



FEDERAL EMERGENCY  
MANAGEMENT AGENCY

**INSTRUCTION**      Date      Number      GC  
 April 27, 1993      1100.1

Standards of Conduct  
(subject)

1. Purpose. This instruction adopts the Office of Government Ethics (OGE) regulations at Title 5 Code of Federal Regulations (CFR) relating to standards of conduct for Federal Emergency Management Agency (FEMA) employees, and assigns responsibilities for its implementation.
2. Applicability and Scope. The provisions of this instruction are applicable to all FEMA employees in headquarters, regions, and field establishments.
3. Supersession. This instruction supersedes FEMA Instruction 1100.1, Standards of Conduct, dated June 15, 1983.
4. Authorities.
  - a. Title 5 United States Code Appendix 4, Sections 201-212, Executive Financial Disclosure.
  - b. Executive Order 12674 of April 12, 1989, Prescribing Standards of Ethical Conduct for Government Officers and Employees.
  - c. United States Office of Government Ethics regulations, Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635.
  - d. The Inspector General Act of 1978, 92 Statute 1101, as amended by Public Law 100-504, 102 Statute 2515.
5. Responsibilities.
  - a. The General Counsel in accordance with the provisions of the attachment is designated the Agency Ethics Officer and responsible for the following:
    - (1) Reviewing positions annually to determine if the persons occupying the positions are required to file a Standard Form (SF) 278, Public Financial Disclosure Report, or an SF 450, Confidential Financial Disclosure Report;

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April 27, 1993

(2) Ensuring proper coordination, except as otherwise provided, of all SF's 278 and 450;

(3) Designating in writing the Deputy Designated Agency Ethics Officers to be responsible for providing advice, guidance, and assistance to the Agency and FEMA employees on all questions arising from the operation and implementation of the attachment and/or reviewing all SF's 278 and 450 filed thereunder;

(4) Notifying the Director, FEMA, no later than June 30th of each year as to whether all required SF's 278 have been filed and reviewed and by December 31st with respect to SF's 450;

(5) Administering the Agency's Ethics Program; and

(6) Determining if there is reason to believe that a violation of Federal Statutes at 18 USC 201-209 has occurred;

(7) Referring suspected violations of the Federal Statutes to the Office of the Inspector General; and

(8) Designating the Deputy General Counsel as the Alternate Designated Agency Ethics Officer except when that position is vacant and then the Associate General Counsel for General Law shall be the Alternate Designated Agency Ethics Officer.

b. The Director, Office of Human Resources Management, or official designee, in accordance with the attachment, is responsible for the following:

(1) Ensuring new FEMA employees are provided a copy of this instruction including the attachment;

(2) Providing an oral briefing on the standards of conduct preceding employment or assumption of duties;

(3) Bringing the OGE standards of conduct to the attention of all FEMA employees by appropriate training in conjunction with the Office of General Counsel;

(4) Including a statement in affected position descriptions that the incumbent of the position must file an SF 278 or 450; and

(5) Ensuring all FEMA personnel required to file an SF 278 are notified at the time of their termination of employment with FEMA of their obligation to file a final SF 278

April 27, 1993

FEMA Instruction 1100.1

within 30 days of termination in accordance with Office of Government Ethics published regulations.

c. FEMA employees are responsible for fully familiarizing themselves with all the requirements of the standards of conduct regulations issued by the OGE. The OGE regulations are synopsised in the attachment. FEMA employees are required to conduct themselves in accordance with these regulations. Failure to comply may subject the employee to appropriate disciplinary action.

d. The Inspector General pursuant to the Inspector General Act is the appropriate authority within FEMA for the following:

(1) Investigating reports of waste, fraud, abuse, and corruption;

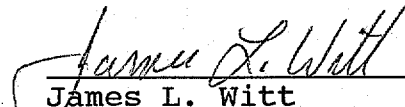
(2) Investigating, if appropriate, any suspected violations of the Federal Statutes at 18 United States Code Sections 201-209; and

(3) Referring cases to the United States Department of Justice.

6. Forms Prescribed. This instruction prescribes the use of the following forms which may be obtained from the Office of General Counsel.

a. SF 278, Public Financial Disclosure Report.

b. SF 450, Confidential Financial Disclosure Report.

  
James L. Witt  
Director

Attachment

Office of Government Ethics Standards of Conduct

**OFFICE OF GOVERNMENT ETHICS****SUMMARY**  
of New Standards of Ethical Conduct**THE STANDARDS OF ETHICAL CONDUCT**

Effective February 3, 1993, the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR Part 2635 replace the many individual agency standards of conduct regulations with a uniform set of standards applicable to all employees of the Executive branch. Where necessary, individual agencies have authority to issue supplemental regulations.

