

March 21, 2000

OFFICE OF ADMINISTRATIVE SERVICES

ADVISORY MEMORANDUM NO. 2000-6

TO: All Offices

SUBJECT: Conflict of Interest and Disclosure of Interest – Uniform Department Application of Civil Service Rules 2-21 and 2-22

PURPOSE

These are procedural guidelines to comply with the Rules of the Civil Service Commission (see attached Civil Service Rules 2-21 and 2-22), and to provide for uniform departmental interpretation of these rules in order to gain public confidence in state government and the employees of the Department of Management and Budget.

GENERAL INFORMATION

I. CONFLICT OF INTEREST: Conflict of interest or the appearance of a conflict of interest created by the financial or personal interests of an employee is one of the most sensitive issues in the conduct of governmental affairs. It is incumbent upon the Department to conduct the affairs of the state in such a manner that the personal interests of its employees are neither served nor appear to be served through the conduct of these activities. To avoid situations that could be interpreted as conflicting with their official duties and responsibilities, employees are prohibited from participating in the following, each of which constitutes an interest conflict:

1. Divulging or releasing any confidential information for the purpose of fostering personal financial gain or financial gain for a member of the employee's immediate family.
2. Engaging in any business transaction or private arrangement for personal financial gain or financial gain for a member of the employee's immediate family, which accrues from or is based on the employee's official position or on confidential information gained by reason of the employee's position.
3. Soliciting, accepting, or agreeing to accept anything of value under any circumstances which could reasonably be expected to influence the manner in which the employee performs work or makes decisions.
4. Granting or making available to any person any consideration, treatment,

advantage or favor beyond that which it is the general practice to grant or make available to others under similar circumstances.

5. Representing or acting as agent for any private interests, whether for compensation or otherwise, in any transaction where the state has a direct and substantial interest and which could reasonably be expected to result in a conflict between the private interests of the employee and the employee's official state responsibilities.
6. Having any substantial interest in, or having a member of the employee's immediate family have such interest in, any business or industry concerning which the employee directly, in a significant decision-making capacity, participates on behalf of the state in the regulation, enforcement, auditing, licensing, or purchasing of any goods or services.

II. DISCLOSURE OF INTEREST: It is recognized that some employees may perceive the Disclosure of Interest of their financial and personal interests as being an imposition and intrusion into their private affairs. The object of such Disclosure of Interest, however, is not just to protect the state but also, and perhaps more importantly, to protect the employee from after-the-fact determinations which could be prejudicial to the employee's good name and endanger his/her job. The personal and/or financial interests of employees and/or their immediate family members must be disclosed if that employee's official duties include:

1. The authority to purchase or award contracts.
2. Developing or approving specifications for contracts, or recommending the purchase or award of contracts.
3. Substantial regulatory or enforcement responsibilities.
4. Inspection or approval of work performed by businesses or persons who are not state employees.
5. Auditing financial records of businesses or individuals.
6. Supervision of any of the employees engaged in activities 1-5 above.

Employees with official duties noted above will be required to complete Disclosure of Interest statements on an annual basis. Each employee determined by the department to meet the disclosure of interest requirement shall be given written notice of that determination. In the absence of such notice, no disclosure is required. A copy of the Annual Disclosure Statement form is attached.

III. DISCLOSURE OF CONTACTS: In addition to completing the Annual Disclosure Statement form, an employee who is given notice shall report in writing to the employee's supervisor each contact between the employee and any person doing business with the state in which the employee receives anything of value (see definition) unless determined to be de minimus (see definition). A written memorandum shall be filed with the employee's supervisor within fourteen (14) calendar days after the reportable contact. The memorandum must detail the date of contact, donor, item received, and estimated value.

