



# ETHICS FOR THE SPECIAL GOVERNMENT EMPLOYEE

***Homeland Security Science & Technology  
Advisory Committee***

***Presented by: Troy Byers, Attorney-Advisor  
Deputy Ethics Official  
September 27, 2012***



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# DHS Ethics Officials

## Designated Agency Ethics Official

- Joseph Maher, Deputy General Counsel  
Nebraska Avenue Complex, Mailstop 0485, Washington, DC 20528

## Legal Advisor for Ethics (Acting)

- Susan Heller, (202) 447-3326 [susan.heller@hq.dhs.gov](mailto:susan.heller@hq.dhs.gov)

## Deputy Ethics Official

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## Financial Disclosure Program Manager

- Cynthia Allen, (202) 447-3515 [cynthia.allen1@dhs.gov](mailto:cynthia.allen1@dhs.gov)



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# DHS Office of the Inspector General

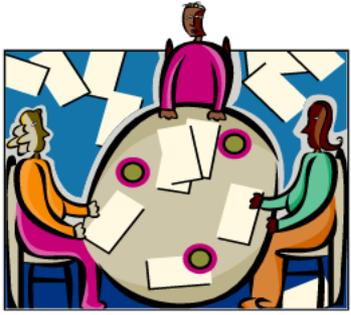
- If you have knowledge of fraud, waste, abuse, or mismanagement involving DHS programs or operations:
- *Call the Hotline at: 1-800-323-8603. Fax Hotline at: 202-254-4292*
- *You can also email:  
DHSOIGHOTLINE@dhs.gov.*



# Additional Resources

- U.S. Office of Government Ethics—  
[www.usoge.gov](http://www.usoge.gov)
- U.S. Office of Special Counsel –  
[www.osc.gov](http://www.osc.gov)





# ***“Special Government Employee”***

- You are considered a Government employee.
- SGEs are subject to most of the same ethics rules that are applicable to regular Government employees with some variations.



# Government Ethics Principles

- *14 General Principles of Ethical Conduct*
- *“Standards of Ethical Conduct for Employees of the Executive Branch”*
  - *5 Code of Federal Regulations Part 2635*



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# *Standards of Ethical Conduct*

## 14 General Principles

1. Public service is a public trust
2. Financial interests cannot conflict with official duties
3. Cannot use non-public information for private gain
4. No gifts unless expressly permitted
5. Must put forth honest effort in performance of your duties
6. No unauthorized promises or commitments that bind the government
7. Cannot use public office for private gain
8. Act impartially and do not show preferential treatment
9. Protect and conserve government property and only use it for authorized purposes
10. Outside employment and activities may not conflict with your government job
11. Obligated to disclose waste, fraud, and abuse
12. Satisfy all just financial obligations, including taxes
13. Obey EEO laws and regulations
14. Avoid appearance of violating the law or ethics regulations.



# Applicable Criminal laws during your service as an SGE

- 18 United States Code (U.S.C.) 201 - Bribery
- 18 U.S.C. 203 & 205 - Representing others before the Government
- 18 U.S.C 207 – Post-employment
- 18 U.S.C. 208 – Conflicting financial interests
- 18 U.S.C. 219 – Serving as an agent of a foreign principal.



# 18 U.S.C. 201- Bribery

- You may not seek, accept, or agree to receive anything of value in return for being influenced in the performance of official acts.





# J.S.C. 203 & 205

## representing others

- Prohibits you from appearing or communicating on behalf of another to a Federal agency or court with intent to influence Government action -
  - applies in connection with a “particular matters involving specific parties,” e.g., contracts, grants, licenses, applications,
  - if you serve 60 days or less in a 365-day period, then the restriction only applies to matters you actually participated in for the Government as a committee member;
  - If you serve more than 60 days, then you may not represent anyone on any matter pending in the Department.



