

# ETHICS GUIDE for DOI Employees



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# ETHICS GUIDE FOR DOI EMPLOYEES

## INTRODUCTION

This publication is a “plain English” guide to the ethics laws and regulations that apply to Department of the Interior (DOI) employees. It is not meant to cover every ethics situation or all of the details of the ethics statutes and regulations. Furthermore, this Guide is not intended to replace the advice of DOI or bureau ethics counselors. It is intended to give a basic framework and help in your everyday ethics questions. However, changes in the ethics rules occur regularly and often quickly. If you have an ethics question, you should contact an appropriately designated ethics counselor before taking action, provide him or her with all the relevant facts, and receive advice as to the course of action to take.

The DOI ethics program is administered by the Departmental Ethics Office and managed by the Designated Agency Ethics Official, the principal ethics official for DOI. Working with the assistance of a network of bureau and DOI ethics personnel, the Departmental Ethics Office implements the statutory and regulatory ethics requirements of the Federal Government and the Department of the Interior.

Employees who have ethics questions are encouraged to contact an ethics counselor in their respective bureau or office. Contact information for Departmental Ethics Office personnel and bureau ethics counselors is at the end of this Guide and at [www.doi.gov/ethics/personnel.html](http://www.doi.gov/ethics/personnel.html).

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## BASIC OBLIGATIONS OF PUBLIC SERVICE

### **Executive Order 12674: The Foundation for Ethical Behavior**

To ensure public confidence in the integrity of the Federal Government, Executive Order 12674 (as amended) forms the framework for the ethical behavior required and expected of all Federal employees. As a condition of public service, you are expected to adhere to these fundamental principles of ethical behavior:

- Public service is public trust, requiring you to place loyalty to the Constitution, the laws, and ethical principles above private gain.
- You shall not hold financial interests that conflict with the conscientious performance of duty.
- You shall not engage in financial transactions using non-public Government information or allow improper use of such information to further any private interest.
- You shall not, except pursuant to such reasonable exceptions as are provided by regulation, 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 your agency, or whose interests may be substantially affected by the performance or nonperformance of your duties.
- You shall make no unauthorized commitments or promise of any kind purported to bind the Government.
- You shall put forth honest effort in the performance of your duties.
- You shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with your official Government duties and responsibilities.
- You shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- You shall satisfy in good faith your obligations as citizens, including all just financial obligations, especially those such as Federal, state, or local taxes that are imposed by law.
- You shall adhere to all laws and regulations that provide equal opportunities for all Americans regardless of race, color, religion, gender, sexual orientation, age, or disability.
- You shall not use your public office for private gain.
- You shall act impartially and not give preferential treatment to any private organization or individual.
- You shall protect and conserve Federal property and shall not use it for other than authorized activity.
- You shall endeavor to avoid any actions creating the appearance that you are violating the law, the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635), DOI supplemental ethics regulations, or Executive Order 12674.

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## GOVERNMENT-WIDE ETHICS LAWS

These laws apply to all Federal employees and each carry criminal penalties for noncompliance. They also serve as a basis for the ethics regulations known as the *Standards of Ethical Conduct for Employees of the Executive Branch*, 5 C.F.R. Part 2635.

### **18 U.S.C. § 201 – Bribery of Public Officials Prohibited**

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This statute prohibits a Government employee from directly or indirectly receiving or soliciting anything of value in exchange for being influenced in the performance or non-performance of any official act, including giving testimony, or in exchange for committing fraud.

### **18 U.S.C. § 203 – Restrictions on Compensated Representational Activities**

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This statute prohibits a Government employee from seeking or accepting compensation for representational services (rendered either personally or by another) before a Federal court or Government agency in a particular matter in which the United States is a party or has a direct and substantial interest. Representational services include any communications on behalf of another party with the intent to influence the Government. There are limited exceptions, such as for representing oneself or one's immediate family or a person or estate for which the employee acts as a fiduciary, but not where the employee has participated officially or has official responsibility.

### **18 U.S.C. § 205 – Restrictions on Acting as an Agent or Attorney**

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This statute prohibits a Government employee from acting as an agent or attorney for anyone before a Federal court or Government agency, whether compensated or not. There are limited exceptions, such as for representing other Federal employees in personnel matters; representing a not-for-profit organization in certain matters, if a majority of its members are current Federal employees or their spouses or dependent children; representing oneself or one's immediate family or a person or estate for which the employee acts as a fiduciary, but not where the employee has participated officially or has official responsibility; or acting as an agent or attorney, in certain matters, for a tribal organization or inter-tribal consortium to which the employee is assigned under the Intergovernmental Personnel Act or 25 U.S.C. § 48, after advising the Government, in writing, of any personal and substantial involvement the employee has had in connection with the matter.

### **18 U.S.C. § 207 - Post-Government Employment Restrictions**

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This statute does not bar an individual, regardless of rank or position, from accepting employment with any private or public employer. It does impose restrictions on certain communications that employees may make as a representative of a third party back to the Federal Government. These restrictions are covered more fully in the "Restrictions on Post-Government Employment" section of this Guide.

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## **18 U.S.C. § 208 - Conflicts of Interest**

This statute prohibits a Government employee from participating personally and substantially, on behalf of the Federal Government, in any particular matter in which he or she has a financial interest. In addition, the statute provides that the interests of certain other “persons” are the same as if they were the employee’s. These include the employee’s spouse, minor child, general partner, an organization in which he or she serves as an officer, trustee, partner or employee, and any person or organization with whom the employee is negotiating or has an arrangement concerning future employment. There are limited regulatory exemptions authorized by the Office of Government Ethics, an exception for certain financial interests arising solely out of Native American birthrights, and a very limited waiver authority.

## **18 U.S.C. § 209 – Supplementation of Federal Salary Prohibited**

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This statute prohibits a Government employee from receiving any salary, or any contribution to or supplementation of salary; or anything of value from an outside source as compensation for services he or she is expected to perform as a Government employee.

