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U.S. DEPARTMENT OF AGRICUTLURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION	NUMBER: 4070-735-001
SUBJECT: Employee Responsibilities and Conduct	DATE: October 4, 2007
	OPI: Office of Human Capital Management

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1. PURPOSE

The purpose of this directive is to set forth the Department of Agriculture's (USDA) policies, procedures, and standards on employee responsibilities and conduct. Although it specifically addresses many ethics and conduct requirements, it is not intended to cover all possible situations.

2. REFERENCES

This directive must be used in conjunction with:

a. 5 United States Code (USC), Chapter 73, Suitability, Security, and Conduct;

b. Executive Orders 12674 and 12731, Principles of Ethical Conduct for Government Officers and Employees;

c. 5 Code of Federal Regulations (CFR), part 735, Employee Responsibilities and Conduct;

d. 5 CFR, part 2635, Standards of Ethical Conduct for Employees of the Executive Branch (hereinafter referred to as "*Standards*"); and

e. 5 CFR, part 8301, Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture (hereinafter referred to as "*USDA Supplement*"). Employees shall adhere to these and other related standards, policies, and regulations promulgated by USDA and its agencies.

3. SPECIAL INSTRUCTIONS

This directive supersedes Personnel Bulletin Number 735-1, Employee Responsibilities and Conduct, dated November 12, 1996, as extended by memorandum dated December 18, 1998.

4. POLICY

It is USDA's policy that its employees:

a. Maintain high standards of honesty, integrity, and impartiality;

b. Adhere to the rules set forth in this directive, as well as all directives referenced in section 2 of this directive;

c. Comply with lawful supervisory direction; and

d. Comply with work-related laws, regulations, and policies.

5. DEFINITIONS

For the purpose of this directive, the following terms are defined as set forth below:

a. Agency. An organizational unit of the Department, other than a staff office as

defined below, whose head reports to an Under Secretary.

b. Ethics Advisor (EA). Employees within the USDA Office of Ethics (OE) responsible for providing ethics advice and guidance.

c. Deputy Ethics Official (DEO). An employee delegated the authority by the Designated Agency Ethics Official under Office of Ethics Issuance 02-2, to administer ethics program functions within an agency or staff office.

d. Designated Agency Ethics Official (DAEO). The employee designated by the Secretary to manage the USDA Ethics Program in accordance with 5 CFR § 2638.203.

e. Personally Identifiable Information. Any information about an individual maintained by an agency, including, but not limited to, financial transactions, medical history, or criminal history, and information which can be used to distinguish or trace an individual's identity, such as their name, social security number, date and place of birth, mother's maiden name, biometric records, etc. including any other personal information which is linked or linkable to an individual.

f. Office of Ethics (OE). Office within USDA Departmental Administration responsible for administering ethics regulations and statutes governing employee conduct; conducting public confidential financial disclosure reporting programs; developing and implementing supplemental ethics policies; providing advice and assistance to USDA employees; training employees on all ethics statutes, regulations, and policies.

g. Staff Office. A Departmental administrative office whose head reports to the Secretary.

h. Staff Office Head. The head of a staff office or an official who has been delegated the authority to act for the head of the staff office in the matter concerned.

i. Supervisor. An employee having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or having responsibility to direct them, adjust their grievances, or effectively recommend such action if, in connection with the foregoing, the exercise of authority is not of a merely routine or clerical nature but requires the use of independent judgment.

6. ABBREVIATIONS

AWOL – Absence Without Leave
CFR – Code of Federal Regulations
DAEO – Designated Agency Ethics Official
DEO – Deputy Ethics Official
EA – Ethics Advisor
GSA – General Services Administration
MSPB – Merit Systems Protection Board
OE – Office of Ethics
OPM – Office of Personnel Management
OSC – Office of Special Counsel
PII – Personally Identifiable Information
USC – United States Code
USDA – Department of Agriculture

7. RESPONSIBILITIES

a. Agency and Staff Office Heads are responsible for:

(1) Ensuring that every current employee is provided with a current copy of this directive within 90 days of its issuance; and

(2) Ensuring that every new employee is furnished a copy of this directive at the time of appointment.

b. Supervisors are responsible for:

(1) Maintaining high standards of ethical conduct. They must become familiar with and comply with the requirements in this directive, the *Standards*, and the *USDA Supplement*; and

(2) Responding to employee questions on matters covered by this directive, the *Standards*, and the *USDA Supplement*, and/or referring employee ethics questions to the USDA Office of Ethics or an appropriate EA.