Because they are intended to answer questions about the ethical conduct of more than a million individuals employed by more than 100 different Federal agencies, the new Standards of Ethical Conduct are detailed. They contain many examples and will readily answer most ethical questions employees will have. The attached synopsis has been prepared by the Office of Government Ethics to give employees enough familiarity with the contents of the regulations to recognize ethical issues when they arise and to assist in looking up relevant provisions in the regulations. Because the synopsis provides only a shorthand reference to lengthier provisions in the regulations, an employee must refer to the regulations themselves in resolving ethical issues that actually arise or may seek the advice of an agency ethics official.

Copies of complete text of  
Standards are available in the  
Office of General Counsel



## SYNOPSIS OF SUBPART A - GENERAL PROVISIONS

THE PRINCIPLES OF ETHICAL CONDUCT. The following principles of ethical conduct apply to all officers and employees of the executive branch and many form the basis for specific standards set forth in the regulation.

- Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
- Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- An employee shall not, except pursuant to the exceptions in subpart B, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or non-performance of the employee's duties.
- Employees shall put forth honest effort in the performance of their duties.
- Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.
- Employees shall not use public office for private gain.
- Employees shall act impartially and not give preferential treatment to any private organization or individual.
- Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- Employees shall disclose waste, fraud, abuse, and corruption to the Office of Inspector General.
- Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State and local taxes—that are imposed by law.
- Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or these Standards of Ethical Conduct.

### BASIC CONCEPTS.

- Employees shall apply the principles stated above in weighing the propriety of conduct not otherwise addressed in the regulations.
- Employees shall judge whether circumstances will violate the appearance principle, the last principle set forth above, from the perspective of a reasonable person with knowledge of the relevant facts.
- There are special rules for determining which standards apply to employees detailed to other agencies, to other branches of the Federal government, to State or local governments or to international organizations.
- A violation of the regulatory standards may be cause for corrective action or for disciplinary action against an employee. There are criminal penalties for violations of criminal statutes referred to in the regulations.
- Employees are encouraged to seek the advice of agency ethics officials. Disciplinary action for violation of regulatory standards will not be taken against an employee who relies on such advice.

DEFINITIONS. Terms used throughout the Standards of Ethical Conduct, such as "agency designee" and "Special Government Employee," are defined in subpart A. Terms of more limited applicability are

defined in the subparts or sections to which they apply.

## SYNOPSIS OF SUBPART B - GIFTS FROM OUTSIDE SOURCES

**BASIC PROHIBITION ON GIFTS FROM OUTSIDE SOURCES.** An employee shall not solicit or accept a gift given because of his official position or from a prohibited source. A prohibited source is defined as any person, including any organization more than half of whose members are persons:

- Seeking official action by his agency;
- Doing or seeking to do business with his agency;
- Regulated by his agency; or
- Substantially affected by the performance of his duties.

**DEFINITION OF A GIFT.** The term "gift" includes almost anything of monetary value. However, it does not include:

- Coffee, donuts and similar modest items of food and refreshments when offered other than as part of a meal;
- Greeting cards and most plaques, certificates and trophies;
- Prizes in contests open to the public;
- Commercial discounts available to the general public or to all Government or military personnel;
- Commercial loans, and pensions and similar benefits;
- Anything paid for by the Government, secured by the Government under Government contract or accepted by the Government in accordance with a statute;
- Anything for which the employee pays market value.

**EXCEPTIONS.** Subject to the limitations noted below, there are exceptions which will permit an employee to accept:

- Unsolicited gifts with a market value of \$20 or less per occasion, aggregating no more than \$50 in a calendar year from any one source (this exception

does not permit gifts of cash or investment interests);

Gifts when clearly motivated by a family relationship or personal friendship;

Commercial discounts and similar benefits offered to groups in which membership is not related to Government employment or, if membership is related to Government employment, where the same offer is broadly available to the public through similar groups, and certain benefits offered by professional associations or by persons who are not prohibited sources;

Certain awards and honorary degrees;

Gifts resulting from the outside business activities of employees and their spouses;

Travel and entertainment in connection with employment discussions;

Certain gifts from political organizations;

Free attendance provided by the sponsor of an event for the day on which an employee is speaking or presenting information at the event;

Free attendance provided by the sponsor of a widely-attended gathering of mutual interest to a number of parties where the necessary determination of agency interest has been made;

Invitations to certain social events extended by persons who are not prohibited sources, provided no one is charged a fee to attend the event;

Certain gifts of food and entertainment in foreign areas;

Gifts accepted by the employee under a specific statute, such as 5 U.S.C. 4111 and 7342, or pursuant to a supplemental agency regulation.