## **5 C.F.R. § 2635.502 – Impartiality in Performing Official Duties Due to Personal or Business Relationships**

You must take appropriate steps to avoid any appearance of loss of impartiality in the performance of your official duties. Beyond the conflict of interest law, discussed above, ethics regulations require all employees to recuse themselves from participating in an official matter if their impartiality would be questioned. The regulations identify three circumstances where employees should carefully consider whether their impartiality is subject to question: where the financial interests of a member of the employee’s household would be impacted, if a party or party representative in an official matter has a “covered relationship” with the employee, and any other time the employee believes his or her impartiality may be subject to questions. The term “covered relationship” includes a wide variety of personal and business relationships that an employee or his family members may have with outside parties. Employees who find that a party or representative of a party is a person with whom the employee or a family member has a personal or business relationship should consult with your ethics counselor before taking official action in a particular matter.

## **ETHICS PROHIBITIONS UNIQUE TO DOI EMPLOYEES**

A summary of DOI-specific and bureau-specific restrictions are listed below. If you are not certain if you are covered by one or more of the restrictions below, check with an ethics counselor from your office or bureau.

## **43 U.S.C. § 11, 43 C.F.R. § 20.401, and 5 C.F.R. § 3501.105 – Bureau of Land Management Employees**

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Bureau of Land Management (BLM) employees are prohibited from voluntarily acquiring direct (owned by the BLM employee) or indirect (owned by the spouse or minor child of a

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BLM employee) financial interests in Federal lands. Prohibited interests include stocks, bonds, and sector mutual funds in oil, gas, geothermal, and mining companies that hold leases or other property rights on Federal lands. Prohibited interests also include companies that hold substantial Rights-of-Way on Federal lands. A BLM employee may not be a member or employee of a business which has interests in Federal lands, nor serve as a private sector real estate agent. Additionally, BLM employees may not occupy or use Federal lands (other than on the same terms as use of Federal lands is available to the general public), or take any benefits from Federal lands, based upon a contract, grant, lease, permit, easement, rental agreement, mineral rights, grazing rights, or other holdings which the BLM issues or regulates.

## **43 U.S.C. § 31(a), 43 U.S.C. § 20.401, and 5 C.F.R. § 3501.104 – U.S. Geological Survey (USGS) Organic Act**

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USGS employees are prohibited from holding financial interests in the mineral wealth of the United States and from executing any surveys or examinations for private parties. Prohibited interests include stocks and bonds in oil, gas, and other mining companies that hold significant leases on Federal lands. Annually, the USGS publishes a list of prohibited financial holdings in a Financial Guide for USGS Employees. Additionally, the USGS Conflict of Interest Policy sets limits on investments in energy sector mutual funds and entities engaged in mining activities on private land in the United States.

## **5 C.F.R. § 3501.103(b) – Minerals Management Service and Certain Office of the Secretary Employees**

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This regulation applies to all Minerals Management Service (MMS) employees, certain employees within the Office of the Secretary (OS) and other Departmental offices that report directly to a Secretarial officer who are in positions classified at GS-15 and above (contact an ethics counselor from your bureau or refer to 5 C.F.R. § 3501.103 (b) (ii) to see a list of affected offices). Employees in these offices may not acquire or hold any direct or indirect financial interest in Federal lands or resources administered or controlled by the Department. This generally includes stock or bond interests in most oil, gas, and mining companies that hold leases on Federal lands to conduct their operations.

## **30 U.S.C. § 1211(f), 30 C.F.R. Part 706, 43 C.F.R. 20.402, and 5 C.F.R. 3501.104(a) – Office of Surface Mining Reclamation and Enforcement Employees and Certain Other Federal Employees**

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This law prohibits all Office of Surface Mining Reclamation and Enforcement (OSMRE) employees and any other Federal employee who performs functions and duties under the Surface Mining Control and Reclamation Act of 1977 from having any financial interests in surface or underground coal mining operations. If you don't work for the Office of Surface Mining Reclamation and Enforcement but have responsibilities connected with mining and reclamation operations, contact an ethics counselor from your bureau or office to determine whether you are covered by this law.

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Prohibited financial interests under this law include companies that are involved in developing, producing, preparing, or loading coal or reclaiming the areas upon which such activities occur.

30 U.S.C. § 1267(g) applies a similar prohibition to employees of state regulatory authorities performing any function or duty under the Surface Mining Control and Reclamation Act of 1977. (See also 30 C.F.R. Part 705)

## **5 C.F.R. § 3501.103(c) – All DOI Employees**

This regulation prohibits, with limited exceptions, all DOI employees, their spouses, and their minor children from acquiring or retaining any claim, permit, leases, small tract entries, or other rights that are granted by the Department in Federal lands. This prohibition does not restrict the recreational or other personal or noncommercial use of Federal lands by an employee, or the employee's spouse or minor child, on the same terms available to the general public.

## **GIFTS**

### **Gifts from Domestic and Private Sources**

As a general rule, you may not, directly or indirectly, solicit or accept a gift:

- (1) From a prohibited source; or
- (2) If it is given because of your official position.

A “prohibited source” includes any person, company, or organization that has business with your agency, is seeking to do business with your agency, conducts operations that are regulated by your agency, or has any interests that might be affected by the performance or non-performance of your official duties. For the purposes of these rules, the Department is broken down into the following components:

- Bureau of Indian Affairs (including the Office of Indian Education Programs) (BIA)
- Bureau of Land Management (BLM)
- Bureau of Reclamation (BOR)
- Bureau of Ocean Energy Management (BOEM)
- Bureau of Safety and Environmental Enforcement (BSEE)
- National Indian Gaming Commission (NIGC)
- National Park Service (NPS)
- Office of Surface Mining Reclamation and Enforcement (OSMRE)
- Office of the Special Trustee for American Indians (OST)
- U.S. Fish and Wildlife Service (FWS)
- U.S. Geological Survey (USGS)
- The remainder of the Department (including the Office of the Secretary, Office of the Solicitor, Office of the Inspector General, and the immediate office of each Assistant Secretary)

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If you work for a named component (e.g., Bureau of Indian Affairs, etc.), then your “agency,” for purposes of the gift rules, is your component within DOI. For instance, a company whose only involvement with the Department and its employees is that it conducts activities regulated by BLM would only be a prohibited source for a BLM employee—not an employee of any other named agency component.

