAQs regarding the Hatch Act and Social Media

<http://www.osc.gov/documents/hatchact/federal/2010-08-10%20FAQs%20Re%20Social%20Media.PDF>

and an advisory opinion regarding the Hatch Act and Social Media to a Federal employee subject to additional restrictions

<http://www.osc.gov/documents/hatchact/federal/AO%20re%20social%20media%20for%20further%20restricted%20employees.pdf> .

USGS employees seeking additional information or guidance on political activity issues may contact the USGS Ethics Office – Sharon Bonney, sbonney@usgs.gov, 703-648-7439, Ken Belongia, kbelongia@usgs.gov , 703-648-7422 or Nancy Baumgartner, nbaumgartner@usgs.gov, 703-648-7474, or send an e-mail to the USGS Ethics Office e-mail box - EthicsOffice@usgs.gov .

2. “Restrictions on Holding Oil, Gas and Mineral Leases and Receipt of Royalties,” USGS Ethics Office Memorandum (September 1, 2011)

MEMORANDUM

Sept 1, 2011

To: All Employees

From: Nancy H. Baumgartner
Deputy Ethics Counselor

Subject: Restrictions on Holding Oil, Gas and Mineral Leases and Receipt of Royalties

To: All USGS Employees

From: Nancy H. Baumgartner
Deputy Ethics Counselor

Subject: Restrictions on Holding Oil, Gas and Mineral Leases and Receipt of Royalties

It has come to the attention of the Ethics Office that some USGS employees have signed leases or may be considering signing leases of the oil, gas or mineral rights on property they own.

The purpose of this memorandum is to remind all USGS employees that they, their spouses and minor children are restricted by a Department of the Interior (DOI) supplemental ethics regulation [5 C.F.R. § 3501.104(b)] from holding direct or indirect financial interests related to private mining activities in the United States. This restriction is in addition to the supplemental ethics regulation [5 C.F.R. § 3501.103] that prohibits USGS employees from holding financial interests in companies that have substantial coal, oil and gas leases on Federal lands.

Private mining activities are defined in the regulation as “exploration, development, and production of oil, gas, and other minerals on land in the United States that is not owned by the Federal government or by a State or local government.” In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch [5 C.F.R. § 2635.403(c)], an oil, gas or mineral lease constitutes a financial interest.

The DOI supplemental regulation contains exceptions that permit the holding of a financial interest related to private mining activities worth \$5000 or less, by employees (or their spouses and minor children) of the Office of the Director and the Geologic Division, and the holding of a single financial interest related to private mining activities of \$5000 or less or an aggregate of financial interests worth \$15,000 or less, by employees (or their spouses and minor children) of all other USGS organizational elements. All USGS employees and their spouses and minor children are permitted to receive mineral royalties and overriding royalty interests of \$600 per year or less. [5 C.F.R. § 3501.104(b)(3)(i-ii)]

There are additional exceptions in the regulation that enable the ownership of a financial interest by an employee's spouse or minor child where the spouse or minor child obtained the interest through: (A) A gift from someone other than the employee or a member of the employee's household; (B) Inheritance; (C) Acquisition prior to the employee's becoming a USGS employee; (D) Acquisition prior to marriage to a USGS employee; or (E) A compensation

package in connection with the employment of the spouse or minor child. [5 C.F.R. § 3501.104(b)(3)(v)(A-E)]

In accordance with 5 C.F.R. § 3501.104(b)(4), the Director of the U.S. Geological Survey may require an employee to divest a financial interest a USGS employee is otherwise authorized to retain under the regulatory exceptions if retention of the interest results in a substantial conflict of interest as defined in 5 C.F.R. § 2635.403(b). The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 2635.403(b) permits an agency to “prohibit or restrict an individual employee from acquiring or holding a financial interest or class of financial interests based on the agency designee’s determination that the holding of such interest or interests will (1) 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 position would be materially impaired; or (2) adversely affect the efficient accomplishment of the agencies mission because another employee cannot be readily assigned to perform the work from which the employee would be disqualified by reason of his or her financial interest.”