**LIMITATIONS ON USE OF EXCEPTIONS.** An employee may not use any of the exceptions noted above to solicit or coerce the offering of a gift or to accept gifts:

For being influenced in the performance of official duties;

In violation of any statute;

So frequently as to appear to be using public office for private gain; or

In violation of applicable procurement policies regarding participation in vendor promotional training.

**DISPOSITION OF GIFTS.** When an employee cannot accept a gift, the employee should pay the donor its market value. If the gift is a tangible item, the employee may instead return the gift. Subject to approval, however, perishable items may be donated to a charity, destroyed or shared with the office.

## SYNOPSIS OF SUBPART C - GIFTS BETWEEN EMPLOYEES

**BASIC PROHIBITION ON GIFTS BETWEEN EMPLOYEES.** An employee shall not:

Give or solicit for a gift to an official superior; or

Accept a gift from a lower-paid employee, unless the donor and recipient are personal friends who are not in a superior-subordinate relationship.

**DEFINITION OF A GIFT.** The term "gift" has the same meaning as in subpart B. However, carpooling and similar arrangements are excluded where there is a proportionate sharing of the cost and effort involved.

**DEFINITION OF AN OFFICIAL SUPERIOR.** The term "official superior" includes anyone whose official responsibilities involve directing or evaluating the performance of the employee's official duties or those of any other official superior of the employee. The term is not limited to immediate supervisors but applies to officials up the supervisory chain.

**EXCEPTIONS.** Subject to a limitation on using any exception to coerce a gift from a subordinate, there are exceptions that:

On an occasional basis, including birthdays and other occasions when gifts are traditionally exchanged, permit giving and accepting:

Items other than cash aggregating \$10 or less per occasion;

Food and refreshments shared in the office;

Personal hospitality at a residence;

Appropriate hostess gifts; and

Leave sharing under OPM regulations.

Infrequent occasions of personal significance, such as marriage, and occasions that terminate the superior-subordinate relationship, such as retirement, permit giving and accepting gifts appropriate to the occasion; and

Permit voluntary contributions of nominal amounts to be made or solicited for gifts of food and refreshments to be shared in the office or for group gifts on occasions such as marriage or retirement described in the preceding paragraph.



## SYNOPSIS OF SUBPART D - CONFLICTING FINANCIAL INTERESTS

**DISQUALIFYING FINANCIAL INTERESTS.** Under the criminal conflict of interest statute, 18 U.S.C. 208, an employee is prohibited from participating in an official capacity in any particular matter in which, to his knowledge, he or certain other persons have a financial interest, if the particular matter will have a direct and predictable effect on his own or that person's financial interests.

**APPLICABILITY.** In addition to matters that affect his own financial interests, this prohibition applies to particular matters that affect the financial interests of:

The employee's spouse, minor child or general partner; or

Any person the employee serves as officer, director, trustee, general partner or employee.

The prohibition also applies to particular matters that affect the financial interests of a person with whom the employee is negotiating for or has an arrangement concerning future employment. However, this aspect of the statute is addressed more specifically in subpart F.

**DISQUALIFICATION.** Disqualification can be accomplished simply by not participating in the matter. Although an employee should notify the person

responsible for his assignment of the need to disqualify, a written disqualification statement is necessary only if required by an ethics agreement or requested by an agency ethics official or the person responsible for the employee's assignment.

**SOLUTIONS OTHER THAN DISQUALIFICATION.** Disqualification is not required if the financial interest is the subject of one of the statutory waivers described in subpart D or if the employee has sold or otherwise divested the conflicting interest.

**PROHIBITED FINANCIAL INTERESTS.** In general, employees may acquire and hold financial interests subject only to the disqualification requirement imposed by 18 U.S.C. 208. However, some agencies have statutes that prohibit employees from acquiring or holding particular interests. In addition, subpart D gives agencies the authority, by supplemental regulation, to prohibit employees from acquiring or holding certain financial interests. Agencies also may prohibit an individual employee from holding financial interests where disqualification would impair the employee's ability to perform the duties of his position or adversely affect the agency's mission. An employee directed to divest a financial interest may be eligible for special tax treatment of the transaction.



