

## CONFLICT OF INTEREST

# Contents

1. PURPOSE .....	2
2. REPLACEMENT HIGHLIGHTS.....	2
3. AUTHORITY .....	2
4. POLICY .....	2
5. RESPONSIBILITY .....	3
6. FURTHER INFORMATION .....	5

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## 1. PURPOSE

This directive establishes procedures for addressing conflict-of-interest situations involving agency personnel who provide services under the authority of the United States Grain standards Act (USGSA) and the Agricultural Marketing Act (AMA). Agency personnel include; (1) licensed official agency employees; (2) nonlicensed official agency personnel (i.e. directors, trustees, clerks, political appointees, stockholders, etc.); and (3) licensed personnel who provide services under contract for official agencies. In addition, this directive provides guidance for handling conflicts involving licensed personnel who provide services under contract with FGIS.

**NOTE: The Animal and Plant Health Inspection Service is responsible for addressing all conflict-of-interest situations involving FGIS employees.**

## 2. REPLACEMENT HIGHLIGHTS

This directive supersedes FGIS Program Directive 9070.3, dated 10/05/00. This directive is updated to reflect FGIS organizational changes and minor procedural changes.

## 3. AUTHORITY

The USGSA (7 U.S.C. 87) and sections 800.187, 195, 196, 198 and 199 of the regulations thereunder prohibit all licensed and authorized personnel from having conflicts of interest.

Sections 868.30 and 60 of the regulations under the AMA prohibit licensed and authorized personnel from having conflicts of interest.

## 4. POLICY

The Grain Inspection, Packers and Stockyards Administration (GIPSA) must maintain the integrity of the national inspection and weighing system by ensuring that no conflicts of interest exist. Conflicts of interest generally involve financial relationships with entities engaged in the commercial transportation, storage, merchandizing, processing or handling of grain, commodities or related products. Such conflicts can be direct or indirect in nature. While The USGSA and AMA program authority differs, GIPSA's policy is to use the same criteria for determining whether a conflict exists, regardless of the statute. It is GIPSA's policy to use the same guidelines to decide the appropriateness of granting an exception for conflicts under either law (USGSA or AMA). All licensed, nonlicensed and authorized personnel are responsible for reporting and eliminating conflict-of-interest situations or the appearance thereof. In addition, all licensed and nonlicensed individuals must complete the conflict-of-interest information that appears on the following forms (FGIS-944 or FGIS-100), as applicable. All licensed personnel must also submit a conflict of interest declaration through the FGIS Official Service Provider Licensing (FOL) program when initially applying for a license, during a triennial renewal and anytime there is a new change in conflict of interest or circumstances status (see the FOL HELP page for further information).

In instances where circumstances suggest that a conflict exists, the individual may be eligible for an exception. In such cases, the affected individual(s) must provide written justification to ensure that granting an exception will not jeopardize the integrity of the official system. However, if facts relating to a conflict suggest a compromise of the official system, the Quality Assurance and Compliance Division (QACD), Investigation and Enforcement Branch (IEB) will not grant an exception and the affected individual(s) must eliminate the conflict immediately.

## **5. RESPONSIBILITY**

Agency manager(s) or his/her designee must:

- a. Address each conflict or potential conflict situation(s) without delay;
- b. Ensure that all licensed and nonlicensed personnel understand the conflict-of-interest policies;
- c. Obtain and forward to the field office written documentation that thoroughly explains the conflict situation that is indicated on forms FGIS-944 or FGIS-100;
- d. Record conflict of interest status in the FOL program for all initial license applications; for all triennial renewals and anytime there is a change(s) or new circumstances(s) in the conflict-of-interest status;
- e. Report to the field office any changes(s) or new circumstances(s) that create a conflict situation and provide written documentation that thoroughly explains the matter and;
- f. Provide the field office written recommendation(s) that supports granting an exception for a conflict or explain why such a request is opposed. If an exception is granted, monitor the respective individual for adherence to all exception guidelines.

Field office manager(s) or his/her designee must:

- a. Address each conflict or potential conflict situation(s) without delay;
- b. Ensure that all agency managers, field office employees and licensees performing services under contract with FGIS understand the conflict-of-interest policies;
- c. View all license applications in the FOL program for a conflict-of-interest and do not approve an application if a conflict exists;
- d. Obtain from agency personnel or field office contractor(s) written documentation that thoroughly explains the conflict situation;
- e. Evaluate all pertinent information and determine whether a conflict or the appearance thereof exists;

- f. Send all documentation to the QACD-IEB which pertains to a conflict-of-interest involving agency personnel and field office contractors;
- g. Provide the QACD-IEB written recommendation(s) that supports granting an exception for a conflict, or explains why you oppose such request;
- h. Approve the license application after verifying in the FOL program that an exception has been granted and the conflict exception guidelines are listed.
- i. Monitor agency personnel and field office contractors for adherence to all exception guidelines, if granted, during routine supervisory visits;
- j. Remind agency managers and field office employees/contractors about the standards of conduct policies that guard against the appearance of a loss of impartiality and;
- k. Advise agency managers and field office employees/contractors against engaging in activities that could adversely affect the public's confidence in the official system.

QACD, IEB will:

- a. Advise field office managers or agency managers regarding the presence or absence of a conflict;
- b. Immediately evaluate each conflict or potential conflict situation(s);
- c. Provide exceptions for certain conflicts of interest or deny such requests;
- d. Enter the results of the conflict evaluation into the DDR program. If an exception has been granted, enter all conditions. Inform the field office managers and the FOL administrator when the results of the evaluation are entered.
- e. Provide written responses to field office or agency manager(s) and to the FOL program manager regarding the granting of an exception for conflict situations (including conditions) or explain why the request was denied; and
- f. Maintain a conflict-of –interest database.

## 6. FURTHER INFORMATION

Direct question(s) concerning conflict-of-interest policies to the QACD-IEB.

Telephone number: (202) 720-0228

Fax: (202) 720-7786

In addition forward a copy of the conflict-of-interest report(s) to:

USGA-GIPSA-FGIS

QACD-IEB

Room 2409S, Stop 3604

1400 Independence Ave., S.W.

Washington D.C. 20250-3604

**/s/ Thomas C. O'Connor**

Thomas C. O'Connor, Director

Quality Assurance and Compliance Division