

**DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE MANUAL**

TRANSMITTAL SHEET

Release No. 303

SUBJECT: Administrative Series
Part 370 – Personnel
Sub-Part 735 – Employee Responsibilities and Conduct
Chapter 23 – Outside Work and Activity

EXPLANATION OF MATERIAL TRANSMITTED

To combine the policy currently published as Outside Work and Activity with the policy currently published as Nonofficial Expression and to update all guidelines contained therein.

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Director

FILING INSTRUCTIONS

REMOVE:

<u>Part</u>	<u>Chapter</u>	<u>Pages</u>	<u>Release</u>
370	735.23	8	132
370	735.4	5	126

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<u>Part</u>	<u>Chapter</u>	<u>Pages</u>	<u>Release</u>
370	735.23	4	303

OPR: Human Resources Division
Administration and Budget

Date: October 22, 2008

**Minerals Management Service
Minerals Management Service Manual**

Effective Date: October 22, 2008

Series: Administrative

Part 370: Personnel

Chapter 735: Employee Responsibilities and Conduct

Subchapter 23: Outside Work and Activity - General Provisions

Originating Office: Administration and Budget, Human Resources Division, Ethics Office

1. Purpose: To combine the policy currently published as Outside Work and Activity with the policy currently published as Nonofficial Expression and to update all guidelines contained therein.

2. Objectives: To ensure employee understanding and compliance with the Office of Government Ethics (OGE) and Department of the Interior (Department) Guidelines concerning Outside Work and Activity, to include teaching, speaking, and writing.

3. Policy: It is the policy of the Minerals Management Service (MMS) to administer Outside Work and Activity to appropriate law and regulations.

4. Authority: The primary statutes governing Federal and Department guidelines concerning Outside Work and Activity are 5 USC 301, 7301; 5 USC App. (Ethics in Government Act of 1978) 30 USC 1211; 43 USC 11, 31 (a); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306; along with 5 CFR Subpart H 2635.801 through 2635.807 Outside Activities, and 5 CFR 3501.105 Outside Employment and Activities.

5. Definitions:

A. Outside work or activity: The provision of services, paid or unpaid, that is not part of an employee's official duties or responsibilities with the MMS. It includes teaching, speaking, and writing for compensation when such activity is related to the employee's official duties or the mission of the Department or the MMS. Service in a nonofficial capacity (i.e., not representing the MMS or the Department) as an officer, employee, trustee, member of a board of directors (or other positions having fiduciary responsibilities) of an outside entity, company, State/local government, individual, or organization whose interests are related to the Department is considered outside work or activity. Mere membership in an outside organization does not constitute outside work or activity for purposes of this chapter.

B. Prohibited source: The meaning provided in 5 CFR § 2635.203(d), as supplemented by § 3501.102, and includes any person who:

- (1) Is seeking official action by the MMS;
- (2) Does business or seeks to do business with the MMS;
- (3) Conducts activities regulated by the MMS; or
- (4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

This also includes an organization, a majority of whose members are described in subparagraphs B. (1) through (4) above.

For the purposes of defining a prohibited source, the term "person" has the meaning set forth in 5 CFR § 2635.102(k) and includes an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity. For purposes of this chapter, a corporation will be deemed to control a subsidiary if it owns 50 percent or more of the subsidiary's voting securities. The term is all inclusive and applies to commercial ventures and nonprofit organizations as well as to foreign, State, and local governments, including the Government of the District of Columbia. It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity or behalf of that agency or entity.

6. Requirements concerning prior approval of outside work or activity.

A. In accordance with departmental guidelines as noted in 5 CFR 3501.105, and as a requirement of the MMS policy, an MMS employee must request a prior written recommendation for approval from his or her supervisor and receive the approval of the Assistant Ethics Counselor, to engage in outside work or activity only in situations which meet the criteria provided below:

- (1) Work or activity that is related to the employee's official duties with the MMS;
- (2) Work or activity that is related to the mission of the Department; or
- (3) Work or activity that is performed for a prohibited source, as defined above.

This includes work with "any" outside entity, company, State/local government, individual, or organization (including but not limited to, a professional organization, non-profit organization, or partnership organization); regardless of whether or not the employee receives compensation.

B. If there is a significant change in an employee's job duties or in the nature of the previously approved outside work or activity, an employee must submit a revised request for approval to continue to engage in the outside work or activity.

C. When engaging in outside work or outside activities, the MMS employee must avoid actions creating an appearance of violating any of the ethical standards, including the prohibition against the use of official position for his/her private gain, or to benefit any person with whom he/she has employment or business relations or is otherwise affiliated in a non-government capacity.

7. Form of request for prior approval of outside work or activity.

A request for prior ethics approval to engage in outside work or activity must be submitted, through the supervisor, to the MMS Ethics Office on the MMS-1510 form or any other form published by the Department for this specific purpose. The information provided by the employee must include:

- A. The employee's name, official title, office address, and office telephone number;
- B. A brief description of the employee's official duties;
- C. The nature of the outside work or activity, including a description of the specific duties or services to be performed;
- D. The name of the prospective outside entity, company, State/local government, individual, or organization for which the outside work or activity is to be performed;
- E. The amount of compensation to be received (if any);
- F. The starting and expected ending dates (if known); and
- G. Certification from the employee that he/she:
 - (1) Understands that participating in an official matter (including providing a recommendation or advice) that could directly affect the financial interests of the outside entity, company, State/local government, individual, or organization could violate 18 USC § 208, a criminal conflict of interest ethics statute;
 - (2) Understands that he/she is disqualified (and must recuse himself/herself) from participation in official matters that could directly affect the financial interests of, or give the appearance of a lack of impartiality toward, the outside entity, company, State/local government, individual, or organization;
 - (3) Understands that 18 USC §§ 203 and 205 generally prohibit Federal employees from representing an outside entity, company, State/local government, individual, or organization before any Federal agency, court, or officer;
 - (4) Will be in a non-duty or authorized leave status while engaging in the outside work or activity;

- (5) Will not use Government facilities, equipment, or supplies in furtherance of the outside work or activity, except as authorized by the DOI Limited Personal Use policies;
- (6) Will not use or disclose any nonpublic information as defined in 5 CFR § 2635. 703(b) as part of the outside work or activity;
- (7) Will neither use, nor permit others to use, his/her official title or position in conjunction with the outside work or activity, except as permitted by 5 CFR 2635.807(b);
- (8) Will submit a revised request for approval of outside work or activity if there is a significant change in the nature or extent of the outside work or activity or his/her official duties with the MMS; and
- (9) Understands that approval to engage in outside work or activity does not relieve him/her of the obligation to comply with all applicable laws and regulations governing employee conduct and ethics.

8. Standards for approval to engage in outside work or activity.

A request to engage in outside work or activity will not be approved if it would

- A. Create a conflict of interest with the employee's official job duties;
- B. Violate Federal ethics statutes or regulations; or
- C. Violate the Standards of Ethical Conduct for Employees of the Executive Branch,

5 CFR Part 2635. This regulation, in part, addresses: gifts from outside sources; conflicting financial interests; impartiality in performing official duties; seeking other employment, and misuse of position. An employee shall avoid any action creating the appearance of violating any ethical standard. A request may be denied if it is determined that the outside work or activity would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the employee, or the objectivity with which agency programs are administered.