If a USGS employee (or his spouse or minor child) holds an oil, gas or mineral lease valued at more than \$5000 (or an aggregate of leases valued at more than \$15,000 if the employee is not assigned to the Office of the Director or the Geologic Division) or receives oil, gas or mineral royalties in excess of \$600 per year, they should contact the Ethics Office. The Ethics Office may be contacted via e-mail at EthicsOffice@usgs.gov or via telephone (703-648-7422, 7439 or 7474).

The Director of the U.S. Geological Survey has the authority to grant a waiver of the regulatory restrictions in 5 C.F.R. § 3501.104(b). The Ethics Office will evaluate all waiver requests in accordance with 5 C.F.R. § 3501.104(b)(5) and provide a recommendation to the Director as to whether granting a waiver “is not inconsistent with 5 C.F.R. part 2635 or otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Department programs are administered.”

To initiate a waiver request, send an e-mail to Ken Belongia of the Ethics Office (kbelongia@usgs.gov). The waiver request must address whether your USGS work has (or could have) a direct or indirect impact on oil, gas or mineral exploration, development, or production and contain contact information for your supervisor (with whom the Ethics Office will consult for a recommendation regarding your waiver request). As part of your waiver request, you must provide a copy of the oil, gas or mineral lease, your position description, your most recent performance evaluation (including your supervisor's narrative comments but you do not need to include your ratings) and your current performance plan.

3. Form 9-1909 EMPLOYEE FINANCIAL INTERESTS CERTIFICATION

As part of their entry onto duty process, all USGS employees must sign this certification form:

I have received a copy of the **Financial Guide for USGS Employees**.

I have reviewed this document and am aware my employment with USGS establishes certain restrictions on my personal financial holdings as well as those of my spouse and dependent children. Specifically, I understand that the USGS Organic Act prohibits my holding any financial interest (direct or indirect) in oil, gas or mining activities on Federal lands and the USGS Conflict of Interest Policy sets certain “limited amounts” of financial interests I may hold in oil, gas or mining activities on private lands in the United States. I am aware the **Financial Guide for USGS Employees** contains specific, by-name information on companies, stocks and mutual funds that I, my spouse and dependent children are absolutely prohibited from owning, as well as those which may be owned in only limited amounts.

I certify that I do not have any personal or private interest (direct or indirect) in oil, gas or mining activities on Federal lands, that I do not own any stock in companies that are absolutely prohibited to all USGS employees and that I in am in compliance with the USGS Organic Act.

I also certify that I do not have any substantial personal or private interest (direct or indirect) in any oil, gas, or other minerals on private land in the United States and that I own less than the “limited amount” of stocks or mutual funds that are subject to the USGS Conflict of Interest Policy as explained in the **Financial Guide for USGS Employees**.

4. Financial Guide for USGS Employees (Version #32) published on December 1, 2011

This version dated December 1, 2011 supersedes prior versions and is posted on the Ethics Office webpage at http://internal.usgs.gov/ops/hro/ethics/financial_guide.html.

5. Change in interpretation of sector mutual fund investment restrictions in DOI supplemental ethics regulations

It has been the long-standing practice of the USGS Ethics Office to limit the dollar value that USGS employees could invest in energy sector mutual funds. The standard we applied was to review the holdings of the fund to determine whether the fund invested in companies in which USGS employees are prohibited from holding stock (i.e., companies with significant coal, oil and gas leases on Federal land). If the percentage exceeded 25%, then our policy was that USGS employees could only invest \$10,000 per fund and \$20,000 in the aggregate.

After consultation with the Departmental Ethics Office, it has been agreed that investment by USGS employees in energy sector mutual funds will no longer be limited when (1) the prospectuses of the funds do not indicate the objective or practice of concentrating the funds’ investments in entities engaged in private mining activities in the United States, and (2) the employee neither exercises control nor has the ability to exercise control over the financial interests held in the funds. This is in accordance with 5 C.F.R. 3501.104(b)(3)(iii). <http://www.gpo.gov/fdsys/pkg/CFR-2010-title5-vol3/xml/CFR-2010-title5-vol3-sec3501-104.xml>.

