

For: RMA Employees

Loss of Impartiality Provision [5 CFR Part 2635] Guidelines

Approved by: Acting Administrator, RMA



1 Overview

A Background

During recent years, RMA has hired employees that have previously worked in the private insurance industry. Some RMA new hires may have previously worked for the approved insurance providers or their affiliates.

B Purpose

This notice establishes and provides guidelines for loss of impartiality provisions to all RMA employees.

2 Guidelines

A Imputed Financial Interests

Under 5 CFR Part 2635, subpart D, a Federal employee may **not** “participate personally and substantially” in a “particular matter” in which they have a financial interest. An employee’s financial interest includes an “imputed financial interest.” Imputed financial interests include the following:

- employee’s spouse
- employee’s minor children
- employee’s general partners
- an organization in which the employee serves as an officer, trustee, general partner, or employee
- any person or organization with whom the employee is negotiating or arranging for employment.

Disposal Date	Distribution
November 1, 2009	All RMA employees; State Offices relay to County Offices

2 Guidelines (Continued)

B Loss of Impartiality

The loss of impartiality provision (5 CFR Part 2635, subpart E) applies particularly to RMA employees. The stated restrictions are relevant to **all** RMA employees who have worked in the private insurance industry before entering Federal service.

Generally, impartiality provisions state that a Federal employee must **not** give preferential treatment to anyone when performing their official duties. Specifically, an employee may **not** participate in a “particular matter involving a specific party” that involves financial interests of the employee’s household members, or those with whom the employee has a “covered relationship”.

C Definition of Covered Relationship

Covered relationship includes the following:

- business and financial relationships
- household members
- close relatives
- organizations in which a spouse, parent, or dependent child serves as a fiduciary
- employee’s **non-Federal employers in the last year**
- organizations, **not** political parties, in which the employee is an active participant.

New RMA employees, for 1 year after leaving their previous employer, may **not** work on particular matters; such as contracts, investigations, audits, reviews, etc., in which their former employer is a party or represents a party.

D Length of Restrictions

A covered relationship ends after 1 year, **unless** the employee has a continuing financial relationship with his or her former employer. The 1-year “cooling-off period” applies to **all** Federal employees.

In addition, there is a 2-year restriction against participating in a “particular matter” involving a former employer from whom an employee received an “extraordinary payment”.

2 Guidelines (Continued)

E Definition of Extraordinary Payment

Extraordinary payment means any item, including cash or an investment interest, with a value in excess of \$10,000 that a former employer offers:

- after learning of considering or accepting a Federal position
- which probably would **not** be offered otherwise.

Note: This provision is primarily applicable to more senior employees who had significant roles in their previous organizations.

Under some circumstances, an employee may be assigned to a matter that could affect someone with whom he or she has a covered relationship, but these circumstances are rare and should be avoided, if possible.

Example: Bill, an investigator with OIG, has been assigned to investigate a potential criminal violation of 18 U.S.C. 201 involving a gratuity provided to a senior USDA official by ABC Corp. Bill previously worked for ABC Corp. in his spare time during the past year. There is no continuing financial tie between Bill and ABC Corp., but a “covered relationship” exists about a “particular matter involving specific parties.” However, based on Bill’s expert knowledge of ethics statutes and certain program-related issues involved, the agency designee might determine that the interests of USDA in having Bill apply his expertise on this investigation outweighs the concern that a reasonable person may question the integrity of the investigation. The decision to assign Bill, notwithstanding his “covered relationship,” should be documented according to 5 CFR 2635.502(d)(6).

3 Action

A Manager and Supervisor Actions

Effective immediately, managers and supervisors **must**:

- inform employees of their responsibilities in this notice
- incorporate information in this notice into new employee orientation.

B RMA Employee Actions

RMA employees **must** inform their supervisor of the following:

- potential conflicts of interest
- covered relationships that involve parties to particular matters on which they are assigned.

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4 Contacts

A Ethics Specialist

If there are questions about this notice or for further information, contact Andrew Tobin, Ethics Specialist, by any of the following:

- e-mail to **andrew.tobin@da.usda.gov**
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B Ethics Web Site

The USDA, Office of Ethics web site is at **<http://www.usda-ethics.net>**.