

June 1986

# Guidance on Employee Ethics and Conduct



# Foreword

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The purpose of this booklet is to alert GAO employees to the applicable conflicts of interest, ethics and conduct rules and to assist them to avoid pitfalls which can result from lack of knowledge or understanding of the restrictions and prohibitions.

Each employee has an obligation to avoid any circumstances which, because of a personal or private situation—financial or otherwise—could create an appearance that the employee is being less than objective when performing the work of GAO. Each employee bears full responsibility for notifying his/her supervisor of any relationship which could cause a conflict of interest or an apparent conflict of interest.

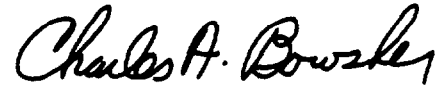
GAO employees should never dispense nor accept favors or benefits under circumstances which might be construed by a reasonable person as influencing the performance of their government duties. They are to conduct themselves as to permit no reasonable basis for suspicion of unethical conduct or practices.

One question employees should ask themselves in deciding whether to accept any gift is whether they are willing to have it discussed in the press. If not, it should not be accepted even though it may not violate any specific rule. This will go a long way to avoid embarrassment to GAO employees and the agency itself.

Detailed substantive coverage, including procedural matters, is to be found in the various GAO Orders, regulations and laws cited in this booklet.

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All employees should read this document carefully and should familiarize themselves with the "Alert List" provided on the next page. The material contained in this booklet is intended to serve as guidance only. Actual determinations must be made on a case-by-case basis. For this reason the employee should take up any doubtful matters with his supervisor or a GAO ethics counselor.



Charles A. Bowsher  
Comptroller General  
of the United States



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# Alert List

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You should be alert to the following situations which tend to raise ethical problems that may violate criminal statutes or GAO regulations. After reading the referenced chapters of this booklet, you are required to take appropriate action to address any impropriety. Any doubtful matters should be taken up with your superior or a GAO ethics official.

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## **Governmental Responsibilities Affecting a Private Interest**

- Duties for GAO that affect your own personal or financial interest or that of a member of your immediate family. (Ch. 1)
- Duties for GAO that affect an organization in which you serve as an officer, director, partner, trustee or employee. (Ch. 1)
- Duties for GAO that affect an organization which pays you or owes you a pension. (Ch. 1)
- Duties for GAO that affect a person or organization with whom you are negotiating or have arrangements for future employment. (Ch. 1)
- Duties for GAO that affect the financial interest of anyone who is your partner in any venture. (Ch. 1)
- Duties for GAO that give even the appearance of affecting any of the above. (Ch. 1)

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## Serving Anyone Other Than the United States

- Representing anyone in connection with a claim against the United States. (Ch. 2)
- Your partner's representation of anyone in a matter in which you have participated as a government employee. (Ch. 2)
- Receiving compensation for services rendered by anyone in a matter in which the United States has an interest. (Ch. 2)
- Outside employment, with or without compensation, for which approval has not been obtained. (Ch. 6)

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## Gifts or Pay- ments From Outside Sources

- Receiving anything of value for performing your governmental duties from a source other than the United States. (Ch. 3)
- Receiving gifts, entertainment or anything of value from anyone who does business with the government. (Ch. 9)
- Receiving gifts, entertainment or anything of value from anyone whose interests are affected by GAO or your duties for GAO. (Ch. 9)
- Receiving anything, including travel expenses, from a foreign government in the absence of formal approval. (Ch. 9)
- Receiving a gift from a subordinate or giving a gift to a superior. (Ch. 9)

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## Outside Speak- ing and Writing

- Outside speaking or writing without prior approval when any reference is made to a GAO matter. (Ch. 8)
- Using one's government title in connection with speaking or writing done in a personal capacity. (Ch. 8)
- Accepting travel expenses from most outside sources for speaking in a duty status or on a GAO-related matter. (Ch. 7)

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- Accepting travel expenses or an honorarium from any organization that does business with the government or has interests affected by GAO. (Ch. 3)
  - Receiving any honorarium in excess of \$2,000 for any speech or article. (Ch. 8)
  - Receiving any honorarium at all for speaking or writing on a subject related to GAO or its responsibilities. (Ch. 8)

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### Dealing with the Government After Leaving Government Service

- Representing anyone on a particular matter you worked on before leaving government service and, for certain former employees, even assisting in such representation. (Ch. 4)
- Representing anyone on a particular matter that was under your responsibility within 1 year before leaving government service. (Ch. 4)
- For certain former employees, any contact with GAO about a particular matter for 1 year after leaving government service. (Ch. 4)

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### Political Activities

- Participating in certain partisan political activities. (Ch. 10)

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If you are a professional employee you should be aware of your responsibility to file financial disclosure reports. (Ch. 5). If you are not a full-time employee and work fewer than 130 days a year, you should read chapter 12 of this booklet.





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# Conflicts of Interest

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## The Issue

There is an actual conflict of interest whenever a private interest (financial or nonfinancial) might cause an employee to perform his/her official duties in a way other than if he/she did not have the private interest. There is an appearance of a conflict of interest whenever a reasonable person might suspect that the private interest would affect the employee's performance of his/her duties.

An actual conflict involving a financial interest may violate a criminal statute. An appearance of conflict, even one involving a personal rather than a financial interest, is a violation of GAO's ethical standards. It may involve administrative sanctions. See GAO Orders 2751.1 and 2751.2 setting forth disciplinary procedures and penalties under this and subsequent chapters.

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## Statutory Prohibition

Under the criminal statute, 18 U.S.C. § 208, an employee must refrain from participating personally and substantially in any particular matter in which the employee, his/her spouse, minor child, partner, organization in which he/she serves, or any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment, has a financial interest.

Example: Employee owns one or more shares in X Company. She participates in the technical evaluation of bids on a GAO solicitation. X Company is awarded the contract. A conflict of interest exists and the employee has violated the statute by participating personally and substantially in a matter in which she has a financial



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interest. This would be true even if the contract were awarded to a different company.

Example: Employee is an expert on navigable waters and is asked to testify in his official capacity before a congressional committee on an Army Corps of Engineers proposal to build a dam. The employee owns land that would be condemned or rezoned if the dam were built. Employee should not testify unless he first sells the land. There would be a conflict and a statutory violation even though he bends over backward not to favor his own interests.

Example: Employee is asked to participate in a GAO study group on alternatives to an existing contract for word processing equipment. Employee is negotiating for employment with IBX, a firm that would be a likely competitor for the contract if one of the alternatives were adopted. Participation in the study group is prohibited. By statute, the firm's potential financial interest is imputed to the employee when he is negotiating or has an arrangement concerning future employment with that firm.

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## GAO Proscribed Actions

GAO employees shall avoid any action which might result in or create the appearance of a conflict of interest or of:

- using public office for private gain,
- giving improper preferential treatment to any person,
- impeding Government efficiency or economy,
- making a Government decision outside official channels,

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- losing complete independence or impartiality, or
  - affecting adversely the confidence of the public in the integrity of the Government or its operations.

These prohibitions are contained in GAO Orders 2735.1 and 2735.2.

Example: Employee's wife is a lawyer in private practice who represents X Company, a small business concern, on a labor relations matter. The employee should not participate in an audit of a NASA program under which X Company is a prime contractor. The employee does not have a financial interest in the NASA program; however, he has a financial connection with X Company because of his wife's work. Since a reasonable person might suspect that that interest would influence the performance of his duties, causing him to lose impartiality or give preferential treatment to his wife's client, he should not serve on the audit team.

Example: Employee is asked to help evaluate a proposal by Y Company to furnish a training course for GAO employees. Last year the employee, on her own time and with permission, taught a portion of a similar course presented by Y Company for the Department of Energy. Although she does not have a continuing relationship with Y Company, she should not participate in the evaluation, to avoid an appearance of favoritism or speculation that her assessment of Y Company's proposal was influenced by the prospect of personal gain.



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Example: Employee is assigned to audit an Air Force procurement program on which her brother is the agency's technical representative. Employee has no actual financial interest in her brother's employment; however, the personal relationship could affect the employee's impartiality. To preserve the public's confidence in the integrity of the audit the employee should be reassigned to a different audit project. Note that a different conclusion would be warranted if the brother's employment with the Air Force were on an entirely unrelated program.

Example: Employee's golfing buddy works in the engineering department of a large company that is a potential grantee under a HUD program being audited by GAO. If the audit involves engineering concepts and if the relationship is one of long standing it might be appropriate for the employee to ask to be assigned to another project. If the relationship is casual and if the GAO audit is confined to an examination of HUD's accounting practices in relation to grant funds there would be no problem with the employee's continued assignment to the audit. Such determinations necessarily depend on a perception of the employee's ability, in view of the personal relationship, to deal objectively with his official responsibilities.

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## Alternatives to Consider

1. Divestiture of the interest, such as selling stock;
2. Disqualification from the particular assignment or change of assigned duties;
3. Waiver, available under 18 U.S.C. § 208 only for "insubstantial interests."

# Representing Others

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## Acting as Agent or Attorney

By law a government employee may not act as "agent or attorney" for prosecuting any claim against the United States. Also, he/she may not act as "agent or attorney" for anyone before any court or Federal department or agency in connection with any particular matter in which the United States has an interest. These prohibitions, contained in the criminal code at 18 U.S.C. § 205, apply even though the employee receives no compensation for his/her representational activities. By statutory exception an employee may act as agent or attorney for any person who is the subject of a disciplinary, loyalty or other personnel proceeding in connection with those proceedings, provided no compensation is received.

Example: Every year at tax time the employee helps his elderly uncle prepare his Federal tax return. Last year's tax return is being audited and the uncle has been asked to meet with an IRS official. It was fine for the employee to help prepare his uncle's tax return, but he cannot act as his uncle's representative in the meeting with IRS. His participation is limited to answering direct factual questions posed by IRS concerning preparation of the return. There is an exception permitting an employee to act as agent or attorney for his parents, spouse, children or other persons for whom he is serving as a guardian or other personal fiduciary.

Example: Employee's neighbor owns a small company that has filed a claim under its Government contract with FEMA. The neighbor complains that the claim is bogged down in "red tape." In the spirit of neighborliness the

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employee offers to track down the claim and get it moving. By acting as the neighbor's agent, the employee could subject himself to a fine of \$10,000 and 2 years imprisonment.

Example: Employee, a good talker, is asked to represent her co-worker in a disciplinary action brought against him by GAO. Employee may represent her co-worker under the statutory exception permitting her to act as agent or attorney without compensation for any person who is the subject of a disciplinary, loyalty or other personnel administration proceeding in connection with those proceedings.

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## Receiving Compensation

A related provision of the criminal code, 18 U.S.C. § 203, forbids an employee's receipt of compensation for services rendered by himself or another in relation to any particular matter before any commission, department or agency if the United States is a party or has a direct and substantial interest.

Example: Employee leaves GAO and joins the law firm of A, B, and C. While she was still with GAO the firm represented an Indian tribe on a claim before the Bureau of Indian Affairs. Although the firm did not bill the tribe for its legal fees until after the employee left GAO, the former employee may not share in the partnership income attributable to the firm's representational activities before BIA while she was a GAO employee. Note that the prohibition would not apply if the firm had represented the tribe in a court action against BIA.

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Example: GAO employee whose farm is adjacent to Federal land wants the National Park Service to build a fence to keep tourists from trespassing on his land. Employee may negotiate with the Park Service over the need for a fence to be built at government expense. Nothing prohibits an employee from representing himself against or before the government.

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## Partners

Partners of a current government employee are forbidden by 18 U.S.C. § 207(g) to act as “agent or attorney” on any particular matter (including a policy or rule-making matter) in which the government employee is participating or has participated “personally and substantially.”

Example: Employee and Joe Smith, both lawyers, are partners in a real estate venture. Employee drafted the Comptroller General decision denying X Company’s protest against the award of an Army contract. Joe Smith may not represent X Company in an appeal from the Comptroller General’s adverse determination, either before GAO or in court.



# Supplementation of Government Salary

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An employee may not receive any contribution to or supplementation of salary for his/her service to the government from outside parties. This is prohibited by criminal statute, 18 U.S.C. § 209. With respect to benefits received from a former employer, the issue to be determined is whether the former employer is providing a special benefit because of the individual's government employment.

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## Severance Pay

A severance payment made under a former employer's bona fide severance pay plan applicable to all retiring employees or partners may be accepted without violating 18 U.S.C. § 209. Payment should not be accepted, however, until the Office of Government Ethics has reviewed the plan and determined that the payment is for past services to the former employer as opposed to a supplementation of government salary.

Example: Employee leaves A & B Company to accept a position with GAO. A & B Company does not have an established severance pay plan. However, the Company wants to make a lump-sum payment to its former employee to make up for the fact that she is taking a cut in pay to work for the government. The payment would be illegal.

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## Pensions and Other Benefits

A Federal employee may continue to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus or other employee welfare or benefit plan maintained by a former employer.

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Example: Employee had 25 years of company service and had retired from A & B Company when he came to work for GAO. He may receive A & B pension payments while working for GAO without violating 18 U.S.C. § 209. However, because the pension is partly funded with stock in A & B Company, he must keep in mind that he has a financial interest in A & B Company and may not participate as a GAO employee in any matters affecting A & B Company.

In general, a pension will give a Federal employee an interest in matters affecting his/her prior employer unless the pension meets all of the following criteria:

- the pension is fully vested,
- the pension is fully funded,
- the pension is administered by a third-party trustee, and
- the pension fund does not hold a stock or other interest in the former employer.

Unless all of these criteria are met participation by the employee in his governmental capacity in any matter affecting his prior employer may constitute a conflict of interest (see Chapter 1).

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# Post-Employment Restrictions

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The restrictions on what former employees can do after leaving the government are contained in 18 U.S.C. § 207. This is a criminal statute. The Office of Government Ethics has issued detailed implementing regulations at 5 C.F.R., Part 737. All employees contemplating Federal employment, retirement or separation from the government are urged to familiarize themselves with these restrictions. They are set forth in capsulized version below:

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## Restrictions on All Former Employees

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### Permanent Ban

A former employee is forever barred from acting as a representative of any other person before a Federal court or agency with respect to "a particular matter involving a specific party or parties" in which the United States has an interest and in which he/she participated personally and substantially as a government employee.

Example: Employee is the evaluator in charge of an audit focusing on cost overruns under the Navy's LHV contract with Dry-Dock, Inc. Dry-Dock offers him a job as an accountant in its contracts branch. If he does anything short of rejecting the offer he must immediately be removed from the audit (see chapter 1). However, there is nothing to prohibit his acceptance of a job with Dry-Dock. He is merely precluded from representing Dry-Dock in its dealings with the Navy on the LHV contract. He can represent



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Dry-Dock in its dealings with the Maritime Administration on its LRX contract.

Example: Employee who helped draft GAO-approved accounting standards is offered a position with a "Big-8" accounting firm working with government contractors to bring their books into compliance with the new standards. The employee can take the job and can even represent the contractors in their dealings with the various government agencies that might become involved. Since the promulgation of accounting standards is a form of "rule-making" that does not involve specific parties, the prohibition does not apply.

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### Two-Year Ban

A former employee may not act as a representative of any other person for 2 years after terminating employment as to any "particular matter involving a specific party or parties" which was pending under his/her official responsibility within 1 year prior to termination of that responsibility.

Example: Employee is Chief of the Claim Settlement Group. Four months before the employee retires her subordinate denies a claim by X Company against the Department of Agriculture. Though the employee did not sign off on the denial, the claim was a particular matter involving specific parties that was pending under her official responsibility. Therefore, she cannot represent X Company in appealing that denial either at a higher administrative level or before the courts.

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## Additional Restrictions on Former Senior Employees

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### Definition

Senior employees include only those in designated high-level positions having significant decisionmaking or supervisory responsibilities. A listing of GAO's senior employee positions may be found in 5 C.F.R. 737.33. In general, they include only those at the level of Deputy Director or above.

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### Two-Year Ban on Aiding or Assisting

Within 2 years after terminating employment, a former senior employee may not represent, or aid, advise, counsel, or assist in representing by personal appearance any other person before the United States in a "particular matter involving a specific party or parties" in which he/she participated personally and substantially as a government employee.

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### The One-Year No- Contract Ban

For 1 year after terminating employment a former senior employee may not communicate with GAO on any particular matter, whether or not it involves a specific party, pending before GAO or in which GAO has a direct and substantial interest. This ban applies regardless of whether the former employee participated in the particular matter. There are specific exceptions for (1) officials representing state or local governments and certain institutions, (2) the furnishing of scientific or technical information,

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(3) testimony given under oath, and (4) communications of a personal nature.

Example: Six months after retirement, a former division director learns of newly proposed legislation that would adversely affect his retirement annuity. He may not contact any GAO employee to urge that GAO respond negatively to a request for comments on the bill, since the matter is pending before GAO. It makes no difference that it is a new matter that was not pending prior to his retirement and that he had no responsibility for retirement matters as a GAO employee. He is free, however, to communicate his views to Congress or to another government agency.

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# Financial Disclosure

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## Public Disclosure

Employees in the SES and others whose rate of pay is equal to or in excess of the rate for GS-16 and who are compensated at those rates for at least 60 days in a calendar year are required to file the Senate Public Financial Disclosure Report.

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## Confidential Disclosure

Professional employees in GS-7 and above and other designated employees who are not subject to the public disclosure requirements above must file a confidential Statement of Employment and Financial Interest. Most will file a GAO Form 310. Those expected to work fewer than 60 days in a calendar year will file a Form 311.

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## Interests Reportable

The major interests required to be reported on both forms are the following:

1. sources of earned income, such as commissions and royalties;
2. identity of property holdings such as real estate, stock and bonds;
3. liabilities;
4. other positions held;
5. agreements with former employers; and
6. gifts and reimbursements.

Certain of these requirements apply to interests of the employee's spouse and minor children. Most are subject to reporting only when the interest has a value in excess of a specified amount. Unlike the public disclosure forms, the confidential disclosure forms do not require any indication of the value of the interest.

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## Filing and Review Procedures

The procedures for filing and review of financial disclosure statements—upon initial appointment and annually thereafter—are set forth in GAO Order 2735.2.

The submission of a Financial Disclosure Statement does not relieve an employee of his responsibility to disqualify himself from any assignment that conflicts with a Financial or Non-financial Interest. The fact that an Interest is not reportable does not mean that it is not susceptible of giving rise to a conflict.

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# Outside Employment

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## Obtaining Approval

An employee may engage in outside employment, with or without compensation, if it is compatible with the full and proper discharge of his/her duties as a GAO employee, and if officially approved. Employment, with or without compensation, on the staff or in the office of a Member of Congress is incompatible with GAO employment and may not be approved. Permission ordinarily will not be granted for outside employment which:

- tends to impair the employee's mental or physical capacity to perform his/her GAO duties,
- is likely to result in criticism or cause embarrassment to GAO,
- creates the appearance of a conflict of interest,
- requires representation of clients before courts or government agencies, or
- has been obtained by means of his/her GAO employment.

Example: Employee wants to serve as a volunteer 2 nights a week with his community rescue squad. Approval is necessary even though he will receive no compensation.

Example: Employee is asked to speak before a private organization while on annual leave. The fee is \$1,000 and the subject matter is unrelated to GAO's work. Approval is necessary for even this one-time engagement.

Example: Employee is authorized to work nights preparing income tax returns. This is permissible where the taxpayer has no business

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with the U.S. Government, the employee is not involved in any GAO audit of IRS, and the employee does not intercede for the taxpayer before the courts or any Government body, such as the IRS.

Example: In the course of a GAO audit of Army's payroll procedures, employee impressed the private firm consulting on computerization of the Army payroll system. The firm offers the employee a job working weekends under a similar contract with the Navy. Outside employment request should be denied since the firm's offer was the result of individual's GAO employment and acceptance of offer is likely to result in criticism of GAO audit of Army payroll procedures.

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## Prohibited Practices

Employees with permission to engage in outside employment will not hold themselves out to the public as attorneys, accountants, or other professional practitioners by such means as placing their names on an office door, business cards, etc.

These matters are covered in Chapter 4 of GAO Order 2735.1.

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# Private Contributions for Travel Expenses

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## Travel on Official Business

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### General Prohibitions

Absent statutory authorization, an employee traveling on official business may not accept reimbursement for travel and living expenses from a private source. This prohibition includes travel on corporate planes and extends to offers by private sources to pick up travel expenses in excess of the government-authorized per diem. Unauthorized acceptance of private contributions may result in an improper augmentation of GAO's appropriation and it may amount to a supplementation of the individual employee's salary in violation of 18 U.S.C. § 209.

An employee may not be placed on annual leave or in a nonpay status to carry out what is essentially official business to allow him/her to accept travel expenses.

Example: An employee investigating treatment of laboratory animals throughout the country incurs travel expenses in excess of the per diem and transportation reimbursed by the government. He may not accept an offer from an animal rights organization or any other organization to make up the difference and supplement the government's travel payments.

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### Major Exception

An employee, with proper administrative approval, may accept such expenses from a



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tax-exempt organization described in 26 U.S.C. § 501(c)(3) incident to non-government training or a seminar or meeting attended on official business. Though many groups are exempt from taxation, an employee may accept travel expenses only if the organization has been granted tax exempt status by the Internal Revenue Service under subsection 501(c)(3). In general, this subsection is used to exempt foundations organized and operated for religious, scientific, charitable and educational purposes.

**Caution on Using the Exception**

- (1) Receipt must not be incompatible with or give the appearance of a conflict of interest with the employee's official duties.
- (2) Any gifts of transportation, lodging, food and entertainment received by the employee or his/her spouse from any source aggregating \$250 or more in value must be reported on the employee's financial disclosure statement.

Example: A GAO headquarters employee has just completed a review of research grant procedures in the government. The report has been released. A group of scientists asks him to chair a panel entitled "The Grant Review Process" to be held in San Francisco. Since the subject matter of the panel relates to the employee's work for GAO his attendance would be a matter of official business and the employee may not accept travel expenses unless the group has been granted an exemption from taxation under 26 U.S.C. § 501(c)(3) by the IRS.

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## Travel While on Annual Leave

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| General Rule | An employee may accept reimbursement for expenses of travel when not engaged on official business, provided he is on annual leave, in a leave-without-pay status, or otherwise on his own time. |
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| Exception | Even when traveling on his own time for purposes other than official business, an employee may not accept travel expenses from a non-government source if that source, whether an individual or an organization: |
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- has or is seeking to obtain contractual or other business relations with the Federal Government;
- otherwise has interests that may be substantially affected by the performance or nonperformance of the employee's official duty; or
- conducts operations or activities that are subject to audit, investigation, decisions or regulation by GAO.

Example: In his free time a GAO employee is an avid bird watcher. A group of biologists offers to pay for him to travel to its annual conference in Paris to deliver a speech on the migratory habits of Snow geese. The employee is working on a GAO investigation of the use of primates for scientific experimentation, a matter in which the group has an interest. The employee may not accept the travel expenses even though the travel would be performed on annual leave.

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These matters are covered in Chapter 2 of GAO Order 2735.1.

GAO does not have authority to accept gifts or donations. An employee should not accept anything of value on the erroneous assumption that there is authority to accept it on GAO's behalf.

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# Speaking, Lecturing and Writing

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## Approval of Content

Employees who participate with or without compensation in external writing or public speaking activities are required to obtain advance approval of the material to be covered if any reference is to be made to:

- the individual's employment by GAO,
- the work of GAO, or
- Federal programs or public policy issues within the employee's area of assigned evaluation responsibility.

Approval should be obtained in accordance with GAO Order 1350.1. In considering the applicability of this Order to their planned activity, employees are urged to consult their supervisors.

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## Speaking at Meetings or Seminars Sponsored by Private Organizations

Where participation has been determined to be a matter of official business, a GAO employee may speak at a meeting or seminar even though it is sponsored or administered by a private organization that charges a fee for attendance. Factors to be taken into account in authorizing an employee to speak at a privately sponsored meeting or seminar should include:

1. GAO's interest in disseminating the particular information in this manner, and
2. the government's interest in seeing that the overall presentation reflects a proper balance between private and governmental concerns.

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## Acceptance of Honoraria

It is the policy of GAO that an employee may not accept an honorarium or anything of monetary value for a consultation, lecture, discussion,

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writing or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of GAO, or which draws substantially on either official data or ideas which have not become a part of the body of public information. In addition, the acceptance of an honorarium for an official appearance may amount to a supplementation of the employee's salary in violation of the criminal statute, 18 U.S.C. § 209.

Even where the subject matter of a GAO employee's speech is unrelated to GAO's work, and the employee is on his own time, the amount of any honorarium he may receive is limited by 2 U.S.C. § 441i to no more than \$2,000 for any one appearance. Honoraria in excess of \$100 must be reported on the employee's financial disclosure statement.

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## Use of Official Titles

The basic rule is that an employee who properly attends a meeting or seminar on annual leave or personal time may not use his/her title as a title. The reason is that employees should avoid any action that might create the appearance of the use of public office for private gain.

Example: Assistant General Counsel, GAO, is asked by a private company to teach a course on tax refunds. GAO determines this is not official business. Materials listing faculty of the course may not list the individual as Assistant General Counsel, GAO. However, material providing a brief description of employee's qualifications may state, along with other background information about the individual, that the individual currently serves as Assistant General Counsel, GAO. The employee is not on

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official business and should not appear that he is, nor should the company be permitted to use the title to solicit business.

These matters are covered in GAO Order 2735.1.



# Gifts, Entertainment and Favors

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## Prohibition Against Acceptance of Gifts

GAO employees may not accept gifts, gratuities, favors, entertainment, loans or any other thing of monetary value from anyone:

- who has or seeks to obtain business or financial relations with the Federal Government,
- whose interests may be substantially affected by the performance or nonperformance of a GAO employee's official duty, or
- who conducts operations which are subject to audit, investigation, decision, or regulation by GAO.

There are exceptions for the following:

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## Family Relationships

An employee may accept a gift or other thing of monetary value where the circumstances make it clear that it was given because of a family relationship.

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## Food and Refreshments

Food and refreshments of nominal value may be accepted on infrequent occasions in the ordinary course of meetings or on an inspection tour where the employee is properly in attendance.

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## Advertising and Promotional Materials

Unsolicited advertising or promotional materials, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value may be accepted.

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## Loans

Loans from banks and other financial institutions may be accepted on customary terms.



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Example: Employee in defense audit work has a brother-in-law who works for a major defense contractor. While in Washington, D.C., on business the brother-in-law meets the employee for lunch and at the end of the meal offers to put the tab on his expense account. The employee should decline the offer and pay for his own lunch. Once it became apparent that the brother-in-law intended to bill the lunch to his expense account, it also became clear that the motivation for entertaining the employee was something more than their family relationship.

Items not of an advertising or promotional nature may not be accepted even though they are of nominal value.

Example: GAO employee frequently travels on official business. As part of its advertising and promotional activities, Fly-By-Nite Airlines offers "frequent fliers" a nontransferable bonus trip to Honolulu for every 20,000 miles traveled. The employee cannot accept the bonus trip if government funds financed any of the 20,000 qualifying miles traveled. The bonus trip does not fall within the exception for promotional materials of nominal value and the Comptroller General has held that employees may not retain "half-fare" coupons or similar items of value received from a commercial air carrier on the basis of the purchase of an airline ticket to be used for official travel.

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**Prohibition  
Against Gifts to  
Superiors**

An employee may not:

- solicit a contribution from another employee for a gift to an official superior,
- make a donation as a gift to an official supervisor, or

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- accept a gift from an employee receiving less pay than himself. (5 U.S.C. § 7351)

There is an exception permitting an employee to give customary voluntary gifts or donations upon special occasions such as marriage, illness, or retirement.

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### The Foreign Gifts and Decorations Act

The Constitution provides that no officer or employee of the United States Government, without the consent of Congress, may accept "any present, Emolument, Office or Title, of any kind whatever, from any King, Prince or foreign State." Congress, by enacting the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342, has given its consent to an employee's acceptance of certain gifts and decorations from foreign governments and international organizations. The GAO regulations implementing this Act, including reporting and deposit requirements, are contained in GAO Order 2735.3.

