

§ 73.735-1006

Government. This Department will not knowingly pay per diem to a consultant who also receives per diem pay for the same day from another Government agency (in or outside the Department). Erroneous payments in contravention of this provision will be subject to collection, and any consultant who willfully collects double payments may be barred from further employment.

§ 73.735-1006 Reporting financial interests.

(a) Consultants who will work more than 60 days in a calendar year are subject to the provisions of title II of the Ethics in Government Act of 1978 when their rate of pay is equal to or greater than the basic rate for GS-16, Step 1. Such consultants are covered by the reporting requirements of § 73.735-901 of these regulations.

(b) Consultants not subject to the Ethics in Government Act shall file statements of financial interests as provided by § 73.735-902 of these regulations.

§ 73.735-1007 Political activity.

Consultants who serve intermittently are subject to the political activity restrictions of Subchapter III of Chapter 73 of Title 5 U.S.C. and Civil Service Rule IV only on days on which service is rendered and then for the entire 24 hours of such service day. Other consultants are subject to these restrictions at all times.

Subpart K—Special Government Employees Other Than Consultants

§ 73.735-1101 General provision.

Individuals who are designated as special Government employees because of the nature of their services but who are not serving as a consultant, expert, or advisory committee member are subject to the provisions of Subparts B through I of these regulations. However, the provisions of 18 U.S.C. 205, 206, 207, and 208 apply to them only as described in Subpart J. Also, the limitation in § 73.735-701(f) on the amount of an honorarium that may be received does not apply.

45 CFR Subtitle A (10-1-02 Edition)

Subpart L—Disciplinary Action

§ 73.735-1201 General provisions.

(a) Violations of the regulations contained in the Part may be cause for disciplinary action which could be in addition to any penalty prescribed by law. (For a list of some offenses for which disciplinary action may be taken and “The Code of Ethics for Government Service,” the violation of which may also result in disciplinary action, see Appendixes A and B of this Part).

(b) The type of disciplinary action to be taken must be determined in relation to the specific violation. Those responsible for recommending and for taking disciplinary action must apply judgment to each case, taking into account the general objectives of meeting any requirements of law, deterring similar offenses by the employee and other employees, and maintaining high standards of employee conduct and public confidence. Some types of disciplinary action which may be considered are:

- (1) Admonishment
- (2) Written reprimand
- (3) Reassignment
- (4) Suspension
- (5) Demotion
- (6) Removal

(c) Suspension, demotion, and removal are adverse actions; and when such actions are taken, applicable laws, regulations, and policies must be followed.

[46 FR 7369, Jan. 23, 1981, as amended at 53 FR 4409, Feb. 16, 1988]

Subpart M—Reporting Violations

§ 73.735-1301 Responsibility for reporting possible criminal violations.

An employee who has information which he or she reasonably believes indicates a possible offense against the United States by an employee of the Department, or any other individual working on behalf of the Department, shall immediately report such information to his or her supervisor, any management official, or directly to the Office of the Inspector General. Offenses covered by the preceding sentence include, but are not limited to, bribery,

fraud, perjury, conflict of interest, misuse of funds, equipment, or facilities, and other conduct by a government officer or employee, grantee, contractor or other person which is prohibited by title 18 of the United States Code. Employees and supervisors should refer to chapter 5-10 of the Department's General Administration Manual for procedures regarding the reporting and handling of such information.

§ 73.735-1302 Responsibility for reporting allegations of misconduct.

An employee who has information which he or she reasonably believes indicates the existence of an activity constituting (a) a possible violation of a rule or regulation of the Department; or (b) mismanagement, a gross waste of funds, or abuse of authority; or (c) a substantial and specific danger to the public health and safety, shall immediately report such information to his or her supervisor, any management official of the Department, or directly to the Office of the Inspector General. Employees and supervisors should refer to chapter 5-10 of the Department's General Administration Manual for procedures regarding the reporting and handling of such information. This subsection does not cover employee grievances, equal employment opportunity complaints, classification appeals, or other matters for which a formal government-wide review system has been established by the Federal government.

§ 73.735-1303 Prohibition of reprisals.

(a) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or providing any information pursuant to §§ 73.735-1301 and 73.735-1302. If the complaint was made or the information was disclosed with the knowledge that it was false, or with willful disregard of its truth or falsity, any personnel action taken against the employee based on those reasons would not constitute a reprisal action.

(b) An employee who believes that he or she has been threatened with a personnel action, any other action, or har-

assment or has been harmed by any action as a reprisal for having made a complaint or providing information pursuant to § 73.735-1301 or § 73.735-1302 may request the Office of the Inspector General to review his or her allegations. Whenever the Inspector General has reason to believe that the allegations may be true, he or she will refer the matter to the Assistant Secretary for Personnel Administration for appropriate action. The Assistant Secretary for Personnel Administration may order a stay of any personnel action if he or she determines that there are reasonable grounds to believe that the personnel action is being taken as a reprisal for making a complaint or providing information pursuant to § 73.735-1301 or § 73.735-1302.

§ 73.735-1304 Referral of matters arising under the standards of this part.

(a) The Department Ethics Counselor may refer to the Inspector General for investigation and/or further action any matter arising under the standards of this part.

(b) The Department Ethics Counselor may refer to the Office of Government Ethics, or the Inspector General may refer to the Department of Justice, suspected violations of the criminal laws regarding employee standards of conduct and conflicts of interest.

Subpart N—Conduct and Responsibilities of Former Employees

§ 73.735-1401 Prohibitions against post-employment conflicts of interest.

(a) The purpose of criminal prohibition in 18 U.S.C. 207 is to prevent the unfair use of inside knowledge or influence that results from Federal service. 18 U.S.C. 207 generally prohibits a former employee from acting as another person's representative to the Government in particular matters involving a specific party or parties in which the employee had been involved while in Federal service. This prohibition does not require a former employee to decline employment with any organization regardless of his or her dealings with that organization while