However, there may be circumstances where a USGS employee has job responsibilities that justify continued application of the investment limitation so that actual and perceived conflicts of interest are avoided. USGS employees (including the employee's spouse and minor children) may not acquire a financial interest if the holding of the interest will (1) require the employee's disqualification from matters so central or critical to the performance of the employee's official duties such that the employee's ability to perform the duties of his or her position is materially impaired; or (2) adversely affect the efficient accomplishment of the USGS' mission because another employee cannot be readily assigned to perform work from which the employee would be disqualified by reason of the financial interest.

Consequently, most USGS employees may now invest in the funds listed in Section 4 of previous versions of the Financial Guide for USGS Employees in unlimited amounts. If there is any question about whether investment in a particular sector mutual fund would create an actual or perceived conflict of interest, contact the Ethics Office.

6. Reports of acceptance of travel expenses from non-Federal entities

The Office of Government Ethics (OGE) will soon be posting semi-annual reports from departments and agencies on its website at www.oge.gov. Please ensure that data entered on Form DI-2000's are accurate.

Travel expenses from non-Federal entities may be accepted by USGS under the statutory authority of 31 U.S.C. § 1353 as implemented by General Services Administration (GSA) regulations at 41 C.F.R. §§ 301-1 and 304. They may only be accepted when an employee is in travel status (away from duty station) to attend conferences, seminars, speaking engagements, and similar events. A DI-2000 approved by the Ethics Office is required prior to travel. Employees may accept in-kind expenses or a check may be made payable to USGS. Cash may never be accepted. Travel, subsistence, and related expenses, including waiver of attendance fees may be accepted. Lodging and M&IE may exceed Government per diem rates, if comparable to those made available to other participants. Acceptance of travel expenses is permitted only if the agency determines that a reasonable person wouldn't question the integrity of USGS programs or operations if the travel expenses were accepted.

For more information about when it is appropriate for the USGS to accept travel expenses from non-Federal entities, see <http://internal.usgs.gov/ops/hro/ethics/basic-6.html>, or contact Sharon Bonney, Ethics Program Specialist at (703) 648-7439 or sbonney@usgs.gov.

7. 14 Principles of Ethical Conduct

What is the purpose of these principles?

“To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service.” Executive Order 12731, October 17, 1990

DO

- Place loyalty to the Constitution, the laws, and ethical principles above private gain
- Act impartially to all groups, persons, and organizations
- Give an honest effort in the performance of your duties
- Protect and conserve Federal property
- Disclose fraud, waste, and abuse, and corruption to appropriate authorities
- Fulfill in good faith your obligations as citizens, and pay your Federal, State, and local taxes
- Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion

DON'T

- Use public office for private gain (for yourself or for people or entities whose interests are imputed to you)
- Use nonpublic information to benefit yourself or anyone else
- Solicit or accept gifts from persons or parties that do business with or seek official action from DOI or USGS (unless permitted by a regulatory exception listed in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 2635)
- Use Federal property for unauthorized purposes
- Make unauthorized commitments or promises that bind the government
- Take jobs or hold financial interests that conflict with your government responsibilities
- Take actions that give the appearance that they are illegal or unethical

8. Standards of Ethical Conduct for Employees of the Executive Branch

5 C.F.R. 2635

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=5:3.0.10.10.9&idno=5>

a. GIFTS FROM OUTSIDE SOURCES

As a Government employee, you must not solicit or accept gifts offered to you because of your official Government position or from a prohibited source. A gift is anything that has monetary value, such as food, travel, entertainment, discounts, and loans.

You also must not accept a gift given by an organization or individual who is seeking business with your agency. Thus, the safest course of action is to remember this rule: Do not solicit anything, or accept a gift, from a contractor, prospective contractor, or contractor employee, unless clearly permitted by an exception in the ethics rules or you have received advice from the Ethics Office.