## SYNOPSIS OF SUBPART E - IMPARTIALITY IN PERFORMING OFFICIAL DUTIES

**CONSIDERATION OF CERTAIN PERSONAL AND BUSINESS RELATIONSHIPS.** Even though his disqualification may not be required under subpart D, an employee should not participate in an official capacity in certain matters without first obtaining specific authorization if, in his judgment, persons with knowledge of the relevant facts would question his impartiality in those matters.

**MATTERS COVERED.** The matters covered include a particular matter involving specific parties if the employee knows that it is likely to affect the financial interests of a member of his household or that one of the following persons is a party or represents a party in the matter:

A person with whom the employee has or seeks a business or other financial relationship;

A member of the employee's household or relative with whom the employee has a close personal relationship;

A person the employee's spouse, parent or child serves or seeks to serve as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;

A person the employee has, in the past year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or

An organization, other than a political party, in which the employee is an active participant.

**DISQUALIFICATION.** Disqualification can be accomplished in the same manner as when required under subpart D for disqualifying financial interests.

**AUTHORIZATION TO PARTICIPATE.** Notwithstanding the employee's determination that his impartiality would be questioned, the agency designee can authorize the employee to participate in the matter based on a determination that the Government's interest in the employee's participation outweighs the concern that a reasonable person would question the integrity of agency programs and operations. The authorization permitted by subpart E cannot be given, however, if the employee's disqualification is also required by subpart D.

**OTHER APPLICATION OF THE PROCESS.** Employees are urged to use the process set forth in subpart E to decide whether they should or should not participate in other matters in which their impartiality is likely to be questioned.

**EXTRAORDINARY PAYMENTS FROM FORMER EMPLOYERS.** An employee is disqualified for 2 years from participating in any particular matter in which his former employer is a party or represents a party if, prior to entering Federal service, that employer gave him an extraordinary payment in excess of \$10,000.

- A routine severance and other payment made under an established employee benefits plan would not be an extraordinary payment.
- There is authority to waive all or part of this disqualification requirement.



## SYNOPSIS OF SUBPART F - SEEKING OTHER EMPLOYMENT

**DISQUALIFICATION WHILE SEEKING EMPLOYMENT.** An employee is prohibited from participating in an official capacity in any particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of a person with whom he is seeking employment. For this purpose, "employment" means any form of non-Federal employment or business relationship involving the provision of personal services.

**DEFINITION OF SEEKING EMPLOYMENT.** The term "seeking employment" includes bilateral negotiations with another, mutually conducted with a view to reaching an agreement regarding possible employment. It also includes conduct short of negotiations, such as sending an unsolicited resume or other employment proposal. It can include employment contacts by or through an agent or intermediary. However, it does not include simply:

- Rejecting an unsolicited employment overture;
- Requesting a job application; or
- Sending an unsolicited resume or other employment proposal to a person affected by performance of the employee's duties only as a member of an industry or other discrete class.

Having once begun, an employee generally continues to be seeking employment until he or the prospective employer rejects the possibility of em-

ployment and all discussions end. However, an employee is no longer seeking employment with the recipient of his unsolicited resume or other employment proposal after two months have passed with no indication of interest in employment discussions from the prospective employer.

**DISQUALIFICATION.** Disqualification can be accomplished in the same manner as when required under subpart D for disqualifying financial interests.

**SOLUTIONS OTHER THAN DISQUALIFICATION.** If the employee's conduct in seeking employment amounts to negotiations, the employee can participate in the matter affecting his prospective employer only if granted an individual waiver described in subpart D. If his conduct falls short of negotiations, the employee may be authorized to participate using the procedures set forth in subpart E.

**DISQUALIFICATION BASED ON AN EMPLOYMENT ARRANGEMENT.** An employee may not participate in a particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of anyone with whom he has an arrangement concerning future employment. In this case, an employee may be able to participate in a particular matter affecting a prospective employer only if he has received an individual waiver described in subpart D.



## SYNOPSIS OF SUBPART G - MISUSE OF POSITION

**USE OF PUBLIC OFFICE FOR PRIVATE GAIN.** An employee shall not use his public office for his own private gain or for the private gain of friends, relatives or persons with whom he is affiliated in a non-governmental capacity, or for the endorsement of any product, service or enterprise. In particular, an employee shall not use his Government position, title or authority:

In a manner intended to induce another to provide any benefit to himself or to friends, relatives or affiliated persons;

In a manner that could be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another; or

To endorse any product, service or enterprise except in furtherance of statutory authority to do so, in accordance with agency programs to give recognition for achievement or to document compliance with agency standards or requirements.

