

character reference based upon personal knowledge of the ability or character of an individual with whom he has dealt in the course of Federal employment or whom he is recommending for Federal employment.

Example 1: An employee of the Department of the Treasury who is asked to provide a letter of recommendation for a former subordinate on his staff may provide the recommendation using official stationery and may sign the letter using his official title. If, however, the request is for the recommendation of a personal friend with whom he has not dealt in the Government, the employee should not use official stationery or sign the letter of recommendation using his official title, unless the recommendation is for Federal employment. In writing the letter of recommendation for his personal friend, it may be appropriate for the employee to refer to his official position in the body of the letter.

(c) *Endorsements.* An employee shall not use or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service or enterprise except:

(1) In furtherance of statutory authority to promote products, services or enterprises; or

(2) As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission.

Example 1: A Commissioner of the Consumer Product Safety Commission may not appear in a television commercial in which she endorses an electrical appliance produced by her former employer, stating that it has been found by the CPSC to be safe for residential use.

Example 2: A Foreign Commercial Service officer from the Department of Commerce is asked by a United States telecommunications company to meet with representatives of the Government of Spain, which is in the process of procuring telecommunications services and equipment. The company is bidding against five European companies and the statutory mission of the Department of Commerce includes assisting the export activities of U.S. companies. As part of his official duties, the Foreign Commercial Service officer may meet with Spanish officials and explain the advantages of procurement from the United States company.

Example 3: The Administrator of the Environmental Protection Agency may sign a letter to an oil company indicating that its refining operations are in compliance with Federal air quality standards even though he knows that the company has routinely displayed letters of this type in television commercials portraying it as a “trustee of the environment for future generations.”

Example 4: An Assistant Attorney General may not use his official title or refer to his Government position in a book jacket endorsement of a novel about organized crime written by an author whose work he admires. Nor may he do so in a book review published in a newspaper.

(d) *Performance of official duties affecting a private interest.* To ensure that the performance of his official duties does not give rise to an appearance of use of public office for private gain or of giving preferential treatment, an employee whose duties would affect the financial interests of a friend, relative or person with whom he is affiliated in a nongovernmental capacity shall comply with any applicable requirements of § 2635.502.

(e) *Use of terms of address and ranks.* Nothing in this section prohibits an employee who is ordinarily addressed using a general term of address, such as “The Honorable”, or a rank, such as a military or ambassadorial rank, from using that term of address or rank in connection with a personal activity.

§ 2635.703 Use of nonpublic information.

(a) *Prohibition.* An employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure.

(b) *Definition of nonpublic information.* For purposes of this section, *nonpublic information* is information that the employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public. It includes information that he knows or reasonably should know:

(1) Is routinely exempt from disclosure under 5 U.S.C. 552 or otherwise protected from disclosure by statute, Executive order or regulation;

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(2) Is designated as confidential by an agency; or

(3) Has not actually been disseminated to the general public and is not authorized to be made available to the public on request.

Example 1: A Navy employee learns in the course of her duties that a small corporation will be awarded a Navy contract for electrical test equipment. She may not take any action to purchase stock in the corporation or its suppliers and she may not advise friends or relatives to do so until after public announcement of the award. Such actions could violate Federal securities statutes as well as this section.

Example 2: A General Services Administration employee involved in evaluating proposals for a construction contract cannot disclose the terms of a competing proposal to a friend employed by a company bidding on the work. Prior to award of the contract, bid or proposal information is nonpublic information specifically protected by 41 U.S.C. 423.

Example 3: An employee is a member of a source selection team assigned to review the proposals submitted by several companies in response to an Army solicitation for spare parts. As a member of the evaluation team, the employee has access to proprietary information regarding the production methods of Alpha Corporation, one of the competitors. He may not use that information to assist Beta Company in drafting a proposal to compete for a Navy spare parts contract. The Federal Acquisition Regulation in 48 CFR parts 3, 14 and 15 restricts the release of information related to procurements and other contractor information that must be protected under 18 U.S.C. 1905 and 41 U.S.C. 423.

Example 4: An employee of the Nuclear Regulatory Commission inadvertently includes a document that is exempt from disclosure with a group of documents released in response to a Freedom of Information Act request. Regardless of whether the document is used improperly, the employee's disclosure does not violate this section because it was not a knowing unauthorized disclosure made for the purpose of furthering a private interest.

Example 5: An employee of the Army Corps of Engineers is actively involved in the activities of an organization whose goals relate to protection of the environment. The employee may not, other than as permitted by agency procedures, give the organization or a newspaper reporter nonpublic information about long-range plans to build a particular dam.

§ 2635.704 Use of Government property.

(a) *Standard.* An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.

(b) *Definitions.* For purposes of this section:

(1) *Government property* includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds, including the services of contractor personnel. The term includes office supplies, telephone and other telecommunications equipment and services, the Government mails, automated data processing capabilities, printing and reproduction facilities, Government records, and Government vehicles.

(2) *Authorized purposes* are those purposes for which Government property is made available to members of the public or those purposes authorized in accordance with law or regulation.

Example 1: Under regulations of the General Services Administration at 41 CFR 101-35.201, an employee may make a personal long distance call charged to her personal calling card.

Example 2: An employee of the Commodity Futures Trading Commission whose office computer gives him access to a commercial service providing information for investors may not use that service for personal investment research.

Example 3: In accordance with Office of Personnel Management regulations at part 251 of this title, an attorney employed by the Department of Justice may be permitted to use her office word processor and agency photocopy equipment to prepare a paper to be presented at a conference sponsored by a professional association of which she is a member.

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§ 2635.705 Use of official time.

(a) *Use of an employee's own time.* Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. An employee not