Examples of items that you generally may accept include:

* Modest food and refreshments, such as coffee and donuts that are not offered as part of a meal;

- * Gifts valued at \$20 or less per “source” per occasion, although the total value of such gifts must not exceed \$50 in a calendar year from a single source (Note: a contractor and its employees are considered the same “source.” For example, you could not accept five \$15 lunches from five employees who work for the same contractor.);
- * Gifts based on a personal relationship (This means gifts from family members or friends with whom it is clear you have a true friendship – not a friendly relationship with a contractor that was formed on the job.);
- * Meals, lodging, transportation, or other benefits that are from your spouse’s employer, provided that the gift was not given or enhanced because of your Government job;
- * Gifts or discounts available to the general public, to all Government employees, or to all military personnel;
- * Free attendance at a conference or similar “widely attended gathering” (if approved in advance of the event via a Form DI-1958 and a supervisory determination has been made that your attendance is in the agency’s best interest and certain other conditions are met); and
- * Anything paid for by the Government or secured by the Government under a contract.

Of course, you should not accept anything of value from a bidder or contractor if you think that the integrity of the procurement process could be questioned. Also, be careful not to accept gifts so frequently that a reasonable person would think you are using your public office for private gain. Finally, remember that you may never accept cash or solicit a gift.

b. GIFTS BETWEEN EMPLOYEES

With a few exceptions, the general rule is that you cannot give, make a donation to, or ask for contributions for a gift to your official superior. An official superior includes your immediate boss and anyone above your boss in the chain of command in your agency. Also, an employee cannot accept a gift from another employee who earns less pay, unless the person giving the gift is not a subordinate and the gift is based on a strictly personal relationship.

Exceptions to this general rule include gifts on special and infrequent occasions of personal significance, such as marriage, illness, birth or adoption as well as occasions such as retirement, resignation or transfer. For these special, infrequent occasions, employees are also allowed to ask for contributions of nominal amounts from fellow employees on a strictly voluntary basis for a group gift. Birthdays and holidays occur annually and are not “infrequently occurring occasions of personal significance.”

Remember that gift giving and donations must be completely voluntary.

c. CONFLICTING FINANCIAL INTERESTS

A federal criminal law (18 U.S. Code § 208) says that you may not work on Government matters that will have an effect on your own personal financial interests. Stock in a company that would be affected by your job is only one example of something that could give you such an interest. For instance, you could not act on something that would enable you personally to benefit in some grant or contract issued by the Government, because you would have a financial interest in those matters.

You also must be concerned about the financial interests of your spouse, your minor children, and outside persons or businesses that employ you. You should not work on any matter that would affect their financial interests. Also, if you are an officer or director of an outside organization, you may not act on a Government matter that would affect that organization unless you have been previously issued an 18 U.S. Code § 208(b)(1) waiver by the Director of USGS. Even if you are granted a conflict of interest waiver, you must still recuse from taking certain actions regarding the outside organization. Contact Ken Belongia (703-648-7422, kbelongia@usgs.gov) if you have any questions about serving as an officer or member of a board of directors of a professional scientific organization.

IMPORTANT NOTE: You must have an approved conflict of interest waiver signed by the USGS Director before acting in your official capacity as an officer or member of a board of directors (or similar position) of a professional scientific association.

A USGS employee who wants to serve as an officer or a member of a board of directors of an outside, non-Federal organization or professional society while on official Government duty time must:

- In accordance with Section 3.9 of 305 DM 3 (Integrity of Scientific and Scholarly Activities, dated 1/28/2011), obtain a written Memorandum of Understanding (MOU) between the USGS and the outside organization where the employee will serve as an officer or member of a board of directors;
- Receive ethics training from USGS Ethics Office prior to accepting the appointment. To complete their training, employees must review this summary of ethics criminal statutes and Federal ethics regulations and should contact the Ethics Office if they have any questions;
- Receive an 18 U.S. Code § 208(b)(1) waiver letter signed by the Bureau Ethics Counselor (the Director, USGS) which waives potential 18 U.S. Code § 208 criminal conflict of interest violations; and
- Prepare a recusal letter, if necessary, that notifies the employee's supervisor and subordinates that the employee will not participate in any USGS matter that will have a direct and predictable effect on the financial interests of the outside organization.

