

§ 7501.103

5 CFR Ch. LXV (1-1-05 Edition)

§ 7501.103 Waivers.

The Designated Agency Ethics Official may waive any provision of this part upon finding that the waiver will not result in conduct inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that application of the provision is not necessary to ensure public confidence in the impartiality and objectivity with which the Department's programs are administered. Each waiver shall be in writing and supported by a statement of the facts and findings upon which it is based and may impose appropriate conditions, such as requiring the employee's execution of a written disqualification statement.

§ 7501.104 Prohibited financial interests.

(a) *General requirement.* This section applies to all HUD employees except special Government employees who are not "covered employees" as defined in § 7501.106(b)(1) of this part. Except as provided in paragraph (b) of this section, an employee, or an employee's spouse or minor child, shall not directly or indirectly receive, acquire or own:

(1) Securities issued by the Federal National Mortgage Association (FNMA) or securities collateralized by FNMA securities;

(2) Securities issued by the Federal Home Loan Mortgage Corporation (FHLMC) or securities collateralized by FHLMC securities;

(3) Federal Housing Administration debentures or certificates of claim;

(4) Stock or another financial interest in a multifamily project or single family dwelling, cooperative unit, or condominium unit, which is owned or subsidized by the Department, or which is subject to a note or mortgage or other security interest insured by the Department, except to the extent that the stock or other interest represents the employee's principal residence. Employees who wish to purchase a Department-held property as a principal residence must adhere to the procedures established by the Assistant Secretary for Housing for the administration of the property disposition program set forth in HUD Handbook 4310.5;

(5) Any Department subsidy provided pursuant to Section 8 of the United

States Housing Act of 1937, as amended, (42 U.S.C. 1437f) to or on behalf of a tenant of property owned by the employee. However, an employee may receive such a subsidy when:

(i) The employee acquires without specific intent, as through gift or inheritance, a property which at the time of acquisition has a tenant receiving such a subsidy, but only as long as that tenant continues to reside in the property;

(ii) An incumbent tenant who has not previously received such a subsidy becomes the beneficiary thereof, but only if there is no increase in that tenant's rent upon the commencement of subsidy payments other than normal annual adjustments; or

(iii) The tenant is the parent, child, grandchild, or sibling of the employee, but only if there is no increase in that tenant's rent upon the commencement of subsidy payments other than normal annual adjustments; or

(6) Any direct creditor interest in a mortgage insured by the Department.

(b) *Exception to prohibition for certain interests.* Nothing in this section prohibits an employee, or the spouse or minor child of an employee, from acquiring, owning, or controlling:

(1) An interest in a publicly traded or publicly available investment fund which, in its prospectus, does not indicate the objective or practice of concentrating its investments in residential mortgages or securities backed by residential mortgages, except those of the Government National Mortgage Association (GNMA), and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund;

(2) A limited partnership interest in a partnership which has at least 5,000 partnership interests, and no more than 25% of the gross value of the partnership interest constitutes projects subject to HUD held or insured mortgages or projects currently receiving the benefit of HUD subsidies; or

(3) Mortgage insurance provided pursuant to section 203 of the National Housing Act (12 U.S.C. 1709) on the employee's principal residence and any one other single family residence.

(c) *Reporting and divestiture.* An employee must report, in writing, to the

appropriate agency ethics official, any interest prohibited under paragraph (a) of this section acquired prior to the commencement of employment with the Department or without specific intent, as through gift, inheritance, or marriage, within 30 days from the start of employment or acquisition of such interest. Such interest must be divested within 90 days from the date reported unless waived by the Designated Agency Ethics Official in accordance with § 7501.103.

§ 7501.105 Outside employment.

(a) *Prohibited outside employment.* Subject to the exceptions set forth in paragraph (b) of this section, HUD employees, except special Government employees, shall not engage in:

(1) Employment involving active participation in a business dealing with or related to real estate or manufactured housing including but not limited to real estate brokerage, management and sales, architecture, engineering, mortgage lending, property insurance, appraisal services, construction, construction financing, land planning, or real estate development;

(2) Employment with a person, other than a State or local government, who engages in lobbying activities concerning Department programs or who is required to report expenditures for lobbying activities or register as a lobbyist under 42 U.S.C. 3537b or similar statutes which require the registration of persons who attempt to influence the decisions of officers or employees of the Department;

(3) Employment as an officer or director of a person who is a Department-approved mortgagee, a lending institution or an organization which services securities for the Department; or

(4) Employment with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System or any affiliate thereof.

(b) *Exceptions to employment prohibitions.* The prohibitions set forth in paragraph (a) of this section do not apply to serving as an officer or a member of the Board of Directors of:

(1) A Federal Credit Union;

(2) A cooperative or condominium association for a housing project which is not subject to regulation by the Department or, if so regulated, in which the employee personally resides; or

(3) An entity designated in writing by the Designated Agency Ethics Official.

(c) *Prior approval requirement.* (1) Employees, except special Government employees, shall obtain the prior written approval of an Agency Ethics Official before accepting compensated or uncompensated employment:

(i) As an officer, director, trustee, or general partner of, or in any other position of authority with, either a for-profit or non profit organization which directly or indirectly receives assistance from the Department.

(ii) With a State or local government; or

(iii) In the same professional field as that of the employee's official position.

(2) Approval shall be granted unless the conduct is inconsistent with 5 CFR part 2635 or this part.

(d) *Voluntary services.* Subject to the restrictions and requirements contained in the conflict of interest laws, 5 CFR part 2635, and this part, employees are encouraged to volunteer their personal time to nonprofit organizations.

NOTE TO § 75.105: An employee assigned to serve in an official capacity as the Department's liaison representative to an outside organization is not engaged in an outside activity to which this section applies. Notwithstanding, an employee may be assigned to serve as the Department's liaison representative only as authorized by law, and as approved by the Department under applicable procedures.

§ 7501.106 Additional rules for certain Department employees involved in the regulation or oversight of Government sponsored enterprises.

(a) The following rules apply to certain Department employees whose duties involve the regulation or oversight of Government Sponsored Enterprises, specifically the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). This section is in addition to §§ 7501.101 to 7501.105.

(b) *Definitions.* For purposes of this section, the following definitions are applicable: