

POSTAL SERVICE**5 CFR Chapter LX**

RIN 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The United States Postal Service, with the concurrence of the Office of Government Ethics (OGE), is issuing a final rule establishing regulations applicable to employees of the Postal Service to supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The final rule is a necessary supplement to the Executive Branch-wide Standards because it addresses ethical issues unique to the Postal Service. The final rule is effective upon publication and establishes regulations which prohibit certain outside activities and require prior approval for employees to engage in other specified outside employment or activities.

EFFECTIVE DATE: September 11, 1995.

FOR FURTHER INFORMATION CONTACT: Mitchell J. Benowitz, Ethics and Information Law, Postal Service, (202) 268-2967.

SUPPLEMENTARY INFORMATION: On March 27, 1995, the Postal Service, with OGE's concurrence, published for comment a proposed rule to establish supplemental standards of ethical conduct for Postal Service employees (60 FR 15700-15703). The proposed rule was intended to supplement the Standards of Ethical Conduct for Employees of the Executive Branch published by OGE on August 7, 1992, and effective February 3, 1993 (5 CFR part 2635; see also the grace period extensions at 59 FR 4779-4780, February 2, 1994, and 60 FR 6390-6391, February 2, 1995). The proposed rule was issued pursuant to 5 CFR 2635.105, which authorizes executive branch agencies to publish agency-specific supplemental regulations that are necessary to implement their ethics programs. The Postal Service, with OGE's concurrence, determined that the supplemental regulations contained in the proposed rule were necessary to implement the Postal Service's ethics program successfully, considering the unique programs and operations of the Postal Service.

The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. No comments have been received by the

Postal Service. Therefore, no changes have been made in the final rule. The Postal Service, with OGE's concurrence, is now publishing as a final rule the Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service, to be codified at a new part 7001, Title 5 of the Code of Federal Regulations.

The Executive Branch-wide Standards have superseded many provisions of the Code of Ethical Conduct for Postal Employees (Code), 39 CFR part 447. Certain other provisions of the Code that prohibited the holding of specified financial interests, 39 CFR 447.22(b)(1)-(7), and those provisions of 39 CFR 447.23 that involve compensated outside employment relationships, remained temporarily in effect pursuant to the note following 5 CFR 2635.403(a), as extended at 59 FR 4779-4780 and 60 FR 6390-6391. The note following 5 CFR 2635.403(a) provides that such prohibitions shall cease to be effective upon the issuance of agency supplemental regulations. Therefore, the provisions of 39 CFR part 447 concerning prohibited financial interests or compensated outside employment relationships are now superseded. In a separate document published in this issue of the **Federal Register**, the Postal Service is amending 39 CFR part 447 to repeal the financial interest prohibitions and those provisions that have been superseded by the Executive Branch-wide Standards.

List of Subjects in 5 CFR Part 7001

Conflict of interests, Ethical standards, Executive branch standards of conduct, Government employees.

Dated: August 2, 1995.

Mary S. Elcano,

*Senior Vice President, General Counsel,
United States Postal Service.*

Approved: August 4, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the United States Postal Service, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding a new chapter LX, consisting of part 7001, as follows:

CHAPTER LX—UNITED STATES POSTAL SERVICE**PART 7001—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE UNITED STATES POSTAL SERVICE**

Sec.

7001.101 General.

7001.102 Restrictions on outside employment and business activities.

7001.103 Statutory prohibition against interests in contracts to carry mail and acting as agent for contractors.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 39 U.S.C. 401; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.802, and 2635.803.

§ 7001.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635, as applied to employees of the United States Postal Service (Postal Service). Postal Service employees are subject, in addition to the standards in 5 CFR part 2635 and this part, to the executive branch financial disclosure regulations contained in 5 CFR part 2634, and to any rules of conduct issued separately by the Postal Service, including but not limited to regulations contained in 39 CFR part 447, the Postal Service's Employee and Labor Relations Manual, and the Postal Service's Procurement Manual.

§ 7001.102 Restrictions on outside employment and business activities.

(a) *Prohibited outside employment and business activities.* No Postal Service employee shall:

(1) Engage in outside employment or business activities with or for a person, including oneself, engaged in:

(i) The manufacture of any uniform or other product required by the Postal Service for use by its employees or customers;

(ii) The transportation of mail under Postal Service contract to or from the postal facility at which the employee works, or to or from a postal facility within the delivery area of a post office in which the employee works;

(iii) Providing consultation, advice, or any subcontracting service, with respect to the operations, programs, or procedures of the Postal Service, to any person who has a contract with the Postal Service or who the employee has reason to believe will compete for such a contract; or

(iv) The operation of a commercial mail receiving agency registered with the Postal Service, or the delivery outside the mails of any type of mailable matter, except daily newspapers; or

(2) Engage in any sales activity, including the solicitation of business or the receipt of orders, for oneself or any other person, while on duty or in uniform, or at any postal facility.

(b) *Prior approval for outside employment and business activities*—(1) *Requirement for approval.* A Postal Service employee shall obtain approval, in accordance with paragraph (b)(2) of this section, prior to:

(i) Engaging in outside employment or business activities with or for any person with whom the employee has official dealings on behalf of the Postal Service; or

(ii) Engaging in outside employment or business activities, with or for a person, including oneself, whose interests are:

(A) Substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications; or

(B) Substantially dependent upon providing goods or services to, or for use in connection with, the Postal Service.

(2) *Submission and contents of request for approval.* An employee who wishes to engage in outside employment or business activities for which prior approval is required by paragraph (b)(1) of this section shall submit a written request for approval to the Postal Service Ethical Conduct Officer or appropriate delegate. The request shall be accompanied by a statement from the employee's supervisor briefly summarizing the employee's duties and stating any workplace concerns raised by the employee's request for approval. The request for approval shall include:

(i) A brief description of the employee's official duties;

(ii) The name of the outside employer, or a statement that the employee will be engaging in employment or business activities on his or her own behalf;

(iii) The type of employment or business activities in which the outside employer, if any, is engaged;

(iv) The type of services to be performed by the employee in connection with the outside employment or business activities;

(v) A description of the employee's official dealings, if any, with the outside employer on behalf of the Postal Service; and

(vi) Any additional information requested by the Ethical Conduct Officer or delegate that is needed to determine whether approval should be granted.

(3) *Standard for approval.* The approval required by paragraph (b)(1) of this section shall be granted only upon a determination that the outside employment or business activity will not involve conduct prohibited by statute or federal regulation, including 5 CFR part 2635, which includes, among other provisions, the principle stated at 5 CFR 2635.101(b)(14) that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in part 2635.

(c) *Definitions.* For purposes of this section:

(1) *Outside employment or business activity* means any form of employment or business, whether or not for compensation. It includes, but is not limited to, the provision of personal services as officer, employee, agent, attorney, consultant, contractor, trustee, teacher, or speaker. It also includes, but is not limited to, engagement as principal, proprietor, general partner, holder of a franchise, operator, manager, or director. It does not include equitable ownership through the holding of publicly traded shares of a corporation.

(2) *A person having interests substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications* includes a person:

(i) Primarily engaged in the business of publishing or distributing a publication mailed at second-class rates of postage;

(ii) Primarily engaged in the business of sending advertising, promotional, or other material on behalf of other persons through the mails;

(iii) Engaged in a business that depends substantially upon the mails for the solicitation or receipt of orders for, or the delivery of, goods or services; or

(iv) Who is, or within the past 4 years has been, a party to a proceeding before the Postal Rate Commission.

(3) *A person having interests substantially dependent upon providing goods or services to or for use in connection with the Postal Service* includes a person:

(i) Providing goods or services under contract with the Postal Service that can be expected to provide revenue exceeding \$100,000 over the term of the contract and that provides five percent or more of the person's gross income for the person's current fiscal year; or

(ii) Substantially engaged in the business of preparing items for others for mailing through the Postal Service.

§ 7001.103 Statutory prohibition against interests in contracts to carry mail and acting as agent for contractors.

Section 440 of title 18, United States Code, makes it unlawful for any Postal Service employee to become interested in any contract for carrying the mail, or to act as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Postal Service.

Stanley F. Mires,

Chief Counsel, Legislative.

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BILLING CODE 7710-12-P

39 CFR Part 447

Ethical Conduct; Conforming Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The United States Postal Service is amending the Code of Ethical Conduct for Postal Employees (Code). Many provisions of the Code have been superseded by the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) issued by the Office of Government Ethics (OGE) and by the Postal Service regulations supplemental to the Standards. Other provisions have been superseded by OGE regulations governing the filing and review of public and confidential financial disclosure reports. The superseded provisions of the Code are repealed, and certain provisions in 39 CFR part 447 are amended or revised to conform to new OGE regulations.

EFFECTIVE DATE: September 11, 1995.

FOR FURTHER INFORMATION CONTACT: Mitchell J. Benowitz, Ethics and Information Law, Postal Service, (202) 268-2967.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 1992, the Office of Government Ethics (OGE) published new Standards of Ethical Conduct for Employees of the Executive Branch (Standards), now codified at 5 CFR part 2635. See 57 FR 35006-35067, as corrected at 57 FR 48557 and 52583, with additional grace-period extensions at 59 FR 4779-4780 and 60 FR 6390-6391. The Standards, which became effective February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

The Standards superseded most federal agency regulations promulgated under subparts A, B, and C of former 5 CFR part 735. On November 30, 1992