8. DELEGATION OF AUTHORITY

Unless otherwise stated, any authorities delegated in this directive may be redelegated to a level of management that has the experience and/or training to administer the authority.

9. EMPLOYEE NOTIFICATION

The employee notifications set forth in section 7(a) of this directive may be provided either electronically or by hard copy. In conjunction with receiving a copy of this directive, every employee must be provided information on where to direct questions regarding its content.

10. SUPPLEMENTATION

Agencies and staff offices may supplement this directive with prior approval of the Director, Office of Human Capital Management. Supplemental regulations issued by agencies or staff offices may not conflict with, but may expand upon and be more restrictive than, the contents of this directive. Agencies and staff offices must provide copies of any supplemental regulations to employees as required in sections 7(a) and 9 of this directive.

11. PROHIBITED ACTIVITIES

Employees are prohibited from:

a. Engaging in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government at any time;

b. Conducting or participating in any gambling activity including the operation of a gambling device, conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket while on Government-owned or Government-leased property or while on duty for the Government. This does not preclude:

   (1) Activities necessitated by an employee's official duties; or

   (2) Fundraising permitted under section 7 of Executive Order 12353 and similar agency-approved authorities;

c. Engaging in teaching, lecturing, or writing, as part of their official duties performed at or for any educational institution or other organization that discriminates because of race, creed, color, sex, religion, age, national origin, physical or mental disability, or sexual orientation in the admission or subsequent treatment of students;

d. Engaging in teaching, lecturing, or writing, with or without compensation, to prepare a person or class of persons for an examination administered by the Office of Personnel Management (OPM) or the Board of Examiners for the Foreign Service that depends on information obtained as a result of the employee's government employment. This does not preclude such teaching,

lecturing, or writing if:

(1) Prior written authorization is obtained from the Director of OPM, or his or her designee, or by the Director General of the Foreign Service or his or her designee, as applicable. Employees should seek advice from OE concerning the application of the restrictions on compensated teaching, speaking, and writing under the *Standards* (5 CFR §2635.807) and the requirement to seek prior USDA approval for outside employment under the *USDA Supplement*, even when authorization has been obtained; or

(2) The information upon which the preparation is based has been made available to the general public or will be made available to the general public on request;

e. Using an intoxicating substance on Government-owned or Government-leased property (except when authorized by the Office of Operations for the Washington, D.C. complex; the Agency Head in field locations owned by USDA; or the Agency Head in field locations leased by USDA or controlled by the General Services Administration (GSA), upon concurrence by the lessor or the appropriate GSA official in accordance with policy contained in Departmental Regulation 1630-001), "Use of Alcoholic Beverages and Narcotics in USDA Occupied Space", or transporting or using an intoxicating substance in a Government-owned or leased vehicle;

f. Harassing employees by word or action, or knowingly making false accusations against employees;

g. Monitoring telephone conversations, recording telephone conversations by device, or authorizing or permitting others under their administrative control to monitor telephone conversations or record telephone conversations by device, except:

(1) As authorized by the Inspector General or his or her designee, with the prior consent of one party to a telephone conversation and when necessary in a criminal investigation;

(2) When all parties agree in advance; or

(3) In the context of a telephone call center or similar operations. In such situations, supervisors may monitor or record telephone conversations for the purpose of evaluating performance of employees with proper notice to all parties to the communication;

h. Utilizing any device to monitor or record non-telephone conversations, except:

(1) As authorized by the Inspector General or his or her designee, with the

prior consent of one party to a non-telephone conversation and when necessary in a criminal investigation;

(2) When all parties agree in advance; or

(3) When in the context of telephone call center or similar operation. In such situations, supervisors may monitor or record telephone conversations for the purpose of evaluating performance of employees with proper notice to all parties to the communication;

i. Soliciting for the sale of any article, or selling any article, including but not limited to candy or other items for schools or charities, kitchenware or other home furnishings, paper products, cosmetic products; or any other items whatsoever, in person or by distributing or posting literature, advertising material, or any other graphic matter, in or on Government-owned or leased property, or property occupied by USDA, unless authorized by law or regulation;

j. Engaging in sexual misconduct including, but not limited to, unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment;

k. Failing to take appropriate action on complaints or proven acts of sexual harassment (this applies to supervisor or managers who know or should have known of those acts);

l. Displaying discourteous conduct or disrespect to a coworker, another Federal employee, or a member of the public when acting in an official capacity;

m. Failing to wear or use specified safety equipment, or failing to report obvious unsafe conditions while on official duty; and/or

n. Making threats against other employees, members of the public, or Government property.