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### Travel Expenses

It is the general policy of GAO not to permit foreign governments or international organizations to pay travel expenses in excess of minimal value of GAO employees which may be authorized out of appropriated funds. The Committee on Ethics and Conflicts of Interest may approve exceptions as specified in GAO Order 2735.3.

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### Gifts Other Than Travel Expenses

Employees may accept and retain gifts of minimal value from foreign governments and international organizations. There is authority for an employee to accept intangible gifts in excess of minimal value where refusal would be likely to

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adversely affect the foreign relations of the United States, as well as gifts of medical treatment and gifts in the nature of an educational scholarship. Other intangible gifts should be declined.

Tangible gifts in excess of minimal value should be declined whenever possible. There is authority, however, for such gifts to be accepted on behalf of the United States where refusal would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. Any such tangible gifts must be deposited with the Office of Security and Safety and may not be retained for personal use by individual employees.

No decoration awarded an employee by a foreign government or international organization shall be retained or worn unless approved by the Committee on Ethics and Conflicts of Interest.

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**Minimal Value**

The amount that qualifies as a minimal value under the Foreign Gifts and Decorations Act is redefined from time to time by regulation. As of the publication of this booklet, minimal value is \$140 or less. This amount is relevant only to foreign gifts and is not to be used for determining whether other gifts may be accepted.

# Political Activities

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## Prohibited Activities

1. GAO employees may not take part in political management or political campaigns;
2. GAO employees may not use their official authority or influence either to interfere with or affect the results of an election, or to coerce the political action of a person or body;
3. GAO employees may not request or receive from, or give to, an employee, a Member of Congress, or an officer of the uniformed services anything of value for political purposes.

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## Permissible Activities

1. GAO employees may vote as they choose, express their opinions on political subjects and candidates, and make financial contributions to political parties or organizations;
2. GAO employees may participate in a nonpartisan campaign or election. A nonpartisan election is one where none of the candidates represent a political party which had candidates for presidential elector in the last presidential election;
3. GAO employees may engage in political activity which is not specifically identified with a national or state political party. This includes questions relating to constitutional amendments, referendums, etc.
4. GAO employees may take an active part in political management and political campaigns in connection with partisan elections for local offices in the District of Columbia, and in specified political subdivisions of Maryland, Virginia,

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and elsewhere (see GAO Order 2733.2) provided:

- a. Participation may only be as an independent candidate or on behalf of, or in opposition to an independent candidate;
- b. Candidacy or service in an elective office does not create a conflict or the appearance of a conflict of interest and does not interfere with performance of the employee's responsibilities for GAO.

The holding of elective office constitutes outside employment and requires advance approval.

# Miscellaneous Provisions

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## Misuse of Inside Information

For the purpose of furthering a private interest, an employee shall not use official information obtained in connection with his/her government employment which has not been made available to the general public. Also see GAO Order 1330.1, Availability to Public of General Accounting Office Records.

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## Discrimination

It is the policy of GAO to provide equal opportunity to its employees and applicants for employment and to prohibit discrimination in employment because of race, color, religion, sex, national origin, handicapping condition, age, marital status or political affiliation. These matters are covered in GAO Order 2713.1.

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## Gambling, Betting and Lotteries

Employees are not allowed to participate while on government-owned or leased property or on duty for the government in any gambling activity, lottery or money pool.

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## Meeting Financial Obligations

Employees are expected to meet their personal financial obligations in a manner which does not reflect adversely on GAO as an employer. The salary of GAO employees is subject to garnishment for payment of delinquent Federal income taxes, child support and alimony.

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## Use of Government Resources

Employees have a duty to protect and conserve government property. They may not use government property for other than officially approved activities.

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**Automobiles  
and Telephones**

An employee is prohibited by statute from using government automobiles for other than official business (31 U.S.C. § 1344). Employees are prohibited by statute from charging the government for long-distance telephone calls for other than official business (31 U.S.C. § 608a).

# Special Government Employees

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In general, the principles set forth in this booklet apply to all GAO employees, including experts and consultants appointed on a temporary or intermittent basis. However, special government employees—those appointed to work less than 130 days in any 365-day period—are subject to less stringent rules in certain areas:

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**Conflicts of Interest  
(Chapter 1)**

Special government employees are subject to the self-dealing prohibitions of 18 U.S.C. § 208 and to special conflict-of-interest standards that prohibit them from using their positions or any inside information in a manner that gives even the appearance of being motivated by a desire for private gain for themselves or other persons, particularly those with whom they have family, business or financial ties.

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**Representing Others (Chapter 2)**

Special government employees are subject to less stringent rules against representational activities under 18 U.S.C. §§ 203 and 205.

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**Supplementation of Government Salary (Chapter 3)**

The rule against supplementation of government salary at 18 U.S.C. § 209 does not apply to special government employees.

