

PART 2045 - GENERAL

Subpart 0 - Request for Prior Approval for Outside Activity or Employment

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PART 2045 - GENERAL

Subpart 0 - Request for prior approval for outside activity or employment.

§ 2045.701 General Introduction. 5 CFR Part 8301.101-102.

In accordance with 5 CFR Part 2635.105 of this title, the regulations in this part apply to employees of the U.S. Department of Agriculture and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR Part 2635 of this title.

In addition to 5 CFR Part 2635 and Part 8301, employees also are required to comply with the executive branch financial disclosure regulations at 5 CFR Part 2634 of this title, the regulations on responsibilities and conduct contained in 5 CFR Part 735 of this title, and Department guidance and procedures.

With the concurrence of the Designated Agency Ethics Official, agencies and components of the Department may, in accordance with 5 CFR Part 2635.105(c) of this title, issue explanatory guidance for their employees and establish procedures necessary to implement this Part and Part 2635 of this title. The Deputy Ethics Official for each agency or component shall retain copies of all such guidance issued by that agency or component.

§ 2045.702 Definitions.

(a) Designated Agency Ethics Official. In accordance with 5 CFR § 738.202 the head of each agency is required to appoint a designated agency ethics official as well as an alternate designated agency ethics official. The duties of the designated agency ethics official include administering Title II as well as acting as liaison with the Office of Government Ethics, initiating and maintaining ethics education and training programs, and monitoring administrative actions and sanctions. The Designated Agency Ethics Official is the Director of the USDA Office of Ethics.

(b) Outside employment. Any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities:

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Personnel
General

(1) Providing personal services as a consultant or professional, including service as an expert witness or as an attorney; and

(2) Providing personal services to a for-profit entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision making or policymaking for the non-Federal entity, or the provision of advice or counsel. [5 CFR Part 8301.102(b) of this title]

(c) Special Government Employee (SGE). As defined in [18 U.S.C. § 202](#) an SGE is an officer or employee who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days. The SGE category should be distinguished from other categories of individuals who serve executive branch agencies but who are not employees, such as independent contractors (who are generally not covered by the ethics laws and regulations at all). Also, although many SGEs serve as [advisory committee members](#), not all members of advisory committees are SGEs.

(d) Immediate Supervisor. Individual to whom the employee directly reports and who must provide a mandatory statement on the Outside Employment (OE-101) Form.

(e) National Ethics Program Manager. The Ethics Specialist, employed by the USDA Office of Ethics, who is responsible for the management of Rural Development's National Ethics Program.

(f) State Ethics Contact. Point of contact for State employees for general ethics inquiries. They are appointed by the State Director.

(g) Deputy Ethics Official. The Deputy Ethics Official is the Rural Development Deputy Administrator, Operations & Management (O&M) at the National Office.

(h) Authorized Agency Official.

(1) The Authorized Agency Official designated at the National Office is the Deputy Administrator, Operations & Management.

(2) State Directors are the Authorized Agency Official for State employees.

§§ 2045.703 - 2045.706 [Reserved]

§ 2045.707 Prior Approval for Outside Activity or Employment.

(a) OGE Form 450 Prior Approval for Outside Activity or Employment. An employee, other than a special Government employee, who is required to file an OGE Form 450 "Confidential Financial Disclosure Report", or an alternative form of reporting approved by the Office of Government Ethics, shall, before engaging in outside employment, obtain written approval in accordance with the procedures set forth herein. (See *Exhibit A.*)

(b) OGE 278 Prior Approval for Outside Activity or Employment. The employee, who is required to file a Public Financial Disclosure Report (OGE Form 278), or an alternative form of reporting approved by the Office of Government Ethics, must also obtain prior approval before engaging in outside employment. Prior approval for outside activities or employment guidance for OGE Form 278 filers is not included in these instructions.

(c) Standard for Approval. Approval shall be granted by the authorized agency official unless it is determined that the outside activity or employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR Part 2635 of this title.

§§ 2045.708 - 2045.715 [Reserved]

§ 2045.716 Process for approval of outside activities or employment.

(a) Request for the Application. The request for the application for Approval of Outside Activity or Employment application is obtainable from the USDA Office of Ethics website: http://www.usda-ethics.net/forms/FARM_USDA_OE-101_30-June-2011_F.PDF.

(b) Submission of requests for approval. An employee seeking to engage in an outside activity or employment, for which advance approval is required, must submit a written request for approval to:

(1) The employee's immediate supervisor for review and recommendation to approve or disapprove, prior to engaging in the outside activity or employment.

(2) The immediate supervisor will forward the written request for approval to:

(i) The State Ethics Contact for those originating in the State.

(ii) The National Office employees will submit their applications to the National Ethics Program Manager.

(c) Employee Responsibilities. The employee must provide all information requested. The completed application and current position description are given by the employee to his/her immediate supervisor as a complete application package.

(d) Immediate Supervisor Responsibilities. The Immediate Supervisor will evaluate the request complete the mandatory written recommendation and add his/her signature and date to the request. If the required information from the employee has not been provided, the supervisor will return the form to the employee for completion. If the required information is present, the Immediate Supervisor will forward the signed document to the State Ethics Contact for forwarding to the State Authorized Agency Official for approval or to the National Ethics Program Manager for employees in the National Office.

(e) State Ethics Contact Responsibilities. The State Ethics Contact will assist the applicant with the application process and obtaining appropriate signatures. The State Ethics Contact will provide the application to the State Authorized Agency Official for review, approval, and signature. Once the State Authorized Agency Official returns the application to the State Ethics Contact, he/she will forward the application to the National Ethics Program Manager for review.