For employees of the remainder of the Department, your “agency” for purposes of the gift rules is the entire Department. For example, that same company that only conducts activities regulated by BLM would be a prohibited source for an employee of the Office of the Solicitor, the Office of the Inspector General, etc.

A gift may include, but is not limited to, a gratuity, favor, discount, cash, gift certificate, entertainment, hospitality, loan, forbearance, or other item having monetary value. It also applies to services, training, transportation, travel, lodging, and meals.

## **Some Things Just Aren’t Gifts**

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Certain items are excluded from the definition of gift and you may accept them pursuant to certain specific regulatory exemptions.

- Snacks (coffee, donuts, other modest food items not offered as part of a meal)
- Greeting cards, plaques, certificates or trophies (items of little intrinsic value intended solely for presentation)
- Prizes in contests open to the general public
- Commercial discounts available to the general public
- Commercial loans, pensions, and similar benefits
- Anything for which you pay fair market value
- Anything which is paid for by the Government.

## **Exceptions to the Gift Prohibition**

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There are some limited circumstances when you can accept gifts given because of your official position or from prohibited sources. Of course, you may never solicit such a gift. And, it is never inappropriate and frequently prudent to decline a gift even if an exception applies.

**Gifts valued at \$20 or less (retail market value), per occasion from a single source.** Gifts offered from a prohibited source or because of your official position may not exceed \$20 per occasion or \$50 from a single prohibited source in any given calendar year. You may not accept cash or checks made out to you under any circumstance. Also, if the gift is valued over \$20, you may not pay the difference in order to accept the gift; you must pay the full market value of the gift in order to accept it.

**Widely Attended Gatherings.** Acceptance of free attendance at widely attended gatherings is permissible as long as certain prior approval requirements are met. Employees must receive approval prior to the event using the DI-1958 form which is available on the DOI Ethics homepage at <http://www.doi.gov/ethics>. An event is widely attended if it is expected that a

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large number of persons will attend and that persons with a diversity of views or interests will be present. For example, an event may be considered a widely attended gathering if it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter.

If someone other than the sponsor of the event invited you and is paying for your attendance (such as if a corporation or friends group invited you to sit at their table), you may accept free attendance only if more than 100 persons are expected to attend, the gift of your attendance has a market value of \$335 or less, and your attendance is approved as being in the interest of DOI. The allowance may be changed periodically by the Office of Government Ethics. Please verify the current allowance with your ethics counselor.

Free attendance may include waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction, and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodging, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees. (Under certain circumstances, DOI or your bureau may be able to accept travel expenses from outside sources to these events as described below in the “Traveling on Official Business” section of this Guide.)

**Speaking Engagements.** If you are assigned to participate as a speaker or panel participant or otherwise to present information on behalf of DOI at a conference or other event, you may accept free attendance at the event on the day of your presentation if it is provided by the sponsor of the event. For speaking engagements, free attendance has the same meaning as for widely attended gatherings. As with a widely attended gathering, you must receive approval prior to the event using the DI-1958 form.

If the event is longer than one day, and you are offered free attendance for any day(s) on which you are not assigned to present information on behalf of DOI or your bureau, waiver of the conference fee for those non-speaking days may be acceptable under the widely attended gathering exception to the gift rules.

**Discounts and similar benefits that are offered to the public, other groups that you belong to, or to all Government employees.** This exception includes favorable rates offered to all Government employees even when you are off duty. It also includes favorable rates and commercial discounts offered to members of a group or class in which membership is unrelated to Government employment.

**Gifts based on the outside business or employment relationships** (e.g., because of your outside affiliations, outside work, or other relationships and those of your spouse, if they are not enhanced due to your official position).

**Awards and honorary degrees.** Employees may accept awards (but not cash or investments) with an aggregate value of \$200 or less given as a bona fide award for meritorious public service by a person who does not have interests affected by the employee’s performance or nonperformance of official duties. Awards valued at more than \$200 require prior

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Departmental Ethics Office or bureau ethics counselor approval for honorary degrees, awards of cash of any amount, or items (including travel expenses).

**Gifts from a political organization** (given in connection with political activities permitted by the Hatch Act as amended, 5 U.S.C. §§ 7321 through 7326).

**Gifts based on a personal relationship.** You may accept a gift given under circumstances which make it clear that the gift is motivated solely by a family relationship or personal friendship rather than your position. If the gift is given for business reasons or is paid for by a prohibited source, it is not covered under this exception.

If there is no exclusion or exception available for an employee to accept a gift, the Department or bureau may be able to accept the item as a gift to the Government using its statutory gift acceptance authority. Employees should consult with the Office of the Solicitor and the Departmental Ethics Office or an ethics counselor from their bureau in such cases, particularly if refusal to accept the gift would cause offense or embarrassment.

## **Gifts from Foreign Governments**

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In accordance with the Emoluments Clause of the U.S. Constitution, you may not accept anything of value from a foreign government, unless specifically authorized by Congress. This rule applies whether you are on or off duty. Any unit of a foreign government, whether it is national, state, local, or municipal level is covered. It also applies to gifts from international or multinational organizations comprised of government representatives. It also may apply to gifts of honoraria, travel, or per diem from foreign universities which are often considered as part of the foreign government. Spouses and dependent children of Federal employees are also banned from accepting gifts from foreign governments.

The following gifts from foreign governments are authorized under the Foreign Gifts and Decorations Act:

- Gifts of minimal value (\$335 or less, as of January 2008, but this amount is revised periodically)
- Transportation taking place entirely outside the U.S.
- Educational scholarships
- Medical treatment

In certain circumstances, particularly if refusal of a gift would cause embarrassment either to the United States or the foreign government offering the gift, the gift may be accepted on behalf of the Department. Employees should consult with the Departmental Ethics Office or ethics counselor from their Bureau regarding such gifts.