# 18 U.S.C. 208

## Financial conflicts of interest



- You may not act as Government official in matters that will have a direct and predictable effect on your financial interests (includes spouse, minor child, general partners, organizations in which you serve in a fiduciary capacity).
  - Matters that you work on must affect the financial interests of a discreet & identifiable class or be a specific-party matter, such as a contract, grant, or license;
  - The restriction does not extend to the consideration or adoption of broad policy options directed to the interests of a large and diverse group (most Committee work falls into this category).
- A regulation provides a conflict of interest waiver for your employer as a member of their industry (academia). but not for matters that would affect the employer individually.





# Financial Disclosure

- Required to file annually;
- Submitted to Designated Federal Official
- Certified by the DHS Office of General Counsel;
- Reports are required to be filed before you may provide advice to the Department, and
- Annual ethics training is required by regulation.



# I

- No conflicts presented by:
  - Assets held in a “widely-diversified” mutual fund
  - Assets in “sector” funds valued at \$50k or less
  - Publicly-traded securities valued at \$15k or less for all specific parties
  - Pension benefits of state and local governments.



# 18 U.S.C. 219

## Acting as a foreign principal

- Prohibits your service as a representative of a foreign principal that requires registration under either the Foreign Agents Registration Act or the Lobbying Disclosure



# Procurement Integrity Act

- Prohibits the disclosure of sensitive information regarding Department procurements.
- It is anticipated that your duties will not involve you in matters covered by this statute.

# **Criminal Prohibitions after you leave SGE service**

## **18 U.S.C. 207**

- Restrictions on communicating or appearing before Government officials after departure
  - Applies to communications relating to “particular matters involving specific parties”
  - contracts, grants, applications, requests for rulings that you worked on while serving on the Committee.
- It does not apply to policy matters, regulations or legislation.
- Unlikely to be implicated by your service.



# Applicable Regulations



- The regulatory *Standards of Ethical Conduct for Employees of the Executive Branch* apply to you during your service as an SGE, with some limitations.
- 5 Code of Federal Regulations, Part 2635.

# Service as an Expert Witness

- Rules regarding serving as an expert witness in a matter in Federal court if the U.S. is a party.
  - You may not serve as an expert witness in any proceeding in which the Department of Homeland Security is a party or has a direct and substantial interest.
  - Recommend that you clear any expert witness testimony with a Department ethics official in advance.



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# Teaching, Speaking, & Writing

- You may not accept compensation for teaching, speaking, or writing that relates to the matters to which you are assigned as an SGE.
- This will include matters involving the work of the Committee.
- Contact an ethics official if have any questions.



# Gifts from Outside Sources

- You may not solicit or accept a gift that is offered:
  - because of your HSAAC position, or
  - by a “prohibited source.”

Exceptions permit you to accept gifts:

- based on your outside business or employment relationships,
- from relatives and friends,
- gifts of \$20 or less



# Misuse of position and non-public information

- You are prohibited from using Government resources, including your committee member status and non-public information, for your private gain or the private gain of another.
  - There are criminal penalties for disclosing classified information.
  - Procurement integrity restrictions prohibit the disclosure procurement sensitive information.



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# The Hatch Act

- Governs the partisan political activities of Federal employees
- 5 U.S.C. §§ 7123-7126; 5 C.F.R. § 733
- Applies when you are in an SGE status.



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# The Hatch Act

## General Restrictions



- You may not:
  - solicit, accept, or receive political contributions while on duty as SGE or using your government title;
  - wear partisan political buttons or engage in political activities while on duty as an SGE or in a Federal building;
  - use your official government title or authority for the purposes of interfering with the outcome of an election, or influencing the outcome of an election.
- DHS policy prohibits the use of government-issued office equipment for partisan political purposes.
- The Hatch Act applies when using social media tools such as Twitter and Facebook.



# The Hatch Act

- U.S. Office of Special Counsel
- 800-85-HATCH
- [www.osc.gov/hatchact.htm](http://www.osc.gov/hatchact.htm)

# Questions