The process:

- The employee completes an [MOU Worksheet](#) and provides it (via e-mail) to the Ethics Office - kbelongia@usgs.gov or sbonney@usgs.gov
- The Ethics Office prepares the MOU and sends it to the employee who is responsible for securing the signatures of the head of the outside organization and his or her Associate Director or Regional Executive. The MOU must also be signed by the USGS Director -- the Ethics Office will secure the Director's signature.
- If necessary, the employee prepares and signs a proposed recusal letter, using a template that is available upon request from the Ethics Office.
- The signed MOU and proposed recusal letter is sent to the Ethics Office.

- The Ethics Office prepares a correspondence brief and recommendation to the Director, USGS advising whether an 18 U.S. Code § 208(b)(1) waiver should be granted. The Ethics Office recommendation is accompanied by the MOU and proposed recusal letter.
- If the 18 U.S. Code § 208(b)(1) waiver is granted by the Director, the USGS employee will sign an acknowledgement of understanding of the 18 U.S. Code § 208(b)(1) waiver.

<http://internal.usgs.gov/ops/hro/ethics/outsideboard.html>

d. IMPARTIALITY IN PERFORMING OFFICIAL DUTIES

Employees should obtain specific authorization before participating in certain Government matters where their impartiality is likely to be questioned. The matters specifically covered by this standard include those:

- Involving specific parties, such as contracts, grants, or investigations, that are likely to affect the financial interests of members of employees' households; or
- In which persons with whom employees have specific relationships are parties or represent parties. This would include, for example, matters involving recent employers, employers of spouses or minor children, or anyone with whom the employees have or seek a business or financial relationship.

There are procedures by which employees may be authorized to participate in such matters when it serves the employing agency's interests.

You should not act on a matter if a reasonable person who knew the circumstances of the situation could legitimately question your fairness. For example, your fairness might reasonably be questioned if you were to work on a project that could directly benefit a relative. This regulation lists a number of such "covered relationships" with people and organizations that could pose a question of an "improper appearance."

Even though you may not have a financial interest that can be affected by a procurement activity or contract, circumstances might arise that could call your impartiality into question. If you encounter any situation where you think your impartiality would be questioned, you should contact your supervisor and the Ethics Office for advice.

e. MISUSE OF POSITION

You cannot use your position with the Government for your own personal gain or for the benefit of others. This includes family, friends, neighbors, and persons or organizations that you are affiliated with outside the Government. You may also be violating a criminal law (18 U.S. Code § 205) if you act as a spokesperson on behalf of your friend to any Federal agency.

You may not use (or allow someone else to use) non-public information to benefit yourself or some other person. If information about a project has not been made known to the public and is not authorized to be made known upon request, then it is nonpublic information and may not be disclosed.

You must conserve and protect Government property and you may not use Government property or allow its use, other than for authorized purposes. It makes no difference whether you gain personally or whether the group you are helping is a non-profit organization. You may not use the photocopying machine, or any other Government property, including supplies, computers, telephones, mail, records or Government vehicles for purposes other than doing your job (other than pursuant to DOI Limited Use Policies).

Official time at work is to be used for the performance of official duties.

9. Summary of Criminal Ethics Statutes

The following criminal statutes apply to Federal employees and Special Government Employees. **Violations of the criminal provisions contained in Title 18 of the U.S. Code carry criminal and/or civil penalties.**

18 U.S. Code § 201 Federal employees may not accept anything of value in exchange for taking (or refraining from taking) official Government action. Note: Government contractors may also be prosecuted under this statute.