**USE OF NONPUBLIC INFORMATION.** An employee shall not engage in a financial transaction using nonpublic information, or allow the improper use of nonpublic information to further his own private interests or those of another. Information that is "nonpublic" includes information the employee knows

or reasonably should know:

Is routinely exempt from disclosure under the Freedom of Information Act or protected from disclosure by statute;

Is designated as confidential by an agency; or

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

**USE OF GOVERNMENT PROPERTY.** An employee has a duty to protect and conserve Government property and to use Government property only for authorized purposes. Authorized purposes are those for which Government property is made available to the public or those purposes authorized in accordance with law or regulation.

**USE OF OFFICIAL TIME.** Unless authorized in accordance with law or regulation to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. And, an employee shall not encourage, direct, coerce or request a subordinate to use official time to perform activities other than those required in the performance of official duties or those authorized in accordance with law or regulation.



## SYNOPSIS OF SUBPART H - OUTSIDE ACTIVITIES

**GENERALLY.** In addition to the standards set forth in subpart H, an employee's outside employment and other activities must comply with all ethical requirements set forth in the subparts A through G of the regulation, including the requirement to avoid even the appearance of using public office for private gain. For example, the prohibition against use of Government property for unauthorized purposes would prohibit an employee from using the agency photocopier to reproduce documents for his outside organization.

**RESTRICTIONS IMPOSED BY OTHER LAWS.** An employee's outside employment and other activities must comply with applicable laws other than the Standards of Ethical Conduct. Several are listed in subparts H and I. Outside activities frequently raise questions about the following:

The restrictions in 18 U.S.C. 203 and 205 on employees engaging in representational activities before the United States;

The constitutional prohibition against accepting any office, title or compensation from a foreign government; and

The Hatch Act, which prohibits most employees' participation in certain partisan political activities.

**PRIOR APPROVAL FOR OUTSIDE ACTIVITIES.** When required by supplemental agency regulation, an employee shall obtain approval before engaging in outside employment or activities.

**CONFLICTING OUTSIDE ACTIVITIES.** An employee shall not engage in outside employment or activities prohibited by statute or by supplemental agency regulation, or that which would materially impair the ability to perform his official duties by requiring his disqualification under subpart D or E.

**RESTRICTIONS ON RECEIPT OF COMPENSATION.** With certain exceptions, Presidential appointees to full-time noncareer positions shall not receive any outside earned income for outside employment or other outside activities performed during that appointment. Higher-level noncareer employees may not, in any calendar year, receive outside earned income which exceeds 15 percent of the rate of pay

for Level II of the Executive Schedule. These noncareer employees also are prohibited from receiving any compensation for teaching without prior approval, serving as officers or board members of outside entities, practicing certain professions or being affiliated with firms or other entities that practice those professions.

**SERVICE AS AN EXPERT WITNESS.** In the absence of specific authorization, an employee shall not represent anyone other than the United States as an expert witness in any proceeding before a court or agency of the United States if the United States is a party or has a direct and substantial interest. The restriction applies even though no compensation is received. A less restrictive standard applies to special Government employees.

**TEACHING, SPEAKING AND WRITING.** An employee shall not receive compensation for teaching, speaking or writing that is related to his official duties.

**DEFINITION OF RELATED TO DUTIES.** Teaching, speaking or writing is "related to an employee's official duties: if:

The activity is undertaken as part of his official duties;

The invitation to engage in the activity was extended primarily because of his official position;

The invitation or the offer of compensation was extended by a person whose interests may be affected by the employee's official duties;

The information draws substantially on nonpublic information; or

For most employees, the subject of the teaching, speaking or writing deals in significant part with any matter presently assigned to the employee, any matter to which the employee had been assigned in the previous one-year period, or to any ongoing or announced policy, program or operation of his agency. Certain noncareer employees are subject to less restrictive standards.

**EXCEPTION FOR TEACHING.** An employee may

receive compensation for teaching certain courses, notwithstanding that the subject matter is related to his official duties and notwithstanding that he may have been offered the opportunity because of his official position.

**FUNDRAISING.** Provided that he does not otherwise violate the Standards of Ethical Conduct, an employee may engage in charitable fundraising activities in a personal capacity if he does not use his official title, position or authority to further that effort or

personally solicit funds or other support from subordinates or from anyone known to him to be a prohibited source for purposes of the gift restrictions in subpart B. A special Government employee, however, may solicit charitable contributions from a prohibited source as long as that person does not have interests affected by the performance of his official duties.

**JUST FINANCIAL OBLIGATIONS.** Employees shall satisfy in good faith all just financial obligations.