12. ATTENDANCE AND LEAVE

a. Every employee must observe designated duty hours and be punctual in reporting for work and returning from lunch periods. Tardiness can result in employees being placed in a non-pay status for unauthorized absence; i.e., absence without leave (AWOL).

b. Every employee must normally obtain advance authorization for any absence

from duty. Approval of leave is a discretionary matter reserved to the supervisor. The use of leave is not a right afforded to an employee, but is conditioned on the needs of USDA service. Where absence from duty results from illness or an emergency, an employee is required to notify his or her supervisor or other appropriate person as soon as possible. When an employee fails to properly notify his or her supervisor, the absence may be charged as AWOL.

c. Leave is administered in accordance with 5 CFR § 630 and applicable USDA, agency, and staff office policies.

13. SALE OF PERSONAL PROPERTY

a. Personal property offered for sale by USDA may be purchased by employees only when the sale of such property is based upon competitive bids.

b. No purchase may be made by an employee who:

(1) Was formerly accountable for the property;

(2) Formerly used the property; or

(3) Was in any way connected with its condemnation, declaration as excess, or sale.

The above prohibitions do not apply in the following situations:

(1) Surplus perishable products may be sold to employees at the best price obtainable in quantities not exceeding the needs of their immediate households;

(2) Surplus Government property may be sold to employees when it is being sold to the general public; and

(3) Special clothing and other articles or personal equipment purchased for the exclusive use of and fitted to an individual employee may, when not otherwise usable by USDA and in all respects are surplus to the needs of the Government, be sold to such employees at the best price obtainable in the event of their separation from USDA or permanent assignment to duties not requiring such clothing or equipment.

14. USE OF GOVERNMENT VEHICLES

a. Every employee is prohibited, unless specifically authorized by the agency in accordance with Departmental Regulation 5400-5, "Use of Government Vehicles for Home to Work", from storing Government-owned or Government-leased motor vehicles at or near their private residence or at other unauthorized locations including, but not limited to, homes of relatives or friends, or from using such vehicles for transportation between their residence and place of employment.

b. No employee shall use Government-owned or Government-leased vehicles to transport unauthorized passengers.

c. Every employee is required to wear seat belts whenever riding as an operator or as a passenger in a truck, automobile, or other passenger vehicle in the performance of official duties or while on official time.

d. Unless authorized to do so in the performance of official duties, every employee is prohibited from using Government-owned or Government-leased vehicles to transport firearms or explosives.

15. FOREIGN ASSIGNMENTS

An employee serving on foreign assignment must fully comply with Department of State's regulations governing the post to which he or she is assigned.

16. COMPUTERS AND TELECOMMUNICATIONS EQUIPMENT

a. Unless an employee has specific authorization, he or she is prohibited from accessing any USDA or Federal government electronic, laser, or magnetic system of storing information, or computer software, not expressly identified for public or general access. This prohibition includes, but is not limited to computers of all types, floppy diskettes, compact or laser discs, and magnetic tapes. Employees without specific authorization may be subject to disciplinary or adverse action regardless of whether they use, damage, or make alterations to the stored information.

b. Every employee must adhere to the requirements of Departmental Manual 3525-000, "Internet and E-Mail Security" and other policies and regulations involving the use of information technology, telecommunications resources, and equipment owned and leased by USDA. Every employee must comply with acceptable use policies for telecommunication equipment as contained in Departmental Regulation 3300-001, "Telecommunications and Internet Services and Use", and in Departmental Regulation 1710-001, "Interception

and Monitoring of Conversations."

17. PERSONALLY IDENTIFIABLE INFORMATION

a. Every employee who has access to personally identifiable information (PII) of other employees, contractors, or the general public through the course of his or her employment at USDA is required to safeguard and protect such information from unauthorized disclosure.

b. Every employee is required to immediately report any known or suspected breach of the PII safeguards or policies, or actual unauthorized disclosure of PII to his or her supervisor.

18. RETALIATION AND REPRISAL

No employee may retaliate against another, by word or action, for filing complaints about safety problems, for filing grievances under either the negotiated or administrative grievance system, for filing complaints of discrimination, for assisting the investigators of USDA, or for engaging in any other protected activity.