18 U.S. Code §§ 203 and 205 Except in the discharge of their official duties, Federal employees may not represent anyone other than the United States before an agency or court in connection with a particular matter in which the U.S. is a party or has a direct and substantial interest. “Particular matter” includes general rule makings and general legislation, as well as contracts, grants, applications, permits, etc. “Representation” means any contact, even a telephone call or attending a meeting, when the intent is to influence.

18 U.S.C. § 207 Post-Government Employment: Depending on their official job duties, Federal employees may not represent the interests of their post-Government employers back to Federal agencies for certain periods of time after they leave Federal employment. There are criminal post-employment restrictions that apply to all Federal employees after they leave Government service. The most common restrictions are explained below.

You are permanently barred from representing another person before the Government on the same matter (such as a contract or a cooperative agreement) on which you worked as a Government employee. Representing means making a communication or appearance with intent to influence the Government, and includes signing a letter, attending a meeting, making a presentation, and making a telephone call.

If you had official responsibility for a matter (such as the award of a contract or developing a cooperative agreement) during your last year of Government service, you are barred for two years from representing another person before the Government concerning that same matter. To be covered by this restriction, you need not have worked on the contract, so long as it was under your supervision.

If you are a “senior employee,” you are subject to a third restriction. This ban prohibits you from

representing other persons before the Government on any matters before your agency for one year after leaving Government service. You need not have worked on the matter, nor had official responsibility for the matter. The Ethics Office can tell you whether you are considered a “senior employee.”

These restrictions are quite broad. They encompass communications, appearances or other representations that you might make on behalf of an entity with whom you work after leaving Government service. They generally do not include behind-the-scenes work that does not involve communication back to the Government.

When in doubt, ask questions. There are other restrictions, as well as exceptions, that govern this complex area of the law. You should consult with Ken Belongia (703-648-7422, kbelongia@usgs.gov) if you have questions about post-Government employment restrictions that might apply to your situation.

18 U.S. Code § 208 Financial conflicts of interest are prohibited.

Federal employees may not take official actions in matters (such as a contract or cooperative agreement) which can impact their personal financial interests, including those of their spouse, dependent child, an organization in which they serve as an officer, director or employee or an entity with which they are seeking employment.

You may have a financial interest in a contract or other matters in situations such as these:

- * You own stock in a company that is bidding on a contract (or that is likely to be a subcontractor).
- * You have a pension with, or deferred compensation from, your former employer, a contractor that is participating in a procurement for a contract with the USGS.
- * Your spouse works for a university and his/her salary would be affected if the USGS and the university jointly apply for and receive a National Science Foundation grant.

If you think you have a financial conflict of interest, do not take any official actions regarding matters in which you may have a conflict of interest and contact the Ethics Office so that we can help you determine what remedy will resolve the conflict.

Restrictions on Employment Discussions:

During the course of your Government service, you might decide to seek employment in the private sector or with an entity that does business with the USGS. There are several restrictions that apply to your Government work when you seek future employment.

Seeking Employment: General Rules

All Government employees are subject to ethics rules on seeking employment. These rules are quite broad and apply well before you and a potential employer actually negotiate specific terms and conditions of employment.

You may not work on Government matters that would affect the financial interests of an entity with which you are seeking employment. This rule generally applies even if you make an unsolicited contact about possible employment. It also applies if you do not reject an entity's unsolicited overture about possible employment. If you have questions, please contact Ken Belongia (703-648-7422, kbelongia@usgs.gov).

18 U.S. Code § 209 Supplementation of Federal salary is prohibited. If an employee's participation in a presentation, product or publication was performed as a part of his/her official duties, the employee may not personally receive any financial compensation. Ethics Office approval of outside work via a Form 9-1510 will ensure that this statute is not violated.

18 U.S. Code § 1913 The Anti-Lobbying Act is a criminal statute applicable to all Federal executive branch employees. It prohibits the use of appropriated funds (including the use of official employee time and Government resources) for activities that are intended or designed (directly or indirectly) to influence in any manner a member of Congress, a jurisdiction, or an official of any government (Federal, state or local) to favor or oppose any legislation, law or appropriation. See www.usgs.gov/budget/docs/anti_lobbying_act.doc for more information.

