

assignment if the combined value of those holdings is no more than \$50,000.

Note: To decide whether this exemption may be used you must add together your holdings and those of your spouse and minor children in calculating the value of the securities.

Sometimes stock (or another security) that is valued under the maximum amount allowable at the beginning of an assignment increases in value while you are working on the assignment. This might happen, for example, when you are monitoring a contract with a company in which you own less than \$15,000 worth of stock. As soon as you realize that the value of the stock is more than \$15,000, you must stop working on the assignment until you divest the amount of stock over \$15,000 or receive an individual waiver that would allow you to continue to participate.

If you believe you might have a conflict of interest with your official duties, you should immediately discuss the matter with your direct supervisor. The supervisor will help you determine if a conflict is present and, if so, what to do about it. If you or your supervisor determines that legal advice is needed, contact your ethics counselor.

References:

18 U.S.C § 208; 5 C.F.R § § 2635.402, 502, 2640, and 2640.201



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If you need advice on a particular situation, please contact SAF/GCA to set up an appointment with one of the attorneys.

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FINANCIAL CONFLICTS OF INTEREST

“Integrity First”



FINANCIAL CONFLICTS OF INTEREST

Sometimes your government work may benefit you or your family personally, or may affect individuals or organizations that you have some connection with outside your government job. In these circumstances, the public could be concerned that you will be motivated by considerations other than your desire to do what is best for the public as a whole. Because the success of our government system depends upon maintaining the confidence of the public, your department or agency might decide that you should not be involved in a certain assignment because the public might question your objectivity.

Of course, the public is likely to consider some circumstances more troublesome than others. Recognizing this, Congress passed a criminal conflict of interest law, 18 USC § 208, which prohibits you from working on an assignment in some situations—even if you know you can be objective and even if your supervisor wants you to work on it.

Financial Interests

Specifically, this law says that you may not work on an assignment that you know will affect your own financial interests or the financial interests of your spouse or your minor child. The prohibition also applies if you know the assignment will affect the financial interests of your general partner, or of an organization that you serve as an officer, director, employee, general partner, or trustee and affect the financial interests of someone with whom you have an arrangement for employment, or with whom you are negotiating for employment.

When you are unable to work on an assignment because of this conflict of interest, an agency can often reassign the matter to another employee. However, if that is not possible or if your inability to work on that particular assignment means you will not be doing the job the government hired you to do, then your agency can require you to remove yourself from the situation causing the conflict.

Exemptions to Conflicts of Interests

This pamphlet describes some examples that are exempt from conflicts of interest law. Three of the more widely used exemptions are those for interests in mutual funds, employee benefit plans, and securities. If you need help in deciding whether your situation presents a conflict or whether you can use any of the exemptions, you should consult with an ethics official. Sometimes, when an exemption does not apply, you may be able to obtain an individual waiver that will allow you to work on your assignment.

Diversified Mutual Funds

You may participate in assignments or projects affecting the holdings of a diversified mutual fund. In order to determine whether you may use this exemption, you will need to know whether your interest is in a “diversified” mutual fund. This exemption is not limited by the value of your interest in the fund or number of shares you hold. As long as your interest is in a diversified mutual fund, this exemption applies.

Your fund is *diversified* if it does not have a policy of concentrating its investments in an industry, business, country (other than the U.S.) or state. You can often tell if a fund concentrates its investments by the name of the fund. For example, if the fund name contains the word “telecommunications” or “Canada,” it’s a good indication that the fund is concentrated. Funds that concentrate their investments in this way are sometimes called “sector” funds. You can always check the fund’s prospectus or call the manager of the fund if you are unsure.

Employee Benefit Plans

You may participate in assignments or projects affecting the holding of a federal government Thrift Savings Plan, a state or local government pension plan, or other diversified employee benefit plan. Your interest in the holdings of this plan as well as in the holdings of state or local government pension plans, are considered too indirect or

inconsequential to concern the public.

The exemption also applies to interests in other types of employee benefit plans, usually pension plans from former employers. In the case of these other plans:

- The plan manager should have a written policy of diversifying assets.
- The investments of the plan must be administered by an independent trustee.
- The plan must not be a profit sharing or stock bonus plan (other than a 401(k) plan).

If the trustee does not have a formal document stating that the plan assets will be diversified, he or she can simply provide that information in a letter to you.

Securities

With certain limitations described below, you may participate in assignments or projects affecting companies or other entities in which you own stocks, bonds, or other securities. The exemption applies only if the securities are listed on a stock exchange or through NASDAQ, issued by a registered investment company, or long-term government or municipal bonds.

If the company that issued the stock or bond you own is directly involved in a matter to which you have been assigned, then you may participate if you have no more than \$15,000 in holdings in the company. In practical terms, this exemption applies when you have been assigned to work on a grant, contract, application for approval or benefits, case in litigation, claim against the government, or other type of similar matter that involves the company as a “party.”

If the government matter to which you have been assigned does not involve “parties,” but is a broader or more general type of matter (like drafting a regulation) focused on the interests of a distinct class of persons, you may work on your assignment if you own no more than \$25,000 worth of securities in a company that is part of the class affected by the matter. If you have holdings in more than one company affected by the matter, you can work on your