



**Billing Code: 4810-25-P**

## **DEPARTMENT OF THE TREASURY**

### **31 CFR Part 0**

#### **Department of the Treasury Employee Rules of Conduct**

**AGENCY:** Department of the Treasury.

**ACTION:** Interim final rule.

**SUMMARY:** The Department of the Treasury (the “Department” or “Treasury”) is updating its Employee Rules of Conduct, which prescribe uniform rules of conduct and procedure for all employees and officials in the Department.

**DATES:** Effective date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comment due date: [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Treasury invites comments on the topics addressed in this Interim Final Rule.

Comments may be submitted through one of these methods:

- **Electronic Submission of Comments:** Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department to make them available to the public. Comments submitted electronically through the <http://www.regulations.gov> web site can be viewed by other commenters and interested members of the public.
- **Mail:** Send to Department of the Treasury, Attention: Brian Sonfield, Room 2020, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

In general, Treasury will post all comments to [www.regulations.gov](http://www.regulations.gov) without change, including any business or personal information provided, such as names, addresses, e-mail addresses, or telephone numbers. Treasury will also make such comments available for public inspection and copying in Treasury's Library, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622-0990. All comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Please send questions by email to Brian Sonfield at [brian.sonfield@treasury.gov](mailto:brian.sonfield@treasury.gov) or by phone on 202-622-0450.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 1, 1995, the Department issued Employee Rules of Conduct prescribing uniform rules of conduct and procedure for all employees and officials in the Department. Treasury is now amending the Employee Rules of Conduct to account for current Department structure resulting from organizational changes that established new bureaus within Treasury and transferred certain functions and/or bureaus from the Department. This rule also amends the Rules of Conduct to remove provisions that pertain solely to standards of ethical conduct. The standards of ethical conduct governing employees of the Department are contained in uniform standards of ethical conduct promulgated by the Office of Government Ethics that apply to all executive branch personnel, codified at 5 CFR part 2635 (Executive Branch-wide Standards), and in the Supplemental Standards of Ethical Conduct for Employees of the Department of the

Treasury, codified at 5 CFR part 3101 (Treasury Supplemental Standards). Finally, this rule amends the Rules of Conduct to ensure the efficient functioning of the Department and to conform to changes in the law or Department policy. This rulemaking revises part 0 in its entirety.

## **II. Analysis of the Regulations**

### *Subpart A – General Provisions*

The provisions contained in subpart A state the purpose and applicability of the Rules of Conduct, as well as the responsibilities of the Department’s employees and managers in implementing and complying with the included regulations. Subpart A also identifies other rules of conduct applicable to Department employees, and it includes a definitional section. Omitted from the definition of “Bureau” because they are no longer bureaus of the Department are the Bureaus of Alcohol, Tobacco and Firearms (ATF), Federal Law Enforcement Training Center (FLETC), the United States Customs Service (USCS), and the United States Secret Service (USSS). New bureaus or offices include the Alcohol and Tobacco Tax and Trade Bureau (TTB), the Office of the Treasury Inspector General for Tax Administration (TIGTA), the Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and the Financial Crimes Enforcement Network (FinCEN). Additionally, the Office of Thrift Supervision (OTS) was abolished by statute and certain functions of OTS have been integrated into the Office of the Comptroller of the Currency (OCC). The Department also consolidated the Bureau of Public Debt (BPD) and the Financial Management Service (FMS) into a new Bureau of the Fiscal Service (BFS).

### *Subpart B – Rules of Conduct*

Subpart B sets out the conduct regulations that all Department employees and officials are required to follow. Generally, the rules regulate employee conduct, including, for example, the use of government issued charge cards, the care of documents and data, the use of government property, and the use of controlled substances and intoxicants.