(f) National Ethics Program Manager Responsibilities.

(1) State Applications. The National Ethics Program Manager will review the application for conflict of interest concerns, sign and date the form. The National Ethics Program Manager will provide ethics guidance to the applicant and the State Ethics Contact in an email. The approval email and application package will be placed in the applicant's OGE Form 450 file in the National Office.

§ 2045.716(f) (Con.)

(2) National Office Applications. The National Ethics Program Manager will review the application for conflict of interest concerns, sign and date the application.

(i) The National Ethics Program Manager will forward the application package to the Authorized Agency Official in the National Office, with a recommendation for approval or disapproval of the outside activity or employment.

(ii) Following approval by the Authorized Agency Official, the National Ethics Program Manager will provide ethics guidance to the applicant and the State Ethics Contact in an email.

(iii) The approval email and application package will be placed in the applicant's OGE Form 450 file in the National Office.

(g) Authorized Agency Official Responsibilities. The Authorized Agency Officials are responsible for:

(1) Reviewing the complete application.

(2) Approving or disapproving the application.

(3) Providing the finalized application to the National Ethics Program Manager, through the State Ethics Contact, for placement in the employee's OGE Form 450 file. The signed application may be scanned to the National Ethics Program Manager.

(h) Notification to Employee Regarding the Authorized Agency Official's Determination. The National Ethics Program Manager is responsible for:

(1) Notifying the employee and the immediate supervisor of the Authorized Agency Official's determination.

(2) Filing the completed application in the employee's OGE Form 450 file held in the National Office.

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§ 2045.717 Renewal Process for the Request for Approval of Outside Activity or Employment Application.

(a) Upon a significant change in the nature of the outside activity or employment or in the employee's official position, the employee must submit a revised application for approval as outlined in Section 716.

§§ 2045.718 - 2045.750 [Reserved]

Attachment: Exhibit A

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SUBJECT: List of Positions requiring Filing the Office of Government Ethics
Confidential Financial Disclosure Report (OGE Form 450)

National Office

St. Louis Office

All Special Government Employees

Rural Housing Service:

- (1) Directors.
- (2) Deputy Directors.
- (3) Supervisors/Managers, GS-14.
- (4) All Loan Program Employees, GS-13 and above.
- (5) Employees with contracting officer authority, Level II and III.
- (6) Any employee who is officially acting in one of the above mentioned positions for more than 60 days.

Rural Utilities Service:

- (1) Program Managers (Directors), GS-15.
- (2) Program Managers (Deputy Directors), GS-14.
- (3) Supervisors/Managers, GS-14 and GS-15.
- (4) Employees with contracting officer authority, Level II and III.
- (5) Employees with responsibility for communicating with manufacturers and recommending approval of equipment.
- (6) Water and Environmental Programs, Community Program Specialists, GS-12 and above.
- (7) All Financial and Loan Program employees GS-13 and above.
- (8) Any employee who is officially acting in one of the above mentioned positions for more than 60 days.
- (9) All General Field Representatives, GS-13.

Rural Business-Cooperative Service:

- (1) Assistant Deputy Administrators.
- (2) Directors.
- (3) Branch Chiefs.
- (4) Supervisors/Managers GS-14 and GS-15.
- (5) All Loan Program Employees (with exceptions as determined by the work of the position), GS-9 and above.
- (6) Employees with contracting officer authority, Level II and III.
- (7) Employees who manage, administer or monitor grants or subsidies.
- (8) Any employee who is officially acting in one of the above mentioned positions for more than 60 days.
- (9) All Financial and Loan Program employees GS-13 and above.
- (10) Rural Development Specialists, GS-13 and above.

Operations and Management:

- (1) Assistant Administrator for Procurement and Administrative Services.
Director, Procurement Management Division.
Branch Chiefs.
Contract Specialists and Procurement Analysts.
Purchasing Agents.
Director, Support Services Division.
Chief, Property & Space Management Branch.
Chief, General Services Branch.
- (2) Office of the Chief Financial Officer:
Division Directors.
Branch Chiefs.
Supervisors/Managers, GS-14 and above.
- (3) Chief Information Officer:
Division Director.
Branch Chief.
Supervising Manager, GS-14 and above.
- (4) Assistant Administrator for Human Resources:
Director and Deputy Director, Human Resources Training Division.
Safety and Occupational Health Manager.

- (5) Employees who have contracting officer authority, Level II and III.
- (6) Employees who manage, administer or monitor grants or subsidies (including cooperative agreements).
- (7) Any employee who is officially acting in one of the above mentioned positions for more than 60 days.

State Rural Development Offices:

- (1) All employees at GS/GM-13 and above.
- (2) All State, Area and Local Office Specialists, who are involved with loan, grant and guarantee programs.
- (3) Administrative Program Director, GS-12 and above.
- (4) Contract Program Managers, Contract Specialists, Procurement and Small Purchase Specialists, and Purchasing Agents.
- (5) Civil Engineer, GS-11 and above.
- (6) Architect, GS-11 and above.
- (7) Appraiser, GS-11 and above.
- (8) Any employee who is officially acting in one of the above mentioned positions for more than 60 days.

NOTE: The National Ethics Program Manager for Rural Development has the authority to identify additional positions that require an OGE Form 450 if he/she feels the position meets the reporting requirements as defined by the Office of Government Ethics at 5 CFR Part 2634.904.

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