10. Outside Work and Activities

Outside work and activities (paid or unpaid) that are related to your USGS job duties or the mission of the USGS must be approved by the Ethics Office via a Form 9-1510.

Ethics considerations regarding working for outside entities during a Federal Government shutdown are posted on the Ethics Office webpage and pasted below.

<http://internal.usgs.gov/ops/hro/ethics/shutdown.html>

1. Will Federal, DOI and USGS ethics rules apply to me during a period of Federal Government shutdown?

Yes, Federal employees remain subject to ethics laws and regulations during any period of Federal Government shutdown or furlough. [http://www.oge.gov/OGE-Advisories/Legal-Advisories/Assets-non-searchable/04x6--Ethics-Laws-and-Regulations-Apply-to-Government-Employees-During-Furlough-Periods-\(PDF\)](http://www.oge.gov/OGE-Advisories/Legal-Advisories/Assets-non-searchable/04x6--Ethics-Laws-and-Regulations-Apply-to-Government-Employees-During-Furlough-Periods-(PDF))

2. What are the ethics considerations regarding working for outside entities during a Federal Government shutdown?

USGS employees are reminded that:

- a. they may not take any official actions that could affect the financial interests of outside entities with whom they are seeking employment or working;
- b. they are prohibited by the USGS Organic Act from working as consultants for outside entities; and
- c. they may not represent outside entities to Federal agencies or departments.

3. How to I obtain Ethics Office approval to work for an outside entity during a period of Government shutdown?

If the work is related to your USGS duties or the USGS mission, you must submit a Form 9-1510 (Request for Ethics Approval to Engage in Outside Employment or Activity) through your supervisor to the Ethics Office. Forms may be faxed to 703-648-4132, e-mailed to EthicsOffice@usgs.gov or mailed to the Ethics Office, 12201 Sunrise Valley Drive, Mail Stop 603, Room 2B121, Reston, VA 20192.

Work that is not related to your USGS duties or the USGS mission does not require Ethics Office approval.

Here is a link to the Form 9-1510 on the Ethics Office webpage at http://internal.usgs.gov/ops/hro/ethics/9_1510.doc.

Form 9-1510s will not be able to be reviewed during a period of Federal Government shutdown. USGS employees who engage in outside work related to their USGS duties or the USGS mission during a period of Federal Government shutdown must submit their Form 9-1510 after the period ends.

11. Procurement Integrity

As a Federal employee involved in the procurement and acquisition process, you play an important role in preserving the integrity of Government contracting and assuring fair treatment of bidders, offerors, and contractors. A violation of ethics rules can result in a bid protest or undermine the public's confidence in Government. Improper conduct can lead to administrative, civil or even criminal penalties.

Gifts to Contractors

You should be mindful that contractors usually have company ethics rules and policies about gift-giving, especially when dealing with the Government. You do not want to embarrass contractor employees or cause them to violate company ethics rules.

Procurement Integrity Act (41 U.S.C. § 2102; 48 C.F.R. §§ 3.104-1 to 3.104-9)

Under the Procurement Integrity Act, if an employee, participating personally and substantially in a procurement of a contract in excess of \$150,000, contacts or is contacted by an offeror in that procurement regarding possible non-Federal employment, the employee must promptly report the contact in writing to his or her supervisor and to the agency ethics official.

Procurement and Other Nonpublic Information may not be disclosed.

As a Government employee, you might have access to procurement and other nonpublic information that could affect a contract bid or the award process. Improper disclosure of such protected information could violate numerous laws, as well as ethics rules. It also could subject

you to administrative actions, as well as civil or criminal penalties.

Procurement Information may not be disclosed.

You may not knowingly obtain or disclose contractor bid or proposal information or source selection information before the award of the contract, other than as permitted by law.

