

of this part, and (ii) for overseeing the employee's activities in order to insure that the public interest is protected from improper conduct on his part and that he will not, through ignorance or inadvertence, embarrass the Government or himself.

(2) The employee's supervisor and employees with whom he works are responsible for avoiding the use of the employee's services in any situation in which a violation of law, regulation, or ethical standards is likely to occur or to appear to occur.

(3) The supervisor of an employee is responsible for initiating prompt and proper disciplinary or remedial action when a violation, intentional or innocent, is detected.

(4) Employees shall avoid divulging to a special Government employee privileged Government information which is not necessary to the performance of his governmental responsibility or information which directly involves the financial interests of his non-Government employer.

(5) An employee shall make every effort in his private work to avoid any personal contact with respect to negotiations with the Department for contracts, grants, or loans, if the subject matter is related to the subject matter of his Government employment. When this is not possible, he may participate if not otherwise prohibited by law (e.g., 18 U.S.C. 203 and 205) in the negotiations for his private employer only with the prior approval of the head of the operating unit concerned.

[32 FR 15222, Nov. 2, 1967, as amended at 55 FR 53489, Dec. 31, 1990]

**§ 0.735-37 Procedure.**

The review of statements of employment and financial interests shall include the following basic measures, among others:

(a) Statements shall be submitted to the designated officer, who will review each employee's statement of employment and financial interests to ascertain whether they are consistent with the requirements established by or pursuant to this part. (See § 0.735-24(b).)

(b) Where the statement raises any question of compliance with the requirements of this part, it shall be submitted to a deputy counselor for the

organization unit concerned. The deputy counselor may, in his discretion, utilize the advice and services of others (including departmental facilities) to obtain further information needed to resolve the questions.

(c) The designated officer shall maintain the statements of employment and financial interests in a file apart from the official personnel files and shall take every measure practicable to insure their confidentiality. Statements of employment and financial interests shall be preserved for 5 years following the separation of an employee from the Department or following termination of any other relationship under which the individual rendered service to the Department, except as may be otherwise authorized by the Assistant Secretary for Administration or as required by law.

**§ 0.735-38 Availability for counseling.**

(a) The General Counsel of the Department shall:

(1) Serve as the counselor for the Department of Commerce with respect to matters covered by the basic provisions cited in § 0.735-2(a) and otherwise by or pursuant to this part;

(2) Serve as the Department of Commerce designee to the Office of Personnel Management on matters covered by this part; and

(3) Coordinate the counseling services provided under this part and assure that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available to deputy counselors designated under paragraph (b) of this section.

(b) The counselor shall designate employees who shall serve as deputy counselors for employees of the Department of Commerce with respect to matters covered by or pursuant to this part and shall give authoritative advice and guidance to each employee who seeks advice and guidance on questions of conflict of interests and other matters covered by or pursuant to this part.

(c) Each operating unit shall notify its employees of the availability of counseling services and of how and where these services are available. This notification shall be given within 90 days after approval of this part by the

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Office of Personnel Management and periodically thereafter. In the case of a new employee appointed after the foregoing notification, notification shall be made at the time of his entrance on duty.

(d) In each operating unit a deputy counselor shall advise and counsel each employee concerning any adjustments necessary in his financial interests or activities, or in any contemplated interests or activities, in order to meet the requirements established by or pursuant to this part.

[32 FR 15222, Nov. 2, 1967, as amended at 55 FR 53489, Dec. 31, 1990]

**§ 0.735-39 Authorizations.**

All requests for authorizations required under this part shall be addressed to the head of the operating unit concerned. In the Office of the Secretary such requests shall be addressed to the Secretary or such person as he may designate. When granted, authorizations will be in writing, and a copy of each authorization will be filed in the employees' official personnel file.

(a) In case of doubt, or upon the request of the employee concerned, cases or questions will be forwarded to the counselor or a deputy counselor. (See §0.735-38.)

(b) Where an activity requested to be authorized can be conducted as official business, it shall not be authorized as a private activity, but shall be conducted as official business.

(c) Where authorizations involve speaking, writing, or teaching, use of the official title of the employee for identification purposes may be authorized, provided the employee makes it clear that his statements and actions are not of an official nature.

(d) If an authorization has been granted for a specific activity or interest, and the activity or interest is subsequently deemed to constitute a violation of the limitations or requirements prescribed in or pursuant to this part, the employee concerned shall be notified in writing of the cancellation of the authorization and shall modify or stop the activity or interest involved, as requested.

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**§0.735-40 Disciplinary and other remedial action.**

(a) Violation of a requirement established in or pursuant to this part shall be cause for appropriate disciplinary action, which may be in addition to any penalty prescribed by law.

(b) When, after consideration of the explanation of the employee provided by §0.735-20(c), the reviewing officer, in cooperation with the responsible supervisory official, decides that remedial action is required, he will take or cause to be taken immediate action to end the conflict or appearance of conflict of interest. Remedial action may include, but is not limited to:

- (1) Changes in assigned duties;
- (2) Divestment by the employee of his conflicting interest;
- (3) Disciplinary action (including removal from the service); or
- (4) Disqualification for a particular assignment.

Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws, Executive orders, and regulations.

(c) No disciplinary or remedial action may be taken under this section against an employee of another Federal department or agency on detail to the Department of Commerce other than through and with the concurrence of the detailed employee's employing agency.

**§ 0.735-41 Inquiries and exceptions.**

(a) Inquiries relating to legal aspects of the limitations set forth in or cited in or pursuant to this part should be submitted to the appropriate deputy counselor. Inquiries relating to other aspects of this part or regulations supplementary thereto should be referred to the appropriate personnel office.

(b) Within the limits of administrative discretion permitted to the Department, exceptions to the requirements of this part may be granted from time to time in unusual cases by the head of the operating unit, whenever the facts indicate that such an exception would promote the efficiency of the service. Each request for such an exception should be submitted in writing to the head of the operating unit concerned, and shall contain a full statement of the justification for the