DEFINITIONS

Anything of Value: Anything of value means any tangible or intangible item, including, but not limited to, services, entertainment, recreation, travel, food, beverages, event tickets, gifts, loans, or money. Exceptions as to when anything of value may be accepted are listed below:

1. Situations in which, in the judgment of the employee concerned, the state's interest will be served by the participation by Department personnel in activities at the expense of a vendor, contractor, or government unit. In any such case in which Department personnel accept any gratuity, favor, entertainment, etc., either directly or indirectly from any person, firm, corporation, or any other entity which is engaged in or endeavoring to engage in official transactions of any sort with the Department, a written memorandum detailing the circumstances (date of contact, donor, item received, and estimated value) must be prepared and forwarded within 14 calendar days to the employee's supervisor. Memoranda will be retained as required at the office level. NOTE: Reporting of the receipt of de minimus items, as noted in III above, is not required.
2. Things available impersonally to the general public or classes of the general public.
3. Social activities engaged in by officials of the Department with local government officials as part of community relations programs.
4. Training courses and seminars in which all expenses are borne by the vendor, contractor, or governmental unit in accordance with contract provisions or devoted to technical developments in which the only "gratuity" may be the giving of lectures free of charge. Guidance for appropriate action in this area should be secured from the Office of Administrative Services.
5. Food or beverage provided in the course of a normal business meeting.

Confidential Information: Is information that is exempt from disclosure under basic statutes or under the Freedom of Information Act.

Covered Employees: Because of the nature of the Department of Management and Budget, all employees are covered under the Conflict of Interest rule. The Disclosure of Interest rule

applies to those employees whose official duties are outlined in II.

De minimus Contacts: This refers to the receipt of anything of value which is so de minimus that its receipt could not be reasonably expected to influence the manner in which the employee performs work or makes decisions. These contacts are exempted from the reporting requirements. The limits on de minimus contacts are as follows:

1. Receipt of any single tangible or intangible item with a fair market value exceeding ten dollars.
2. Receipt of any combination of tangible or intangible items during any consecutive three-month period from the same business, entity, or person with an aggregate fair market value exceeding forty dollars.
3. Receipt of any amount of money, including a loan of money.

Financial Interests: Financial interests exist where an employee or member of an employee's immediate family owns or controls substantial amounts of securities or in any way stands to obtain financial benefit from an organization with which the employee has substantial regulatory, enforcement, or purchasing or contracting responsibilities.

Immediate Family: Includes the employee's spouse, children, parents or foster parents, parents-in-law, brothers, sisters, and any individual for whom the employee maintains the legal Power of Attorney or whose financial or physical care is the principal responsibility of the employee.

Personal Interests: Personal interests exist where an employee or his/her immediate family is compensated or employed in any manner by an organization with which the employee affects purchases, contracts, audits, examinations, licenses or regulates or acts in an enforcement capacity.

EMPLOYEE'S RESPONSIBILITY

It is the responsibility of every employee to follow this policy. The employee is also responsible for keeping his/her supervisor informed of any change in his/her own standing or that of a member of the immediate family which would tend to create a conflict or give the appearance of such conflict.

SUPERVISOR'S RESPONSIBILITY

Due to the broad range of this Department's activities and responsibilities, the opportunity for conflict of interest is substantial. It is the supervisor's responsibility to assign responsibilities and duties to minimize opportunity for conflict of interest in each position assigned supervision. The supervisor should clearly explain what types of situations are to

be avoided and why.

CORRECTIVE ACTION

Violations of this policy will be subject to the Department's corrective action process. Depending upon the nature of the infraction, management's response may include penalties up to, and including, dismissal.

OBSOLETE LETTERS

Administrative Services Letters Number 1-18 and 1-31 are rescinded.

Distribution of Memorandum

Please retain one copy of this memorandum in a central file for future reference and forward additional copies, as necessary, to those individuals within your agency responsible for daily administration of the subject activity.

Questions regarding this letter may be directed to Rose Wilson at 37-30219.

Your cooperation and adherence to this procedure is appreciated.

Rose Wilson, Director
Office of Administrative
Services

Attachment

[Civil Service Rule 2-21](#)

[Civil Service Rule 2-22](#)