## **Gifts Between Employees**

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**General Rules:** You can't give a gift to a person above you in your supervisory chain. You can't solicit donations to buy a gift for a superior. You can't accept a gift from an employee

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that receives less pay than yourself. However, there are some exceptions. Gifts are permissible if:

- There is a personal relationship between you and the other employee that would justify the gift and there is no subordinate-official superior relationship.
- The gift is personal hospitality provided at a residence, which is of a type and value you customarily provide to personal friends.
- The gift (bottle of wine, bouquet of flowers, etc.) is given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions.
- The gift (other than cash) has an aggregate market value of \$10 or less per occasion, and is given on an occasion when gifts are normally exchanged.
- The gift is leave transferred under an approved agency leave sharing plan (but not to your immediate supervisor).
- There is a special and infrequently occurring occasion of personal significance, such as marriage, illness, the birth or adoption of a child; or an occasion that terminates a subordinate-official superior relationship, such as retirement, resignation or transfer. On such occasions, an employee may give a suitable and appropriate gift and may request donations of nominal amounts within the office for contributions toward the gift. Donations should be entirely voluntary. Employees must be free to contribute a suggested amount, a lesser amount, or nothing at all.

## TRAVEL

### **Traveling on Official Business**

Generally, your official travel must be paid for with appropriated funds. However, under certain circumstances, DOI or your bureau may be reimbursed for your travel expenses by a non-Federal source. The authorities that permit this are explained below:

### **Travel Expense Acceptance Pursuant to 31 U.S.C. § 1353**

This law allows Executive Branch agencies to accept reimbursement or in-kind donations from non-Federal sources for an employee's transportation expenses (including per diem and registration costs) to certain functions related to the employee's official duties.

Acceptance of travel expenses from non-Federal sources is only permitted when the employee's travel is for attendance at a conference, meeting, seminar, training course, speaking engagement, or similar event for the exchange of information that takes place away from the employee's official duty station. Travel under this authority may not be used for events required to carry out DOI's statutory and regulatory functions such as investigations, inspections, audits, or site visits.

In addition to an approved travel authorization, the employee must also have an approved ethics form DI-2000 (available on the DOI Ethics homepage at [www.doi.gov/ethics](http://www.doi.gov/ethics)) in advance of travel. Approval for accepting travel expenses is also subject to conflict of interest considerations. Acceptance of travel expenses from outside sources will not be approved if it

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would cause a reasonable person with knowledge of all the relevant facts to question the integrity of the programs or operations of the Department or bureau.

It is not permissible for the employee to personally accept reimbursement from an outside source. All checks must be made out to the Department of Interior or to the employee's bureau. Employees may, however, accept "in kind" items such as airline tickets, meals, or hotel accommodations. In addition to accepting travel expenses for an employee, DOI may accept travel for a spouse to accompany the employee to the same event where the spouse's presence is in the interest of DOI.

## **Other Authorities to Accept Travel Expenses**

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31 U.S.C. § 1353 is the preferred authority to use if reimbursement or in-kind donation of ~~for~~ travel expenses to a meeting or similar function is offered by an outside source. There are additional statutes which authorize acceptance of employees' travel expenses for other than meetings or similar functions.

The authority under 5 U.S.C. § 4111 to accept travel expenses from non-profit organizations described by section 501(c)(3) of the Internal Revenue Code (with the approval of the Designated Agency Ethics Official or bureau ethics counselor), still exists when it is reasonably impractical for the agency to accept travel under 31 U.S.C. § 1353. Employees may also continue to accept travel expenses under the Intergovernmental Personnel Act when the employee is attending an event other than a conference or a meeting.

Other provisions which remain in effect are (1) the authority under 5 U.S.C. § 3343 for employees to accept travel expenses in connection with details to foreign governments and public international organizations, (2) the authority under 5 U.S.C. § 5751 for employees and agencies to accept travel expenses when summoned or assigned to provide official testimony on behalf of parties other than United States, and (3) the authority under 15 U.S.C. § 3710a to carry out agreements under the Federal Technology Transfer Act.

Finally, there are statutory authorities which allow bureaus to accept gifts of travel, food, and lodging, in connection with programs for the advancement of the Bureau of Indian Affairs, the National Park Service, the Fish and Wildlife Service, or other Bureau-specific programs that are not covered under 31 U.S.C. § 1353. Assistance in using these authorities is provided by the Departmental Ethics Office, ethics counselors from your bureau, and your Solicitor's office.

## **Frequent Flyer Benefits**

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Federal employees may retain for personal use promotional items, including frequent flyer miles, earned on official travel.

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## OUTSIDE WORK AND ACTIVITIES

Outside work or activities are permitted unless they are prohibited by statute or regulation, or would require (to avoid a conflict of interest) the employee's disqualification from matters central or critical to the performance of his or her official duties.

DOI regulations require all Department employees to seek prior written approval from a Departmental or bureau ethics counselor before engaging in paid or unpaid work with a prohibited source. For the purposes of these regulations, the definition of prohibited source and the components within the Department are the same as in the previous section on Gifts from Domestic and Private Sources. USGS employees must obtain prior written approval from the USGS Ethics Office for all outside work or activities (paid or unpaid) that are related to their USGS job duties or the USGS mission. Check with your bureau ethics counselor for any bureau-specific procedures or restrictions that may apply to your situation.

Presidentially appointed, Senate confirmed employees may pursue certain outside activities, but may not receive outside earned income for engaging in any such activity. Non-career SES employees may not, in any calendar year, receive outside earned income which exceeds 15% of the annual rate of basic pay for level II of the Executive Schedule.

All outside work must take place outside official duty hours or while you are on authorized leave.

### Fundraising

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**In your official capacity** –The Combined Federal Campaign (CFC) is the only authorized solicitation of employees for charitable fundraising in the Federal workplace. The rules governing acceptable fundraising activities by Federal employees are described in 5 C.F.R. Part 950. Generally, CFC fundraising activities that can be considered “gambling” are prohibited in Government-owned or leased buildings. Raffles and lotteries are prohibited in Government-owned or leased buildings and facilities except for very limited CFC activities permitted by 5 C.F.R. § 950.602(b).

**In your personal capacity** – An employee may generally engage in fundraising in a personal capacity outside the Federal workplace provided he or she does not:

- Personally solicit funds or other support from a subordinate or from any person the employee knows is a prohibited source (see Gifts from Domestic and Private Sources section above for definition of prohibited source)
- Use or permit the use of his or her official title, position, or any authority associated with his or her public office to further the fundraising effort
- Engage in any action that would otherwise violate the ethics laws or regulations

Employees and other persons are prohibited from selling or soliciting for personal gain within any building or on any lands occupied or used by DOI. Exception is granted for Department-

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authorized operations including, but not limited to, the Interior Department Recreation Association, the Indian Arts and Crafts store, and for cafeteria, newsstand, snack bar, and vending machine operations which are authorized by DOI for the benefit of employees or the public.

