

Reclamation Manual

Policy

Outside Employment and Activities

1. **Purpose.** This appendix establishes processes and procedures for employees engaged in outside employment or activities in a personal capacity based on requirements contained in 5 CFR parts 2635.801-803, 805 and 807 and 5 CFR part 3501.105. For employees assigned to serve in a role with a non-Federal organization in their official capacity, please consult Appendix 3a – Official Participation in Non-Federal Entities for guidance.
2. **Definitions.**
 - A. **Non-Federal Organization.** Non-Federal organization means any entity that is not a part of the Federal Government. The term includes for-profit corporations, non-profit organizations, corporations created by Federal law that have been privatized, partnerships, and civic, religious, educational, professional, and scientific organizations.
 - B. **Non-Profit Organization.** Non-profit organization means an organization that is not organized for profit and has received tax-exempt status under any subsection of section 501 of the United States Internal Revenue Code.
 - C. **Nonpublic Information.** Nonpublic information means information that is gained through Federal employment and that the employee knows or should know has not been made available to the general public. It includes information that the employee knows or reasonably should know is routinely exempt from disclosure by statute, regulations, or agency policy. It also includes information that has not been disseminated to the general public and is not authorized to be made available to the public on request.
 - D. **Official Capacity.** Official capacity means on official Government duty or serving as a representative of Reclamation.
 - E. **Outside Work or Activities.** Outside work or activities means any form of relationship when an employee provides personal services, with or without compensation, to a non-Federal entity. Outside employment or activities include but are not limited to personal services such as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker, and writing conducted under an arrangement with a non-Federal source for production or publication.
 - F. **Personal Capacity.** Personal capacity means off-duty, representing yourself (not Reclamation) in your individual or private capacity.

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- G. **Prohibited Source.** A prohibited source is any person or entity who:
- (1) is seeking official action by Reclamation,
 - (2) does business or seeks to do business with Reclamation,
 - (3) conducts activities regulated by Reclamation,
 - (4) has interests that may be substantially affected by the performance or non-performance of the employee's official duties, or
 - (5) is an organization a majority of whose members are prohibited sources with Reclamation.
3. **Basic Requirement.** Reclamation employees are required to obtain written approval from an ethics official **prior** to participating in outside work and activities whether paid or unpaid that is performed for a prohibited source, as defined in 5 CFR 3501.105.
- A. **Use DI-7010.** Approval for employees participating in outside work and activities in their personal capacity with a prohibited source will be accomplished using the DI-7010 form as indicated below in paragraph 3-4. Approval for employees participating in outside work and activities in an official capacity will be accomplished as indicated in Appendix 3a.
- B. **Non-Prohibited Source.** Reclamation employees who participate in outside work and activities in their personal capacity with a source other than a prohibited source are not required to obtain approval but are still subject to the Standards of Conduct. A summary of applicable provisions of the Standards of Conduct is below.
- C. **Teaching, Speaking and Writing.** Prior approval is not required for teaching, speaking, or writing, in a personal capacity with a non-prohibited source. However, if the teaching, speaking, or writing relates to your official duties, please refer to Appendix 3a and consult your ethics official for further guidance.
- D. **Contact Ethics Program.** If an employee is uncertain whether their outside employment or activity is with a prohibited source, they should contact their ethics official.
4. **Process for Approval of Outside Employment or Activity in Personal Capacity.** Prior to participating in outside employment or activity with a prohibited source:
- A. Employees must complete Department of the Interior Form DI-7010, Request for Ethics Approval to Engage in Outside Employment and Activities, sign it, and give the form to their supervisor.

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- B. Supervisors must review the form, make a recommendation to approve or disapprove the request, and submit the form to the appropriate ethics official.
 - C. The appropriate ethics official must review the form within 10 business days of receipt of the request and will approve the employment or activity by signing the form, unless a determination is made that the outside employment conflicts with the employee's official duties or is expected to involve conduct prohibited by statute or Federal regulation.
 - D. The servicing ethics official retains the original signed form and sends a copy to the employee and their supervisor.
 - E. If approved, the employee and their supervisor must discuss, and if necessary, implement procedures to comply with the requirements in paragraphs 3-5 and guidance provided by the ethics official.
 - F. If the employee is contemplating any change in the nature or extent of the outside employment or activity, the employee must:
 - (1) consult with the appropriate ethics official to ensure there is no new conflict or other ethics concerns, and
 - (2) if requested by the ethics official, complete a new DI-7010 and provide it to his or her supervisor.
5. **Requirements for Employees Engaged in Outside Employment or Activity in a Personal Capacity.** Employees must understand that their engagement in outside employment or activities does not relieve them of their obligation to comply with conduct and ethics laws, regulations, policies, and Directives and Standards. All provisions of this paragraph apply to all forms of outside activity whether they require prior approval or not.
- A. **Conflicts of Interest.** Employees are prohibited from participating in any official government matter (including providing recommendations or advice) that could affect the financial interests of any individual or non-Federal entity with which the employee engages in outside employment or activities. The employee must consult with the servicing ethics official for advice if it appears that his or her official actions may impact the financial interests of the individual or non-Federal entity or if the individual or non-Federal entity is a party to any matter in which the employee is performing official duties.
 - (1) An employee must disqualify (i.e., recuse) himself or herself from participation in official matters that could directly affect the financial interests or give the appearance of a lack of impartiality toward the non-Federal entity or individual with which the employee engages in outside employment or activities.