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**Post Employment Restrictions (Chapter 4)**

With limited exceptions from the 1 year no contact ban, the post employment prohibitions of 18 U.S.C. § 207 apply to former special government employees.



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| Financial Disclosure (Chapter 5)                      | There is a special confidential financial disclosure form (Form 311) for special government employees who work less than 60 days in a calendar year. In addition, there is authority by which the reporting requirements may be waived as not warranted by the nature of the special government employee's duties.                                       |
| Outside Employment (Chapter 6)                        | Special government employees may engage in outside employment without prior approval.  |
| Private Contributions for Travel Expenses (Chapter 7) | The rules on acceptance of private contributions for travel apply to special government employees.   |
| Speaking, Lecturing and Writing (Chapter 8)           | A special government employee may, without prior approval, engage in teaching, lecturing or writing, provided he/she does not use information obtained through his/her government employment which has not been made available to the general public.  |
| Gifts, Entertainment and Favors (Chapter 9)           | With the same exceptions applicable to regular employees, special government employees are subject to similar limitations on receiving or soliciting, for themselves or other persons (particularly one with whom they have family, business, or financial ties) anything of value as a gift, gratuity, loan, entertainment, or favor from a person who: |

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|  | <ol style="list-style-type: none"><li>1. has, or is seeking to obtain, contractual or other business or financial relations with GAO, or</li><li>2. has interests which may be substantially affected by the performance or nonperformance of his/her official duties.</li></ol>   |
| Gifts to Superiors<br>(Chapter 9)        | These rules apply to special government employees.   |
| Foreign Gifts<br>(Chapter 9)             | These rules apply to special government employees.   |
| Political Activities<br>(Chapter 10)     | Special government employees who serve on an intermittent basis are subject to the restrictions on political activities only on the days they actually perform services for GAO. Other special government employees, those hired on a temporary basis or otherwise having a regular tour of duty, are subject to the restrictions during the entire period they serve as employees of GAO. |
| Miscellaneous Provisions<br>(Chapter 11) | <p>These rules apply to special government employees.</p> <p>Special government employees should familiarize themselves with Chapter 5 of GAO Order 2735.1 and the financial disclosure requirements of GAO Order 2735.2.</p>  |

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# Miscellaneous Statutory Provisions

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1. The prohibition against bribery of public officials (18 U.S.C. § 201);
2. The prohibition against acceptance or solicitation of anything of value to obtain public office for another (18 U.S.C. § 211);
3. The prohibition against lobbying with appropriated funds (18 U.S.C. § 1913);
4. The prohibition against disloyalty and striking (5 U.S.C. § 7311, and 18 U.S.C. § 1918);
5. The prohibition against employment of a member of a Communist organization (50 U.S.C. § 784);
6. The prohibition against disclosure of classified information (18 U.S.C. § 798);
7. The prohibition against disclosure of confidential information (18 U.S.C. § 1905);
8. The prohibition against misuse of the franking privilege (18 U.S.C. § 1719);
9. The prohibition against interference with civil service examinations (18 U.S.C. § 1917);
10. The prohibition against fraud and false statements (18 U.S.C. § 1001);
11. The prohibition against concealing, removing, or mutilating public records (18 U.S.C. § 2071);
12. The prohibition against counterfeiting and forging transportation requests (18 U.S.C. § 508);

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13. The prohibition against embezzlement and theft of government money, property, or records (18 U.S.C. § 641);
  14. The prohibition against failure to account for public money (18 U.S.C. § 643);
  15. The prohibition against wrongfully converting property of another (18 U.S.C. § 654);
  16. The prohibition against unauthorized use of documents relating to duties (18 U.S.C. § 285);
  17. The prohibition against solicitation of political contributions (18 U.S.C. § 602);
  18. The prohibition against solicitation of political contributions in federal buildings (18 U.S.C. § 607);
  19. The prohibition against making political contributions through a government employee or Senator or Representative (18 U.S.C. § 603);
  20. The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. § 219);
  21. The prohibition against the employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. § 7313);
  22. The prohibition against knowingly disclosing information pursuant to the exercise of responsibilities or authorities relating to geological or geophysical information (42 U.S.C. § 6382(e)(2)).

# GAO Orders Referred to in this Booklet

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**Order Number**

|        |   |
|--------|---|
| 1330.1 | Availability to public of General Accounting Office records   |
| 1350.1 | Policy pertaining to external writing and speaking activities of employees of the General Accounting Office |
| 2713.1 | Equal employment opportunity in the General Accounting Office   |
| 2733.2 | Political Activities—Political subdivisions in which employees can participate in partisan elections        |
| 2735.1 | Code of ethics including employee responsibilities and conduct  |
| 2735.2 | Conflict of interest and statements of employment and financial interests                                   |
| 2735.3 | Gifts and decorations from foreign governments  |
| 2751.1 | Discipline  |
| 2751.2 | Table of disciplinary offenses and penalties  |



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