

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) 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.

(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]

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Personnel
General

(b) National Ethics Program Manager. The Ethics Specialist is responsible for the management of Rural Development's National Ethics Program.

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

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

(e) Authorized Agency Official. State Directors are the Authorized Agency Official for State employees. The Authorized Agency Official designated at the National Office is the Administrator, Operations & Management.

§§ 2045.703 - 2045.706 [Reserved]

§ 2045.707 Prior Approval for Outside Activity or Employment.

(a) 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*.) An employee, other than a special Government employee, who is required to file a SF 278 "Public Financial Disclosure Report", or an alternative form of reporting approved by the Office of Government Ethics, must also obtain prior approval before engaging in outside employment. For the purpose of this document, prior approval for outside activities or employment guidance for SF 278 Filers will not be included in these instructions.

(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 (See Form RD 2057-15) to the employee's supervisor for review and recommendation to approve or disapprove, prior to engaging in the outside activity or employment. The supervisor will forward the written request for approval to the National Ethics Program Manager. The written request for final approval will then be forwarded to the authorized agency official. (See *Exhibit B*.)

§ 2045.707 (Con.)

(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 - 2045.710 [Reserved]

§ 2045.711 Required information for approval of outside activity or employment. The regulation, 5 CFR Part 8301.101, requires that all requests for prior approval of outside activities or employment shall include the following information: (See *Form RD 2057-15*)

(a) The employee's name, organizational location, occupational title, grade, and salary;

(b) The nature of the proposed outside employment, including a full description of the specific duties or services to be performed;

(c) A description of the employee's official duties that relate in any way to the proposed employment;

(d) The name and address of the person or organization for whom or with which the employee is to be employed, including the location where the services will be performed;

(e) The method or basis of any compensation (e.g., fee, per diem, honorarium, royalties, stock options, travel and expenses, or other);

(f) A statement as to whether the compensation is derived from a United States Department of Agriculture grant, contract, cooperative agreement, or other source of USDA funding;

(g) Employment involving the provision of consultative or professional services must contain a statement indicating the following: whether the client, employer, or other person on whose behalf the services are performed is receiving or intends to seek, a USDA grant, contract, cooperative agreement, or other funding relationship; and

(h) For employment involving teaching, speaking, writing or editing, the proposed text of any disclaimer are required by 5 CFR Part 2635.807(b).

§§ 2045.712 - 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 State Ethics Contact or the National Ethics Program Manager for Rural Development.

(b) 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.

(c) Immediate Supervisor Responsibilities. The Immediate Supervisor will evaluate the request and forward the complete application, including a written recommendation and his/her signature, to the National Ethics Program Manager. If the required information from the employee has not been provided, the supervisor will return the form to the employee for completion.

(d) National Ethics Program Manager. The National Ethics Program Manager will review the complete application for analysis of conflict of interest. The application package will be forwarded to the authorized agency official with a recommendation for approval or disapproval of the outside activity or employment.

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

- (1) Review the complete application.
- (2) Approve or disapprove the application.
- (3) Provide the finalized application to the National Ethics Program Manager for placement in the employee's OGE Form 450 file and notification of the employee regarding the determination. The signed application may be faxed to the National Ethics Program Manager.
- (4) Employee is requested to retain the original in his/her personal file.

§ 2045.716 (Con.)

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

- (1) Notify the employee and the supervisor of the Authorized Agency Official's determination.
- (2) File the completed application in the employee's OGE Form 450 file held in the National Office.

§ 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.
- (b) Each Presidential election year: Each covered employee who has previously submitted an application for approval of an outside activity or employment must re-submit an approval request for their existing outside activity or employment. Both the OGE Form 450 and the Request for Approval of Outside Activity or Employment application must be submitted along with the OGE Form 450 during the annual filing cycle.

§§ 2045.718 - 2045.750 [Reserved]

Attachments: Exhibits A and B

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SUBJECT: List of Positions requiring Filing OGE Form 450 Confidential
Financial Disclosure.

National Office and St. Louis

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.
- (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 15.
- (4) Employees with contracting officer authority.
- (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 13 and above.
- (8) Any employee who is officially acting in one of the above mentioned positions for more than 60 days.
- (9) All GFR's, GS 13

Rural Business-Cooperative Service:

- (1) Assistant Deputy Administrators.
- (2) Directors.
- (3) Branch Chiefs.
- (4) Supervisors/Managers.
- (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.
- (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 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.
 - Purchasing Agents.
 - Procurement Agents.
- (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.
- (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 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, Purchasing Agents, and Procurement Clerks/Assistants.
- (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 in the National Office 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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