### **III. Matters of Regulatory Procedure**

#### *Administrative Procedure Act*

Under 5 U.S.C. 553(a)(2), rules relating to agency management and personnel are exempt from the rulemaking requirements of the Administrative Procedure Act (APA). As set forth in the description of the interim final rule, this rule affects only the Department and its personnel; therefore, the APA requirements for prior notice and opportunity to comment and a delayed effective date are inapplicable. Even if this rulemaking were subject to APA procedures, the Department finds that good cause exists, pursuant to 5 U.S.C. 553(b) and (d), that the requirements for prior notice and comment are unnecessary because the rule affects only Treasury employees.

#### *Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

#### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) requires an agency to prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary

impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. This rule generally sets out the conduct regulations that all Department employees and officials are required to follow. The Department therefore has determined that the rule will not result in expenditures by state, local or tribal governments or by the private sector of \$100 million or more. Accordingly, the Department has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

### **List of Subjects in 31 CFR Part 0**

Government employees.

For the reasons set forth in the preamble, 31 CFR part 0 is revised to read as follows:

## **PART 0 – DEPARTMENT OF THE TREASURY EMPLOYEE RULES OF CONDUCT**

### **Subpart A—General Provisions**

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Authority: 5 U.S.C. 301.

## **Subpart A—General Provisions**

### **§ 0.101 Purpose.**

The regulations in this part prescribe procedures and standards of conduct that are appropriate to the particular functions and activities of the Department of the Treasury (Department).

### **§ 0.102 Applicability.**

(a) Unless otherwise specified, the regulations in this part apply to all employees of the Department at all times, regardless of whether they are on duty or on leave, including leave without pay.

(b) The regulations in this part may be supplemented by regulations, interpretive guidelines and procedures issued by the Department's offices and bureaus. The absence of a specific published rule of conduct covering an action or omission does not validate that action or omission nor indicate that the action or omission would not result in corrective or disciplinary action.

### **§ 0.103 Other rules of conduct applicable to Department employees.**

In addition to the regulations in this part, employees of the Department are subject to other applicable statutes and regulations, including the following:

(a) The Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635;

(b) The Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury at 5 CFR part 3101;

(c) Political Activities of Federal Employees regulations at 5 CFR part 734;

(d) The Employee Responsibilities and Conduct regulations at 5 CFR part 735; and

(e) Department of the Treasury Disclosure of Records regulations at 31 CFR part 1.

**§ 0.104 Definitions.**

The following definitions are used throughout this part:

(a) Bureau means:

(1) Alcohol and Tobacco Tax and Trade Bureau;

(2) Bureau of Engraving and Printing;

(3) Bureau of the Fiscal Service;

(4) Departmental Offices;

(5) Financial Crimes Enforcement Network;

(6) Internal Revenue Service;

(7) Office of the Comptroller of the Currency;

(8) Office of the Inspector General;

(9) Office of the Special Inspector General for the Troubled Asset Relief

Program;

(10) Office of the Treasury Inspector General for Tax Administration;

(11) United States Mint; and

(12) Any other organization designated as a bureau by the Secretary of the

Treasury pursuant to appropriate authority.

(b) Person means an individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, organization, or institution.

(c) Employee means an officer or employee of the Department regardless of grade, status or place of employment, including an employee on leave with pay or on leave without pay.

Unless stated otherwise, employee shall include a special government employee.

(d) Special government employee means an officer or employee of the Department who is retained, designated, appointed, or employed, regardless of type of appointment, to perform temporary duties on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365-consecutive days. 18 U.S.C. 202(a).

(e) On Department property means present in a building, on property, or in space owned by, leased by, occupied by, or under the control of the Department.

**§ 0.105 Responsibilities of employees and supervisors.**

(a) Employees shall comply with all generally accepted rules of conduct, the specific provisions of this part, and other applicable regulations. An employee with questions about generally accepted rules of conduct, the specific provisions of this part, and other applicable regulations should consult his or her supervisor, a human resources specialist, or Bureau counsel.

(b) Supervisors, because of their day-to-day relationships with their employees, are responsible for ensuring that their employees maintain high standards of conduct. Supervisors must be familiar with this part and other applicable regulations and must apply generally accepted rules of conduct, the standards in this part, and the standards in other applicable regulations to the work they do and supervise. Supervisors shall take appropriate action, including disciplinary action, when violations of this part or other applicable regulations occur.