## **Teaching, Speaking, and Writing**

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Generally, you may not receive compensation, other than travel expenses, for outside teaching, speaking, or writing that relates to your official duties.

For purposes of this regulation, a teaching, speaking, or writing activity relates to your official duties if any one of the following criteria are met:

- The activity is undertaken as part of your official duties;
- The circumstances indicate that the invitation to engage in the activity was extended to you primarily because of your official position rather than your expertise on the particular subject matter;
- The invitation to engage in the activity or the offer of compensation for the activity was extended to you by a person who has interests that may be substantially affected by the performance or nonperformance of your official duties;
- The information conveyed through the activity draws substantially on nonpublic information; or
- The subject of the activity deals in significant part with:
  1. A matter to which you are presently assigned or to which you have been assigned during the previous year; or
  2. Any ongoing announced policy, program or operation of DOI.

**Exception for Teaching Certain Courses** – Even if the subject matter deals with your official duties, you may accept compensation for teaching a course requiring multiple presentations offered as the regularly established curriculum of an accredited institution of higher education, a secondary school, an elementary school, or a program of education sponsored and funded by the Federal Government or by a state or local government. You may only receive compensation under these circumstances for outside teaching, not for teaching carried out as part of your official responsibilities. If the class involves providing services to prohibited sources, prior approval is required.

**Reference to Official Position** – If you are engaged in teaching, speaking, or writing as an outside activity, you may not use or permit the use of your official title or position except:

- You may include your title or position as one of several biographical details when such information is given to identify you, provided that it is not given more prominence than other significant biographical details;
- You may use your title or position in connection with an article published in a scientific or professional journal, provided that it is accompanied by a disclaimer that the views expressed do not necessarily represent the views of DOI or the United States Government; and,

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- If you are ordinarily addressed using a general term of address such as “The Honorable,” or a rank, such as a military or ambassadorial rank, you may use that term of address or rank.

**Prior Approval Requirements** – Before engaging in outside teaching, speaking, or writing for compensation, make sure that you comply with Department and bureau prior approval requirements for outside activities and employment.

## **Serving as an Officer or Member of a Board of Directors of an Outside Organization**

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Service as an officer or member of a board of directors of a non-Federal entity has the potential to undermine the fairness of our acquisition and administrative processes, and otherwise to call into question the integrity of our Department. Before entering into such a relationship, you must consult with the Departmental Ethics Office or your bureau ethics counselor.

**Official Capacity** – Service as an officer or member of a board of directors in one’s official capacity is generally considered a conflict of interest and violates the criminal conflict of interest statute (18 USC 208), unless a waiver is granted or there is specific Federal statutory authority to sit on the board in an official capacity. Any employee who wishes to serve on a board or as an officer of a non-Federal organization in his or her official capacity should consult a serving ethics counselor for advice. As an alternative to serving as an officer or member of a board of directors, a DOI employee may be appointed to serve as a DOI liaison to a non-Federal entity. Liaisons serve as part of their official duties and represent DOI interests to the non-Federal entity in an advisory capacity only. Appointment as a liaison requires a written determination by the employee's supervisor that there is a significant and continuing DOI or bureau interest to be served by such representation and the approval of the employee's servicing ethics counselor. A liaison may not be involved in matters of management or control of the non-Federal entity. A liaison may officially represent DOI in discussions of matters of mutual interest with non-Federal entities provided it is made clear to the non-Federal entities that the opinions expressed by the liaison do not bind DOI or any bureau or office to any action.

**Personal Capacity** – A DOI employee who serves as an officer or member of a board of directors or as an advisor to a non-Federal entity in their personal capacity must also adhere to all conflict of interest statutes and standards of conduct regulations. Personnel may not accept such a position in their personal capacity if it is offered to them because of their official position. Such service in a personal capacity also increases the risk that DOI personnel may inadvertently violate, or appear to violate, the standards of conduct or engage in conduct that calls into question the employee’s impartiality.

## **POLITICAL ACTIVITY**

### **Political Activities - DO's and DON'Ts**

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The Hatch Act, 5 U.S.C. §§ 7321-7326, restricts Federal employee involvement in partisan political activity. Violation of the Hatch Act may result in removal from Federal

# ETHICS GUIDE FOR DOI EMPLOYEES

employment or a suspension, without pay, of not less than 30 days. There are four different classes of employees under the Hatch Act:

- Career SES, Administrative Law Judges, Administrative Appeals Judges, and those that serve on the Contract Appeals Board are the most restricted group.
- GS or WG employees are in the lesser restricted group.
- Non-career SES, Schedule C, and most other employees are in the moderately restricted group. This group may participate in certain partisan political activity, but only in a purely private capacity.
- Presidentially appointed, Senate-confirmed Personnel (PAS) are the least restricted group. PAS employees are subject to some restrictions, but they are less constrained in terms of where and when they can engage in political activity because of their 24-hour duty status.

**Hatch Act Rules - see [www.osc.gov](http://www.osc.gov) for additional information and guidance**

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**Off Duty, Off Premises Rule:** Applies to everyone but PAS employees. “Off duty” means you may only engage in political activity while on annual leave or during non-duty hours. “Off premises” means you may not engage in political activity in buildings owned or leased by the Federal Government. No campaign buttons or posters for current political candidates may be displayed by Federal employees in a Government building. However, you may display a political bumper sticker on your personal car, even if parked in a Government garage. PAS employees may engage in political activity during work hours, but the campaign must pay for all their expenses.

**No Use of Subordinates Rule:** You may not solicit the participation of subordinates in political activity. For example, if a non-career SES employee is invited to a political event but cannot go, he or she should not request a subordinate employee to attend on his or her behalf.

**No Use of Title Rule:** You may not allow your title or your affiliation with DOI to be used in conjunction with any partisan political activity.

**No Fundraising Rule:** You may not solicit others to contribute to candidates for political office. You may attend fundraising events and may even speak, provided neither your title nor your affiliation is used, but you can't say the words, “please give money” either verbally or in writing. Also, you may not collect, accept, or receive political contributions on behalf of a partisan candidate.

