

6 FAH-2 H-150 STANDARDS OF CONDUCT

(TL:CORH-2; 11-19-2003)
(Office of Origin: A/OPE)

6 FAH-2 H-151 GENERAL

(TL:CORH-2; 11-19-2003)

a. As persons who perform functions on behalf of the public, U.S. Government employees are responsible for acting in accordance with the explicit rules and procedures that govern their jobs. They are also responsible for meeting public expectations of proper conduct. Because U.S. Government employees have the position and power to influence or be influenced, the public demands that their behavior be grounded in standards of conduct. For the most part, these standards proscribe activities that could result in a wide range of embarrassments, or have more serious consequences.

b. Because improprieties or undesirable activities are not always obvious to the employees who engage in them, all Department of State employees are required to be familiar with the requirements of Executive Order 12674 and 5 C.F.R. Part 2635 regarding standards of ethical conduct for employees of Executive Branch agencies. Ignorance of the regulations is not considered a valid excuse for improper actions. Also, all employees must be aware that they are responsible not only for avoiding wrongdoing but also for avoiding the **appearance** of wrongdoing.

c. The Federal Acquisition Regulation (FAR), Part 3, and the Department of State Acquisition Regulation (DOSAR), Part 603 also prescribe procedures applicable to Department employees regarding standards of conduct and prohibited business practices. Employees involved in acquisition must make an annual financial disclosure using Form OGE-450, *Executive Branch Confidential Financial Disclosure Report*.

6 FAH-2 H-152 PROCUREMENT INTEGRITY

(TL:CORH-2; 11-19-2003)

Section 27 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), which is implemented by FAR 3.104 and DOSAR 603.104, imposes a variety of restrictions on officials involved in the acquisition process.

6 FAH-2 H-152.1 Prohibitions, Restrictions, and Requirements

(TL:CORH-2; 11-19-2003)

a. Any official of the U.S. Government who is advising the United States with respect to a Federal agency acquisition, or who has or had access to contractor bid or proposal or source selection information, is prohibited from disclosing such information before award of a contract to which the information relates.

b. An individual, U.S. Government employee or otherwise, must not obtain contractor bid or proposal information or source selection information before the award of a contract to which the information relates, unless the individual has been authorized to receive such information.

c. A former official of a Federal agency may not accept compensation from a contractor as an employee, officer, director, or consultant of the contractor within a period of one year after the official:

(1) Served, at the time of selection of the contractor, as the contracting officer, the source selection authority, a member of a source evaluation team in an acquisition in which that contractor was selected for award of a contract in excess of \$10,000,000 awarded to that contractor; or

(2) Served as the program manager (e.g., the COR) or the deputy program manager for a contract in excess of \$10,000,000 awarded to that contractor; or

(3) Personally made for the Federal agency:

(a) A decision to award a contract, subcontract, modification of a contract or subcontract, or a task or delivery order in excess of \$10,000,000 to that contractor;

(b) A decision to establish overhead or other rates applicable to a contract or contracts for that contractor that are valued in excess of \$10,000,000;

(c) A decision to approve issuance of contract payment or payments in excess of \$10,000,000 to that contractor; or

(d) A decision to pay or settle a claim in excess of \$10,000,000 with that contractor;

(4) However, a former official is not prohibited from accepting compensation from any division or affiliate of a contractor that does not produce the same or similar products or services as the entity of the

contractor that is responsible for the contract referred to in paragraph c, above.

d. If an official who is participating personally and substantially in a Federal agency acquisition for a contract in excess of the simplified acquisition threshold contacts or is contacted by a person who is a bidder or offeror on that acquisition regarding non-Federal employment, the official must:

(1) Promptly report the contact in writing to his or her supervisor and to the designated agency ethics official (or designee); and

(2) Either:

(a) Reject the possibility of non-Federal employment; or

(b) Disqualify himself or herself from further personal and substantial participation in that acquisition until such time as the agency has authorized him or her to resume participation in the acquisition, on the grounds that:

(i) The person is no longer a bidder or offeror/quoter in that acquisition; or

(ii) All discussions with the bidder or offeror/quoter regarding possible non-Federal employment have been terminated without an agreement or arrangement for employment.

6 FAH-2 H-152.2 Violations

(TL:CORH-2; 11-19-2003)

Violations or possible violations of the requirements for procurement integrity shall be processed as prescribed in FAR 3.104-7. Violations may be cause for appropriate penalties including but not limited to:

(1) Criminal prosecution (e.g., imprisonment up to a period of five years, fines, or both);

(2) Civil prosecution (e.g., fines up to \$100,000);

(3) Administrative action (e.g., removal or other adverse personnel action).

6 FAH-2 H-153 GRATUITIES

(TL:CORH-2; 11-19-2003)

a. U.S. Government employees are prohibited from accepting a "gift, gratuity, favor, entertainment, loan, or any other item of monetary value"

from any outside source if the employee performs official duties which might affect the business, financial, or other interests of the source.

b. Gratuities are defined as gifts, entertainment, or favors. Per DOSAR Subpart 603.2, Department employees are obligated to report immediately, and in writing, any apparent or suspected violation of this policy.

6 FAH-2 H-154 CONFLICTING FINANCIAL INTEREST

(TL:CORH-2; 11-19-2003)

a. Executive Order 11222 and Department policy (see below) prohibit an employee from participating "personally and substantially" as a U.S. Government employee in a matter in which certain individuals or organizations have a financial interest.

b. In acquisition matters, this means that a contracting officer, COR, GTM, source selection official, or technical evaluation panel member having a financial interest in one or more offerors responding to a solicitation would be prohibited from providing advice and engaging in decisions, approvals, disapprovals, recommendations, and investigations relating to the acquisition. This includes participating in drafting specifications or Statements of Work for acquisitions when the drafter expects a company in which he or she has a financial interest to submit a proposal. Employees who have a conflict of interest must disqualify themselves from participating in the acquisition.

c. For more detailed information, refer to Executive Order 11222 or 3 FAM 620.

6 FAH-2 H-155 THROUGH H-159 UNASSIGNED