

§ 73.735–803 Prohibition against involvement in financial transactions based on information obtained through Federal employment.

An employee shall not engage in, directly or indirectly, a financial transaction as a result of, or in primary reliance upon, any information gained through his or her official duties. Information gained through official duties are those facts and other data that relate to the employee's official duties or to the functions of the employing component and would not be available to the employee were he or she not an officer of the Federal government.

Example 1: An employee working part-time for a consulting firm that does no business with the employee's principal operating component, in the area of health care planning advises it, based upon his or her knowledge of a new health care planning program about to be initiated by the Public Health Service. The employee's knowledge of the program was acquired solely through reading policy statements and other PHS literature available to the public under the Freedom of Information Act. In such case, the employee would not violate this regulation if the outside activity was otherwise approvable under Subpart G.

Example 2: A contracting officer with detailed knowledge of a negotiated procurement contract invests in a corporation that is likely to indirectly profit from the award of that contract. The officer's decision to invest is based upon technical details of the successful contract proposal that would not otherwise be available to a private citizen. The officer would violate this regulation in such a situation.

§ 73.735–804 Waiver of the prohibitions in this subpart.

(a) An employee may request approval to participate in his or her official capacity in a matter in which he or she has a direct or indirect financial interest if the employee believes the interest is so remote and inconsequential that it would not affect the integrity of his or her official duties. Also an employee who has a financial interest that would otherwise be prohibited under these regulations may request an exemption from the prohibition for the reason stated in the preceding sentence.

(b) The request shall be in writing and shall include the following information:

- (1) Employee's name, occupational title, grade or rank and Federal salary;
- (2) Full description of financial interest: including whether ownership, service as officer, partner, etc.;
- (3) Business or activity in which financial interest exists;
- (4) Description of official matter in which employee is requesting approval to participate;
- (5) Basis for requesting determination that the interest is "not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect." (If based on a small total value of investment, supply appropriate information on total value, such as total shares held and latest quoted market price. If other basis, explain fully.)

The request should be sent through usual administrative channels to the official responsible for reviewing financial disclosure reports or statements for the employee's organization (Subpart I). That official, after conferring with a deputy ethics counselor or with the Department Ethics Counselor as appropriate, will make a decision about the exemption or exception and inform the employee in writing.

§ 73.735–805 Advice and guidance on conflicts matters.

(a) Whenever an employee has a question about the appropriate course of conduct to be followed in a matter that may involve an actual or apparent conflict of interest, he or she should immediately consult with his or her supervisor or a deputy ethics counselor, or both. If a supervisor who is consulted determines that the matter warrants further consideration, he or she may, in conjunction with the employee, submit the details of the matter, in writing, to the appropriate deputy ethics counselor. These details should include a description of:

- (1) The activity, relationship, or interest giving rise to the question posed by the employee;
- (2) The duties or official responsibilities of the employee(s) involved;
- (3) The nature of the actual or apparent conflict of interest; and
- (4) Any other information that may be helpful in reviewing the problem.