19. REPORTING MISCONDUCT

a. Every employee is required to report actions by other employees that they know, or have a reasonable basis to believe, are violations of law or regulation. A report may be made to the USDA Office of Inspector General, the employee's supervisor, or any appropriate USDA management official.

b. Violations include, but are not limited to:

(1) Fraud, waste, and abuse of Government resources;

(2) Criminal activity of any kind;

(3) Violations of Federal personnel rules;

(4) Sexual harassment;

(5) Prohibited personnel practices; and

(6) Violations of this directive, the *Standards*, or the *USDA Supplement*.

20. MISCELLANEOUS CONDUCT PROVISIONS

a. Fiscal Responsibility. Any money, property, or other item of value received by or coming into the custody of an employee in connection with the discharge of his or her duties must be accounted for, deposited, appropriately secured, properly maintained, or otherwise disposed of in accordance with established procedures. Fiscal responsibility includes the proper use of Government-issued credit cards and the timely payment of claims.

b. Cooperation with Oversight Agencies. Every employee is required under Subchapter A., Part 5, Regulations, Investigation, and Enforcement (Rule V) to provide OPM, the Merit Systems Protection Board (MSPB), and the Office of Special Counsel (OSC), and their authorized representatives, all information and testimony in regard to matters arising under laws, rules, and regulations administered by OPM, MSPB, and OSC, the disclosure of which is not otherwise prohibited by law or regulation.

c. Cooperation with USDA Investigations. Every employee is required to provide all information he or she possesses to authorized representatives of USDA when called upon, if the inquiry relates to official matters and the information is obtained in the course of employment or as a result of relationships incident to such employment. Such activities include participating in interviews requested by authorized representatives of USDA and furnishing signed, sworn/affirmed statements to the authorized representatives. Failure to respond to requests for information, including the furnishing of signed sworn/affirmed statements in a timely manner, or failure to appear as a witness in official proceedings may result in disciplinary action. (Nothing set forth herein shall be deemed to infringe upon an employee's right to invoke the protection of the Fifth Amendment to the United States Constitution with respect to self-incrimination in a criminal investigation or for a bargaining unit employee to request union representation in accordance with his or her rights under 5 USC §7114 (a)(2)(B) – Weingarten Rights.)

d. Details, Reassignments and Transfers. Supervisors have the authority to transfer, detail, and reassign an employee whenever necessary to meet operational needs, subject to applicable regulations and collective bargaining agreement provisions. Every employee has an obligation to accept a transfer, detail, or reassignment. Failure to accept a transfer, detail, or reassignment may result in an adverse action including separation of the employee.

e. Firearms and Weapons. In accordance with 18 USC §930 and its exceptions, every employee is prohibited from knowingly possessing or causing the presence of a firearm or other dangerous weapons in a Federal facility (i.e. a

building or part thereof, owned, or leased by the Federal government, where Federal employees are regularly present for the purpose of performing their

official duties), or in a Federal court facility.

f. Prohibited Personnel Practices. Every employee who has the authority to take, direct others to take, recommend, or approve any personnel action (Prohibited Personnel Practices, 5 USC §2302 (b)), is prohibited from:

(1) Discriminating on the basis of race, color, religion, sex, age, national origin, disability, marital status, or political affiliation;

(2) Soliciting or considering employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;

(3) Coercing the political activity of any person;

(4) Deceiving or willfully obstructing any person from competing for employment;

(5) Influencing any person to withdraw from job competition for the purpose of improving or injuring the prospects of any other person for employment;

(6) Granting any preference or advantage not authorized by law, rule, or regulation to improve or injure the prospects of any particular person for employment;

(7) Engaging in nepotism (hiring, promoting, or advancing relatives);

(8) Taking reprisal for whistleblowing;

(9) Taking reprisal for the exercise of an appeal right;

(10) Discriminating based on personal conduct which does not adversely affect the performance of the employee, applicant, or others;

(11) Violating veteran's preference requirements; or

(12) Violating any law, rule, or regulation implementing or directly concerning merit system principles.

21. DISCIPLINARY OR ADVERSE ACTION

a. A violation of any of the responsibilities and conduct standards contained in this directive may be cause for disciplinary or adverse action.

b. Disciplinary or adverse action shall be effected in accordance with applicable law and regulations.

-END-