**§ 0.106 Corrective action.**

An employee's violation of generally accepted rules of conduct, the standards in this part, or the standards in other applicable regulations may result in appropriate corrective or disciplinary action, in addition to any penalty prescribed by law.

**Subpart B—Rules of Conduct**

**§0.201 Acting within scope of authority.**

An employee shall not engage in any conduct or activity that is in excess of his or her authority or is otherwise contrary to any law, regulation, or Department policy.

**§0.202 Conformance with policy and subordination to authority.**

(a) Employees are required to comply with the lawful directives of their supervisor and other management officials.

(b) Employees shall be familiar and comply with regulations and published instructions that relate to their official duties and responsibilities.

**§0.203 Reporting suspected misconduct.**

(a) An employee shall immediately report to his or her supervisor, to any management official, or to the applicable Office of Inspector General:

(1) Any information that the employee reasonably believes indicates a possible offense against the United States by an employee of the Department or any other individual working on behalf of the Department, including, but not limited to, bribery; fraud; perjury; conflict of interest; misuse of funds, government purchase or employee

travel credit cards, equipment, or facilities; and other conduct which is prohibited by title 18 of the United States Code;

(2) Any suspected violation of a statute, rule, or regulation, including this part and the regulations referenced in section 0.103 of this part;

(3) Any instance in which another person inside or outside the federal government uses or attempts to use undue influence to induce an employee to do or omit to do any official act in derogation of his official duty; and,

(4) Any information that the employee reasonably believes indicates the existence of an activity constituting:

(i) Mismanagement, a gross waste of funds, or abuse of authority;

(ii) A substantial and specific danger to the public health and safety;

(iii) A threat to the integrity of programs and operations relating to the Department; or

(iv) A violation of merit systems principles or a prohibited personnel practice as described in 5 U.S.C. 2301 and 2302.

(b) Bureau counsel who, during the course of providing advice to or representation of a bureau, acquire information of the type described in paragraph (a) of this section, shall report the information to the reporting employee's supervisor, the Chief or Legal Counsel, or the Deputy General Counsel, who shall report such information to the relevant Inspector General.

(c) This section does not cover matters addressed through employee grievances, equal employment opportunity complaints, Merit Systems Protection Board appeals, classification appeals, or other matters for which separate, formal systems have been established.

**§0.204 Prohibition of reprisal for reporting suspected misconduct.**

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for providing any information in accordance with § 0.203 of this part or through other processes established by law. However, if an employee makes a complaint or discloses information with the knowledge that it was false, or with willful disregard of its truth or falsity, such conduct may be grounds for disciplinary action, and such action shall not constitute reprisal.

**§ 0.205 Controlled substances and intoxicants.**

Employees shall not sell, offer to sell, buy, offer to buy, use, or possess, controlled substances in violation of federal law. Employees shall not use or be under the influence of alcohol in a manner that adversely affects their work performance. Employees may consume alcohol on Department property only when authorized in accordance with Department or bureau policies and directives.

**§ 0.206 Strikes.**

Employees shall not participate in a labor strike, work stoppage, or work slowdown against the government.

**§ 0.207 Possession of weapons or explosives.**

(a) Employees shall not possess firearms, explosives, or other dangerous weapons, as defined at 40 U.S.C. 5104(a), either openly or concealed, while on Department property or while on official duty.

(b) The prohibition of paragraph (a) of this section does not apply to the possession of authorized weapons or explosives by employees who are required to possess such authorized weapons or explosives in the performance of their official duties.

**§ 0.208 Care of agency records.**

(a) Employees shall not remove, alter, destroy, mutilate, access, copy, or retain documents or data in the custody of the federal government or provided to them in the course of their employment, without proper authorization.

(b) The term “documents” includes, but is not limited to, any written, printed, typed or other graphic material, recording, computer tape, disk or hard drive, storage medium, blueprint, photograph, or other physical object on which information is recorded, including all copies of the foregoing by whatever means made, and any electronic file, data, or information stored on or created on a government computer, database, application, program, network, or storage medium.