**No Uniform/No Government Vehicle Rule:** Applies to everyone but PAS employees. You may not engage in political activity while wearing an official uniform or using a Government vehicle. You may not display a political bumper sticker on a Government vehicle.

# ETHICS GUIDE FOR DOI EMPLOYEES

## USE OF YOUR PUBLIC OFFICE

### Use of Official Position for Private Gain

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As a DOI employee, you may not use your public office for your own private gain or for the private gain of friends, relatives, business associates, or any other entity, no matter how worthy. Except as provided by law or regulation, you may not use or permit the use of your Government position or title or any authority associated with your public office in a manner that could reasonably be construed to imply that DOI or the Government sanctions or endorses any of your personal activities or the activities of another.

You may not use or permit the use of your Government position or title or any authority associated with your public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to yourself or to friends, relatives, or persons with whom you are affiliated in a nongovernmental capacity.

### Endorsements

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A DOI employee shall not use or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service or enterprise except: (1) in furtherance of statutory authority to promote products, services, or enterprises; (2) as a result of documentation of compliance with agency requirements or standards; or (3) under an agency program in recognition for accomplishment in support of DOI's mission.

You may endorse an outside program in your private capacity; however, your endorsement may not make reference to your official title or position within DOI or your bureau.

**Letters of Recommendation** – You may sign a letter of recommendation using your official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of a person with whom you have dealt in the course of Federal employment or whom you are recommending for Federal employment.

## NEPOTISM: GIVING PREFERENTIAL TREATMENT TO RELATIVES

Nepotism, or showing favoritism on the basis of family relationships, is prohibited. The Department's policy on nepotism is based directly on the nepotism law in 5 U.S.C. § 3110. A public official may not appoint; employ; promote; advance; or advocate for the appointment, employment, promotion, or advancement of a relative in or to any civilian position in the agency in which the public official serves, or over which he or she exercises jurisdiction or control. This restriction encompasses all of DOI (in addition to all DOI bureaus). An individual appointed, employed, promoted or advanced in violation of the nepotism law is not entitled to pay.

### Exceptions to the Nepotism Policy

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When necessary to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or a national emergency as defined in 5 C.F.R. § 230.402(a)(1), a public official may employ relatives to meet those needs without regard to the restrictions in 5 U.S.C. § 3110. Such appointments are temporary and may not exceed 30 days, but the agency may extend such an appointment for one additional 30-day period if the emergency need still exists at the time of the extension.

Questions regarding nepotism should be referred to your servicing Human Resources Office.

## **USE OF GOVERNMENT PROPERTY, TIME, AND INFORMATION**

It is your responsibility as an employee to protect and conserve Government-owned or -leased property and vehicles and to use them only for authorized purposes.

You may NOT use Government purchasing authority for personal acquisitions (including your Government charge card) even if you reimburse the Government.

When leaving Government service, you may not remove Government property or files and you may not use Government copiers to make copies of files to take with you.

You are prohibited from using official Government envelopes (with or without applied postage) or official letterhead stationary for personal business. This includes mailing your resumes/applications for Federal or private positions. Violation of the prohibition against using franked (postage paid) envelopes may result in a fine. (18 U.S.C. § 1719)

You must use official time in an honest effort to perform official duties.

You are prohibited from engaging in any financial transaction using “insider” or nonpublic information (information not available to the public), or allowing the improper use of nonpublic information to further your own private interest or that of another.

The Department of the Interior’s limited use policy applies only to personal use of Department-owned or leased computers (and Internet service), telephones, fax machines, and non-color photocopiers. A Bureau or office may not change any part of this policy to relax the restrictions explained below.

This limited personal use policy does not apply to the use of Government-owned or leased motor vehicles, or to the use of Government charge cards. The policy applies to Government equipment used on Government premises. Employees may not, without proper authorization, remove Government equipment from the office for home use.

### **Use of Computers and the Internet**

Employees may use Government computers and the Internet for personal use on their personal time (before and after work; during lunch and other breaks) provided there is no

# ETHICS GUIDE FOR DOI EMPLOYEES

additional cost to the Government. Employees may make personal purchases over the Internet, provided they have the purchased item sent to a non-Government address. The following activities are absolutely prohibited on any Government-owned or leased computer:

- Gambling
- Visiting and downloading material from pornographic web sites
- Lobbying Congress or any Government agency
- Campaigning – political activity
- Online stock trading activities
- Online real estate activities
- Online activities that are connected with any type of outside work or commercial activity, including day trading
- Endorsements of any products, services or organizations
- Fundraising for external organizations or purposes (except as required as part of your official duties under applicable statutory authority and bureau policy)
- Any type of continuous audio or video streaming from commercial, private, news, or financial organizations

## **Use of DOI E-Mail**

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The Department of the Interior does not place any restrictions on incoming e-mail. Under current policy, employees may send out personal e-mail provided that:

- Personal use of e-mail does not cause congestion, delay, or disruption of service to any Government system or equipment
- Messages are not sent to more than five addresses (no mass mailings)
- The employee does not represent himself or herself as acting in an official capacity
- Messages do not contain partisan political messages

It is important to note that any e-mail on any DOI e-mail system may become an official record. Employees have no right to privacy for e-mail transmissions; DOI is often required to release employee e-mails pursuant to Inspector General, court, or congressional orders.

## **Use of DOI Telephones**

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Federal Employees may use Government property only as authorized. Employees may use DOI landline telephones for personal calls when they are necessary, provide a benefit to DOI, and do not result in any additional costs to the Government. Such calls are deemed to be in the Interest of the Government to the extent they enable employees to remain at their work stations, thereby increasing Government efficiency. Personal phone calls may not adversely affect the performance of official duties or the employee's work performance, must be of reasonable duration and frequency, and could not reasonably have been made during non-duty hours. DOI cell phones may be used for personal calls only to the extent that such calls would be authorized on a DOI landline telephone AND so long as no additional costs are imposed on the Government.

