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official duty or by actions of the Department.

(b) *Exceptions.* The following exceptions are authorized to the limitation in paragraph (a) of this section:

(1) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or other thing of monetary value incident to obvious family or personal relationships (such as those between the employee and the parents, children, or spouse of the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors.

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance. For the purpose of this section, "nominal value" means that the value of the food or refreshments shall not be unreasonably high under the circumstances.

(3) Acceptance of loans from banks or other financial institutions on customary terms and on security not inconsistent with paragraph (a) of this section, to finance proper and usual activities of employees, such as home mortgage loans.

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(5) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fee, compensation, or other thing of monetary value when such acceptance is determined by the head of the operating unit concerned to be necessary and appropriate in view of the work of the Department and the duties and responsibilities of the employee. A copy of each such determination shall be sent to the counselor of the Department.

(6) Special Government employees are covered by this section only while employed by the Department or in connection with such employment.

(c) [Reserved]

(d) *Gifts to superiors.* An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement. An employee who violates these requirements shall be removed from the service.

(e) *Gifts from a foreign government.* An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless acceptance is (1) authorized by Congress as provided by the Constitution and in Pub. L. 89-673, 80 Stat. 952, and (2) authorized by the Department of Commerce as provided in Administrative Order 202-739.

(f) *Reimbursement for travel expenses and subsistence.* Neither this section nor §0.735-12 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General dated March 7, 1967. (Requirements applicable to Department of Commerce employees are set forth in Department of Commerce Administrative Order 203-9.)

§0.735-12 Outside employment or other activity.

(a) *Incompatible outside employment or other outside activity.* An employee shall not engage in outside employment or other outside activity not compatible

(1) With the full and proper discharge of the duties and responsibilities of his Government employment,

(2) With the policies or interests of the Department, or

(3) With the maintenance of the highest standards of ethical and moral conduct. Incompatible activities include but are not limited to:

(i) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest;

(ii) Outside employment which tends to impair the employee's mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner;

(iii) Employment with any foreign government, corporation, partnership, instrumentality, or individual unless authorized by the Department;

(iv) Employment by, or service rendered under contract with, any of the persons listed in §0.735-11(a);

(v) Receipt by an employee, other than a special Government employee, of any salary or anything of monetary value from a private source as compensation for his services to the Government. (18 U.S.C. 209).

(b) *Improper benefit from official activity.* (1) No employee of the Department shall receive compensation (e.g., an honorarium) or anything of monetary value, other than that to which he is duly entitled from the Government, for the performance of any activity during his service as such employee of the Department and within the scope of his official responsibilities.

(2) As used in this paragraph, "within the scope of his official responsibilities" means in the course of or in connection with his official responsibilities. (See 29 Comp. Gen. 163; 30 id. 246; 32 id. 454; 35 id. 354; B-131371, July 17, 1957.)

(3) An activity shall ordinarily be considered to be in the course of or in connection with an employee's official responsibilities if it is performed as a result of an invitation or request which is addressed to the Department or a component thereof, or which is addressed to an employee at his office at the Department, or which there is reason to believe is extended partly because of the official position of the employee concerned. (When in doubt, it may be asked whether it is likely that the invitation would have been re-

ceived if the recipient were not associated with the Department.) Whether an employee is on leave while performing an activity shall be considered irrelevant in determining whether an activity is performed in the course of or in connection with the employee's official responsibilities.

(4) Acceptance of a gift or bequest on behalf of the Department shall be made in accordance with Department Order 3 and Administrative Order 203-9.

(c) *Teaching, lecturing, and writing.* Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law. Executive Order 11222, 5 CFR Part 735, or the regulations in this part and Administrative Order 201-4, "Writing for Outside Publication," subject to the following conditions:

(1) An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or the Board of Examiners for the Foreign Service, that depends on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Assistant Secretary for Administration or his designee gives written authorization for the use of non-public information on the basis that the use is in the public interest.

(2) No employee shall receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Department of Commerce, or which draws substantially on official data or ideas which have not become part of the body of public information. As used in this paragraph, "the body of public information" shall mean information which has been disseminated widely among segments of the public which may be affected by or interested in the information concerned, or which is known by such segments of the public

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to be freely available on request to a Government agency.

(d) [Reserved]

(e) *Application of the limitations.* This section does not preclude an employee from:

(1) [Reserved]

(2) Participation in the activities of National or State political parties not proscribed by law.

(3) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, non-profit educational and recreational, public service, or civic organization.

[32 FR 15222, Nov. 2, 1967, as amended at 33 FR 9765, July 6, 1968; 55 FR 53489, Dec. 31, 1990]

§0.735-13 Financial interests.

(a) An employee shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) No employee shall participate in any manner, on behalf of the United States, in the negotiation of contracts, the making of loans, and grants, the granting of subsidies, the fixing of rates, or the issuance of valuable permits or certificates, or in any investigation or prosecution, or in the transaction of any other official business, which affects chiefly a person with whom he has any economic interest or any pending negotiations concerning a prospective economic interest, except with express prior authorization as provided for in subpart G of this part.

(c) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive order, Civil Service regulations (5 CFR Part 735), or regulations in this part.

(d) The financial (or economic) interests described below are too remote or

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too inconsequential to affect the integrity of an employee's services in any matter involving them, and are thereby exempted from the prohibitions of 18 U.S.C. 208(a), and do not exclude such employee's participation in the transaction of any official business involving such financial or economic interests:

Deposits in a bank, savings and loan association, building association, credit union or similar financial institution; policies held with an insurance company; constructive interests in companies and other entities owned or held by a mutual fund or other diversified investment company in which the employee has an interest.

These exempted financial (or economic) interests need not be reported by employees in their statements of employment and financial interests referred to in §0.735-21.

(18 U.S.C. 208(b); 5 CFR 735.404a)

[32 FR 15222, Nov. 2, 1967, as amended at 41 FR 34939, Aug. 18, 1976; 47 FR 3350, Jan. 25, 1982]

§0.735-14 Use of Government time or property.

(a) An employee shall not directly or indirectly use, or allow the use of, Government time or property of any kind, including property leased to the Government, for other than officially approved activities.

(b) Each employee shall protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§0.735-15 Misuse of employment or information.

(a) *Use of Government employment.* An employee shall not use his Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) *Use of inside information.* For the purpose of furthering a private interest, an employee shall not, except as provided in §0.735-12(c), directly or indirectly use, or allow the use of, information which has been or has the appearance of having been obtained