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- (2) If the outside employment or activity prevents the employee from accomplishing his or her Federal job, the employee will be required to stop the outside employment or activity.
- B. **No Representation.** An employee cannot represent an outside entity before Reclamation, any Federal agency, court, or officer on a matter in which the United States is a party or has a substantial interest. (18 USC 203 and 205)
- C. **Use of Duty Time.** An employee must never use official duty time to perform outside employment or activities. (5 CFR 2635.705)
- D. **Use of Government Resources.** An employee must not use Government facilities, equipment, or supplies to perform outside employment or activities, except as authorized by the Department of the Interior's limited personal use policies. (5 CFR 2635.704)
- E. **Disclosure Non-Public Information.** An employee must not disclose nonpublic information (see 5 CFR 2635.703 for examples of nonpublic information). If the employee is unsure whether information is nonpublic or has been made available to the public, he or she must discuss with his or her supervisor or servicing ethics official.
- F. **Use of Title.** An employee must not use (or allow an outside employer or entity to use) his or her official Reclamation title or position in conjunction with the outside employment or activity except:
- (1) as one of several biographical details when the information identifies him or her in connection with teaching, speaking, or writing, as long as it is given no more prominence than other significant biographical details, and
 - (2) in connection with an article published in a scientific or professional journal if accompanied by a disclaimer stating that the views are those of the author and do not necessarily represent the views of Reclamation or the United States.
- G. **No Compensation Official Duties.** The employee must not receive compensation from any source other than the Government for teaching, speaking, or writing if the subject matter relates to their official duties, except for teaching certain university courses.
- H. **Expert Witness.** An employee must not serve, other than on behalf of the United States, as an expert witness, with or without compensation, in any proceeding before a court or agency of the United States in which the United States is a party or has a direct and substantial interest unless participation is authorized in writing by the Deputy Ethics Counselor. Refer to 43 CFR parts 2.289-290 and contact your ethics official for additional information about the approval process for participating as an expert witness.

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- I. **Interest in Federal Lands.** Department of the Interior policy prohibits employees and their spouses and minor children from acquiring or retaining for commercial purposes any permit, lease, or other rights granted by the Department for conducting commercial services on federal lands.
- (1) **No Commercial Use.** No concession contract or commercial use authorization to conduct commercial services at any DOI facilities, including Reclamation facilities, will be issued to DOI employees or their spouses and minor children who are owners, partners, corporate officers, or general managers of any business seeking such a contract in federal land managed by the Department of the Interior.
- (2) **No Appearance of Conflict.** Further, to avoid the appearance of partiality and conflicts of interest, and to comply with ethics laws that apply to all federal employees, DOI employees may not work on any matter involving a business in which they, their spouse, or their minor children have a financial interest.
- J. **Financial Disclosure Filers.** Public Financial Disclosure (OGE 278) and Confidential Financial Disclosure (OGE 450) filers must report outside positions on their financial disclosure reports.

6. Outside Employment or Activities Examples.

- A. **Example 1:** Employee would like to work as an Uber driver during non-duty hours. Since Uber is not considered a prohibited source, employee is not required to get approval for this outside employment but must comply with ethics rules in paragraphs 3-5. As an example, employee may not advertise their status as a Federal employee to boost business as an Uber driver. Though individual transactions may be made using government funds at businesses such as Uber, Walmart, Office Depot, etc. these businesses are generally not considered prohibited sources.
- B. **Example 2:** Employee works in Area Office in Lower Colorado Basin and would like to work during non-duty hours for an engineering consulting firm that has contracts with another region of Reclamation. Employee must get preapproval to engage in this outside employment because the engineering consulting firm is a prohibited source. If the engineering consulting firm does business with any part of Reclamation, then it is a prohibited source for all Reclamation employees.
- C. **Example 3:** Employee would like to work for an engineering consulting firm that has no contracts with Reclamation but has contracts with a water district to support a project that is funded by Reclamation. Employee is required to get approval for the outside activity in this case if the engineering consulting firm is supporting the Reclamation project because the conflict of interest rules also apply to subcontractors.

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- D. **Example 4:** Employee owns and runs their own business preparing taxes for customers. Employee may sign customers tax returns as preparer but may not call or otherwise represent customers to the IRS because such action would constitute representation to a Federal agency in violation of 18 USC 203 or 18 USC 205.
- E. **Example 5:** Employee wishes to start a tour company that gives guided tours of a National Park. In order to operate tours, the company must get a Commercial Use Authorization (CUA) from the National Park Service. No concession contract or commercial use authorization to conduct commercial services will be issued to DOI employees or their spouses and minor children who are owners, partners, corporate officers, or general managers of any business seeking such a contract in federal land managed by the Department of the Interior. Therefore, employee (and spouse and minor child) is prohibited from acquiring or retaining the required CUA.
- F. **Example 6:** Employee wishes to work as a tour guide for a company that gives guided tours of a Reclamation facility. Employee will work for a company that has a CUA issued by Reclamation. Employee may engage in outside employment as long as they are not an owner, partner, officer, or general manager of the tour company and their official duties do not involve participation in any matter related to the tour company. In such a situation, however, it is strongly recommended that the employee discuss their potential employment with their ethics counselor to ensure there are no conflicts of interest.