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## **Use of Government Transportation Subsidy Program Benefits**

Benefits may only be used for qualifying transportation expenses, such as mass transit facilities (subway, rail, bus) or other similar public transportation mode, and are only available for days you actually commute to work. You must deduct any days you are on leave, official travel, or do not commute using qualified modes of transportation when you receive your next quarterly or monthly distribution. Benefits may not be used to pay for parking (for example, at a mass transit facility where you get on a train or a bus) and parking expenses must not be included in your estimated monthly commuting costs. Benefits are not transferable and you are required to return any unused benefits when you leave DOI.

## **Use of Government Travel Cards While in Official Travel Status**

Government Travel Cards may only be used for official travel and may not be used for any personal purchases.

## **GAMBLING, RAFFLES, LOTTERIES, AND BETTING POOLS**

Unless authorized by statute or regulation, all forms of gambling activities are prohibited at all times in facilities owned or leased by the Government. Federal employees may not engage in gambling activities while on duty. Prohibited gambling activities include, but are not limited to, raffles, lotteries, numbers (games), football pools, etc. See 5 C.F.R. § 735.201 and 41 C.F.R. § 102-74.395.

## **SERVING AS AN EXPERT WITNESS**

You may not serve as an expert witness, in your private capacity, in any proceeding before a court or agency of the United States in which the U.S. is a party or has a direct and substantial interest, without prior approval from the head of the Departmental Ethics Office (the Designated Agency Ethics Official (DAEO)).

If you are subpoenaed to testify as an expert in any such matter, you must notify your supervisor and the DAEO immediately and request approval to proceed.

If you receive DAEO approval, you must still comply with DOI and bureau outside activities and work regulations. For instance, all DOI employees must obtain prior approval to work (paid or unpaid) for a prohibited source, and all USGS employees must obtain prior approval for any outside work or activity that is related to their USGS duties or the USGS mission.

## **PROCUREMENT INTEGRITY ACT - 41 U.S.C. § 423**

You may not disclose “contractor bid or proposal information” or “source selection information” other than as provided for by law.

If you participate in a procurement in excess of \$100,000, you must report to your supervisor and ethics counselor any contacts regarding potential employment from any contractor that submits an offer on the procurement. You must also reject the possibility of employment by

# ETHICS GUIDE FOR DOI EMPLOYEES

that contractor or disqualify yourself from further participation in DOI matters involving the procurement, unless you obtain approval to participate from your ethics counselor

If you are serving in one of seven specified positions (procuring contracting officer, program manager, source selection authority, etc.) or make one of seven specified types of decisions (award a contract, establish overhead rates, approve issuance of a payment, etc.), on a contract over \$10 million, you may not accept compensation (as an employee, consultant, officer, or director) from the contractor for one year. Consult your ethics counselor for additional information on the Procurement Integrity Act.

## SEEKING NON-FEDERAL EMPLOYMENT

The “seeking employment” rules are more restrictive than most Federal employees realize. The financial interests of any entity with which you are negotiating or have an arrangement concerning future employment are deemed to be the same as your own for purposes of the conflict of interest rules. There are criminal penalties if you participate in any DOI matters that affect the financial interests of a prospective employer. Furthermore, the Office of Government Ethics interprets any form of communication regarding prospective employment with a non-Federal source (other than requesting a job application) to be seeking employment. You must receive a written waiver from an ethics counselor before you participate in any particular matter at DOI that affects the financial interests of a prospective employer. Such waivers are only granted in limited circumstances.

You are no longer seeking employment when either you or the prospective employer rejects the possibility of employment. You are also no longer seeking employment if two months pass after you send an unsolicited resume and you receive no indication of interest. Any response to a prospective employer that defers discussions until the foreseeable future does not terminate employment discussions.

## RESTRICTIONS ON POST-GOVERNMENT EMPLOYMENT (AFTER YOU LEAVE FEDERAL SERVICE)

After you leave Federal service, 18 U.S.C. § 207 imposes certain post-employment restrictions that may limit the type of work you may perform for your new employer for certain periods of time. The Procurement Integrity Act (41 U.S.C. § 423 – see above) imposes additional restrictions for certain employees who participated in costly procurement work. Former employees who are carrying out official duties as an employee or as an elected or appointed official of a tribal organization or inter-tribal consortium are not subject to 18 U.S.C. § 207 restrictions if they advise the Government, in writing, of any personal and substantial involvement they had as a Government employee in connection with the matter (see 25 U.S.C. § 450i(j)).

### **Lifetime Restriction - 18 U.S.C. § 207(a)(1)**

If you participated personally and substantially in any particular matter involving specific parties (grants, contracts, licenses, permits, applications, litigation, etc.), involving specific

# ETHICS GUIDE FOR DOI EMPLOYEES

parties, you may never communicate on behalf of any entity, to any Federal department, agency, or court (any Federal agency, not just your bureau or DOI) regarding that same particular matter.

## **Two-Year Restriction - 18 U.S.C. § 207(a)(2)**

For matters under your official responsibility during your last year of Government service, you are restricted for two years after you leave Government service from representing any entity to any Federal department, agency, or court regarding those matters.

## **One-Year Restriction on Aiding and Advising - 18 U.S.C. § 207(b)**

For one year after Government service terminates, you may not aid or advise any entity (other than the United States) concerning any ongoing trade or treaty negotiation in which you participated personally and substantially during your last year of Government service.

## **ADDITIONAL LAWS THAT APPLY TO FORMER SENIOR EMPLOYEES**

**(Levels II through V of the Executive Schedule and those paid equal to or greater than 86.5 % of the rate for level II of the Executive Schedule) AND FORMER VERY SENIOR EMPLOYEES (Level I of the Executive Schedule)**

**One Year Restriction on Communication with One's Former Agency -18 U.S.C. § 207(e)** - For one year after leaving senior service, no former "senior" employee may make, with the intent to influence, any communication to or appearance before the department or agency in which he or she served in the one year period prior to termination from senior service. Consult your ethics counselor for certain limited exceptions to this prohibition.

**One Year Restriction Relating to Foreign Entities - 18 U.S.C. § 207(f)** - For one year after leaving Government service, a former senior employee may not knowingly aid, advise, or represent a foreign entity, with the intent to influence the official actions of any employee of any U.S. agency or department.

