



## Unacceptable Conduct by Users of the Inspection Service

This instruction clarifies the Specialty Crops Inspection (SCI) Division's policy regarding discrimination, unsafe working conditions, intimidation, or manipulation by applicants during inspection procedures. The SCI Division will not tolerate actions or language on the part of an applicant or an applicant's agent that are intended to intimidate, threaten, interfere with, or harass an inspector or otherwise alter the course of an inspection. Because of the subjective nature of these situations, each case will be considered on an individual basis to determine whether an action or statement is unacceptable, and whether there is justification for denying grading or inspection service.

### Authority

[Title 7 of the Code of Federal Regulations \(CFR\) in Section 50.11](#) states that: "The Director may withdraw grading or inspection service from a person for a correctable cause. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader or inspector can be made available."

[Title 7 of the Code of Federal Regulations \(CFR\) in Section 51.46](#) of the "Regulations Governing Fruits, Vegetables, and Other Product" states that: "Any or all benefits of the act may be denied any person for any of the following reasons: ...(c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means..."

[Title 7 of the Code of Federal Regulations \(CFR\) in Section 52.54](#) of the "Regulations Governing Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" states that: "The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the act for a specified period.... (3). Any interference with, obstruction of, or attempted interference with, or attempted obstruction of any inspector, inspector's aid, or licensed sampler in the performance of his duties by intimidation, threat, assault, bribery, or any other means – real or imagined."

[U.S. Code, Title 18, Section 201, Crimes and Criminal Procedure](#), states that:

- (b) Whoever –
  - (1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any person or entity, with intent –

- (A) To influence any official act or
  - (B) To influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or
  - (C) To induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;
- (2) being a public official or persons selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:
- (A) being influenced in the performance of any official act,
  - (B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud on the United States; or
  - (C) being induced to do or omit to do any act in violation of the official duty of such official or person...
- ...shall be fined** under the title for not more than **three times the monetary equivalent of the thing of value**, whichever is greater, or **imprisoned for not more than fifteen years, or both**, and may be disqualified from holding any office of honor, trust, or profit under the United States.

## Policy

### Service may be denied for any of the following reasons:

- A. Discrimination - Derogatory remarks made to or about an inspector or adverse actions that are clearly taken by an applicant or an applicant's agent because of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, or sexual orientation will be considered discrimination.
- B. Unsafe Working Conditions - An unsafe working environment, a physical assault by an applicant or an applicant's agent toward an inspector, or other working conditions that jeopardize an inspector's health or wellbeing will be considered unsafe working conditions.
- C. Intimidation - Any undue pressure, influence, or action, or any verbal threat made by the applicant or an applicant's agent to the inspector will be considered intimidation.
- D. Manipulation - Any action by the applicant or the applicant's agent that is intended, by misrepresenting the facts, to alter the outcome of an inspection will be considered manipulation.

**Action**

If an inspector encounters a situation in which a reasonable person would assume that any of the above conditions exist, he or she should immediately leave the work area and report the circumstances to his/her supervisor or someone in the chain of command. This includes any incidents involving harassment, verbal threats, or any action that could be interpreted as an attempt to intimidate, manipulate, or interfere with an inspector's performance. The supervisor or other contact will relay all pertinent information to the Regional Director and the National office. The National office will determine whether service will be denied or if other action will be taken.

For all applications for inspection and in-plant assignments, the Officer-in-Charge, Assistant Officer-in-Charge, or Sub-Area Supervisor will base decisions about which inspector to assign solely on the inspector's qualifications and experience with the commodity or type of inspection to be performed. The decision will never be based on an applicant's desire (stated or implied) for or against having certain inspectors assigned for reasons other than the inspector's qualifications and experience.

The notices below can be posted at inspection sites.

**BRIBERY NOTICE**

[U.S. Code, Title 18, Section 201, Crimes and Criminal Procedure](#), states in part:

- (b) Whoever –
- (1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any person or entity, with intent - -
    - (A) To influence any official act or
    - (B) To influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or
    - (C) To induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;
  - (2) being a public official or persons selected to a be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:
    - (A) being influenced in the performance of any official act,
    - (B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud on the United States; or
    - (C) being induced to do or omit to do any act in violation of the official duty of such official or person...

**...shall be fined** under the title for not more than **three times the monetary equivalent of the thing of value**, whichever is greater, or **imprisoned for not more than fifteen years, or both**, and may be disqualified from holding any office of honor, trust, or profit under the United States.

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| <b><u>OIG-USDA Bribery Hotline information:</u></b>  | <b>(800) 424-9121 (8:00 a.m. to 4:30 p.m. EST)</b>                                      |
| <b>Mail:</b> United States Department of Agriculture | <b>(202) 690-1622 (24 Hours)</b>  |
| Office of Inspector General                          | <b>(202) 690-1202 (TDD)</b>   |
| PO Box 23399   | <b>website: <a href="http://www.usda.gov/oig">www.usda.gov/oig</a></b>                  |
| Washington, DC 20026-3399                            | <b>e-mail: <a href="mailto:usda.hotline@oig.usda.gov">usda.hotline@oig.usda.gov</a></b> |

If you believe that you have been offered a bribe, or that another employee or licensee has accepted a bribe, the following instructions must be followed:

1. Do not take the bribe.
2. Immediately call the Bribery Hotline and report the incident.
3. Do not discuss the incident with anyone, including your supervisor, unless instructed to do so by OIG.

This includes situations where a forthright bribe was not offered, but the employee or licensee suspects they are being “felt out” or that an offer of a bribe could be reasonable inferred.

### **INTIMIDATION NOTICE**

**Title 7 of the Code of Federal Regulations (CFR) in Section 51.46 of the “Regulations Governing Fruits, Vegetables, and Other Product” states in part “Any or all benefits of the act may be denied any person for any of the following reasons: ...(c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means...”**

**This notice is to caution everyone involved with the sale, purchase, sampling grading and storage of farmer’s Stock Peanuts that any act of intimidation (real or implied) could result in suspension and/or termination of USDA-Federal/State Inspection Service grading services at the buying point where the act of intimidation occurred.**

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### **REMINDER TO PRODUCERS**

Inspectors at this buying point have been instructed that they **will not inspect** a lot of peanuts until the operator of this buying point provides the inspector with a weight ticket which includes the weight ticket number, vehicle ID, peanut type, farms ID and weight including vehicle.