**§ 0.209 Disclosure of records or information.**

(a) Employees shall not disclose or use official information without proper authority. Employees authorized to make disclosures should respond promptly and courteously to requests from the public for information when permitted to do so by law.

(b) Employees who have access to information that is classified for security reasons in accordance with Executive Order 13526, or any successor Executive Order governing Classified National Security Information, are responsible for its custody and safekeeping, and for assuring that it is not disclosed to unauthorized persons. See 18 U.S.C 798; 50 U.S.C 783(a); 31 CFR part 2.

**§ 0.210 Cooperation with official inquiries.**

Employees directed by competent Department or other federal authority to provide oral or written responses to questions, or to provide documents and other materials concerning matters of official interest, shall timely respond fully, truthfully, and, when required, under oath.

**§ 0.211 Falsification of official records.**

Employees shall not intentionally or with willful disregard make false or misleading statements, orally or in writing, in connection with any matter of official interest. Matters of official interest include, but are not limited to, the following: official reports and any other official information upon which the Department, the Congress, other government agencies, or the public may act or rely; transactions with the public, government agencies or other government employees; application forms and other forms that serve as a basis for any personnel action; vouchers; time and attendance records, including leave records; work reports of any nature or accounts of any kind; affidavits; record of or data concerning any matter relating to or connected with an employee's duties; personnel records; and reports of any moneys or securities received, held or paid to, for or on behalf of the United States.

**§ 0.212 Use of government property.**

(a) An employee shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for other than officially approved activities. This includes the use of government-provided information technology equipment, internet access, cellular telephones, personal digital assistants, and other devices in a manner that is inconsistent with the Department's policy permitting reasonable personal use. An employee has a positive duty to protect and conserve government property including equipment,

supplies, intellectual property, and other property made available, entrusted, or issued to the employee for official use.

(b) Employees shall not use government vehicles for unofficial purposes, including to transport unauthorized passengers. The use of government vehicles for transporting employees between their domiciles and places of employment is prohibited except when authorized by the Secretary pursuant to 31 U.S.C. 1344 or other statute.

### **0.213 Government issued charge cards**

(a) Employees shall not make improper purchases with government contractor-issued charge cards.

(b) Employees shall timely pay undisputed amounts owed on government contractor-issued travel charge cards.

### **§ 0.214 Conduct while on government property.**

(a) Employees must adhere to the regulations that govern the conduct of individuals who are in the buildings or space occupied by, or on grounds of, particular government property.

(b) Employees shall not solicit, make collections, canvass for the sale of any article, or distribute literature or advertising on Department property without appropriate authorization.

### **§ 0.215 Recording government business.**

An employee shall not electronically transmit, or create audio or video recordings of, conversations, meetings, or conferences in the workplace or while conducting business on behalf of the Department, except where doing so is part of the employee's official duties.

### **§ 0.216 Influencing legislation or petitioning Congress.**

Except for the official handling, through the proper channels, of matters relating to legislation in which the Department has an interest, employees shall not use government time,

money, or property to petition a Member of Congress to favor or oppose any legislation or proposed legislation, or to encourage others to do so.

**§ 0.217 Nondiscrimination.**

(a) Employees shall not discriminate against or harass any other employee, applicant for employment, contractor, or person dealing with the Department on official business on the basis of race, color, religion, national origin, sex, sexual orientation, age, disability, political affiliation, marital status, parental status, veterans status, or genetic information.

(b) Supervisors shall not retaliate against an employee for complaining about suspected unlawful discrimination or harassment, seeking accommodation for a disability, or otherwise exercising their right to be free from unlawful discrimination.

(c) An employee who engages in discriminatory or retaliatory conduct may be disciplined under these regulations, as well as other applicable laws. However, this section does not create any enforceable legal rights in any person.

**§ 0.218 General conduct prejudicial to the government.**

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the government.

Dated: February 12, 2016. \_\_\_\_\_

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Brodi Fontenot  
Assistant Secretary for Management  
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