**Two-Year Restriction for Very Senior Employees - 18 U.S.C. § 207(d)** - For two years after service in a very senior position, former Executive Level I employees and certain very senior employees in the Executive Office of the President are prohibited from making, with the intent to influence, any communication to or appearance before: (1) any individual appointed to an Executive Level position; or (2) any employee of a department or agency in which the former very senior employee served during his or her last year of Government service.

## **DISCLOSURE OF FINANCIAL INTERESTS**

All DOI employees, including special Government employees, are subject to conflict of interest restrictions and may be required to file either a public or confidential financial disclosure report. These reports are among the primary tools used by ethics personnel to determine whether employees are in compliance with the ethics and standards of conduct provisions covering a particular position. Depending on your official position, grade, and

# ETHICS GUIDE FOR DOI EMPLOYEES

employment status, you may be required to file either a public financial disclosure report (SF 278) or a confidential financial disclosure report (OGE Form 450).

## **SF 278 (Public Financial Disclosure Report)**

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### **Who files this report?**

- Senate Confirmed (PAS) Presidential Appointees
- Senior Executive Service (SES) Employees
- Senior Level (SL) and Scientific and Professional (ST) Employees
- Schedule C Employees
- Certain Special Government Employees (SGEs)
- Certain Intergovernmental Personnel Act (IPA) Employees

**What happens if the report is submitted late, is falsified, or is never filed?** An employee who files more than 30 days after the statutory deadline (and any extension periods) is subject to a \$200 late filing fee. This is a statutory requirement and the Department must enforce the penalty. Only in the rarest of cases may this late fee be waived by the Designated Agency Ethics Official. An employee who willfully falsifies his or her report may be subject to civil penalties and/or criminal prosecution by the Department of Justice. In addition, DOI or bureau disciplinary actions may be imposed if a report is not filed.

## **OGE Form 450 (Confidential Financial Disclosure Report) and OGE Optional Form 450-A (Certificate of No New Interests)**

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### **Who files these reports?**

- Employees whose positions are designated by their bureau or office using the criteria in 5 C.F.R. § 2634.904 because they have certain duties and responsibilities related to contracting, procurement, administering or monitoring grants, licenses, audits, etc. or to avoid a conflict of interest.
- Intergovernmental Personnel Act (IPA) employees and Special Government Employees (SGEs) who are not required to file an SF 278

**What happens if the report is falsified, submitted late, or is never filed?** An employee who willfully falsifies the information on his or her report, willfully omits information, or willfully fails to file may be subject to civil penalties and/or criminal prosecution under 18 U.S.C. §§ 1001 and 3571. Departmental disciplinary sanctions may also apply, up to and including removal from Government service.

Compliance with financial disclosure requirements is a condition of employment. Employees who are required to file and fail to do so in a timely manner may be subject to disciplinary action up to and including removal from Government service.

# ETHICS GUIDE FOR DOI EMPLOYEES

## CONTACT INFORMATION

### **Department of Interior Ethics Office**

1849 C Street, NW, MS 7346  
Washington, DC 20240  
202-208-7960 Fax: 202-208-5515  
E-Mail: [DOI\\_Ethics@ios.doi.gov](mailto:DOI_Ethics@ios.doi.gov)  
[www.doi.gov/ethics](http://www.doi.gov/ethics)

### **Bureau of Indian Affairs (BIA)**

316 North 26<sup>th</sup> Street  
Billings, MT 59101  
Tel: 406-247-7956 Fax: 406-247-7902

### **Bureau of Reclamation (USBR)**

P.O. Box 25007  
Ethics Office Mail Code 84-50500  
Denver Federal Center, Building 67  
Denver, CO 80225-0007  
Tel: 303-445-2741 Fax: 303-445-6464

### **Bureau of Safety and Environmental Enforcement (BSEE)**

381 Elden Street, Mail Stop 2400  
Herndon, VA 20170-4817  
Tel: 703-787-1417 Fax: 703-787-1046

### **National Park Service (NPS)**

1201 Eye St., NW, Rm. 1245, MS 2653  
Washington, DC 20005  
Tel: (202) 354-1981 Fax: (202) 371-5659  
<http://www.inside.nps.gov/waso/custommenu.cfm?lv=3&prg=37&id=7550>

### **Office of the Inspector General (OIG)**

12030 Sunrise Valley Drive  
Suite 350  
Reston, VA 20191  
Tel: 703-487-5437 Fax: 703-487-5406  
[www.doioig.gov](http://www.doioig.gov)

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## **Office of Surface Mining Reclamation and Enforcement (OSMRE)**

1951 Constitution Ave, NW  
South Interior Building, Room 227  
Washington, DC 20240  
Tel: 202-208-2704 Fax: 202-219-3106  
<http://www.osmre.gov>

## **U.S. Fish and Wildlife Service (USFWS)**

Regional Assistant Ethics Counselors:  
Contact information on FWS Ethics webpage below  
Ethics Program Manager/Deputy Ethics Counselor:  
620 S.W. Main St. , Suite 201  
Portland, OR 97205  
Phone: (503) 326-2008 Fax: (503) 326-2494  
<https://inside.fws.gov/index.cfm/ceshandler/renderit?mode=entry&entry=DC088E63-0722-076C-FBE25810D582CC35>

## **U.S. Geological Survey (USGS)**

12201 Sunrise Valley Drive, MS 603  
Reston, VA 20192  
Tel: 703-648-7474, 7422, and 7439  
Fax: 703-648-4132  
E-mail: [EthicsOffice@usgs.gov](mailto:EthicsOffice@usgs.gov)  
<http://internal.usgs.gov/ops/hro/ethics/index.html>

## **Bureau of Land Management (BLM)**

200 M St., SE, Room 2134  
WO-700  
Washington, D.C. 20003  
Tel: 202-912-7486 Fax: 202-912-7172  
<http://web.blm.gov/ethicsContacts.html>

## **National Indian Gaming Commission (NIGC)**

1441 L Street, NW  
Suite 9100  
Washington, DC 20005  
Tel: 202-513-0344 Fax: 202-208-5515

## **Office of the Special Trustee (OST)**

4400 Masthead Street, NE  
Room 362  
Albuquerque, NM 87111  
Tel: 505-816-1368 Fax: 505-816-1319  
<http://www.osmre.gov>