Contractor bid or proposal information is proprietary and must be secured to prevent disclosure. It includes certain nonpublic information submitted in connection with a bid or proposal, such as:

- * Cost or pricing data, including indirect costs and direct labor rates;
- * Information about manufacturing processes, operations and techniques when marked “proprietary” in accordance with law or regulation;
- * Information marked as “contractor bid or proposal information”; and
- * Any other information related to a specific procurement that a company making a bid deems proprietary.

Source selection information is information not previously available to the public that is prepared for use by an agency in evaluating a bid or proposal. Such information includes:

- * Bid prices for sealed bids or lists or prices;
- * Proposed costs or prices;
- * Source selection plans;
- * Technical evaluation plans;
- * Technical, cost or price evaluations of competing proposals;
- * Competitive range determinations;
- * Rankings of bids, proposals or competitors;
- * Reports, evaluations and recommendations of source selection panels, boards or advisory councils; and
- * Any other information marked as “source selection information.”

Other Nonpublic Information: In addition to the rules on disclosure of specific procurement information, ethics rules prohibit you from disclosing any nonpublic information to further your private interests, or those of another person, such as a contractor or contractor employee. Nonpublic information includes information about a contract or procurement that you gain through your job and that you reasonably should know has not been made available to the public. An example of nonpublic information would be an agency’s internal decision to terminate a particular contract.

If you have any doubt about whether information is protected information, or whether you are permitted to disclose such information, you should get advice from the Office of Acquisition and Grants (OAG) or the Ethics Office before disclosing or otherwise using the information.

If you have a specific issue, have questions, or need additional help, contact the Office of Acquisition and Grants (OAG) or the Ethics Office before taking any action.

Working for a Contractor After Government Employment: Depending on your Government position and what your role was in the procurement of a contract, you might be subject to certain restrictions when you leave Government service. You might be banned from accepting compensation from a contractor for one year after you served in a covered procurement-related position or made a procurement-related decision for your agency. The ban, which is part of the Procurement Integrity Act, prohibits you from accepting compensation as an employee, officer, director, or consultant of the contractor.

Who is covered by the One-Year Ban?

The one-year ban applies if you served in any of the following positions on a contract over \$10 million:

- * Procuring contracting officer;
- * Source selection authority;
- * Member of a source selection evaluation board;
- * Chief of a financial or technical evaluation team;
- * Program manager;
- * Deputy program manager; or
- * Administrative contracting officer;

or

Personally made any of the following decisions on behalf of your agency to:

- * Award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order over \$10 million;
- * Establish overhead or other rates for a contractor on a contract or contracts valued over \$10 million;
- * Approve a contract payment or payments over \$10 million; or
- * Pay or settle a claim over \$10 million.

12. Scientific Integrity

305 DM 3 Integrity of Scientific and Scholarly Activities (1/28/11),
http://elips.doi.gov/app_dm/act_getfiles.cfm?relnum=3889

Section 3.1 Purpose.

A. This chapter establishes Departmental policy on the integrity of scientific and scholarly activities the Department conducts and science and scholarship it uses to inform management and public policy decisions. Scientific and scholarly information considered in Departmental decision making must be robust, of the highest quality, and the result of as rigorous scientific and scholarly processes as can be achieved. Most importantly, it must be trustworthy. It is essential that the Department establish and maintain integrity in its scientific and scholarly activities because information from such activities is a critical factor that informs decision making on public policies. Other factors that inform decision making may include economic, budget, institutional, social, cultural, legal and environmental considerations.

B. This chapter also establishes scientific and scholarly ethical standards, including codes of conduct, and a process for the initial handling of alleged violations. This chapter is not intended to, and does not create any right or benefit, substantive or procedural, enforceable by law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees or agents, or any other person.

SM Chapter 500.25, Scientific Integrity (1/5/07), <http://www.usgs.gov/usgs-manual/500/500-25.html>

1. Purpose. This chapter establishes USGS policy for ensuring scientific integrity in the conduct of scientific activities and procedures for reporting, investigating, and adjudicating allegations of scientific misconduct by USGS employees and volunteers. Volunteers include all scientists working under Scientist Emeritus agreements.

2. Scope. This chapter applies to all USGS employees and volunteers.