

Conduct of Agency Personnel

This Handbook Section summarizes and discusses some of the more important rules and policies of professional conduct that apply to OTS personnel, including examiners, while performing on-site examinations. For purposes of this Handbook Section, we define “you” as OTS personnel.

All OTS employees must comply with the OTS Employee Standards of Conduct Resource Guide (Resource Guide) that contains the following federal regulations:

- Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635, §§ 2635.101-902).
- Employee Responsibilities and Conduct (5 CFR Part 735, §§ 735.101-203).
- Department of the Treasury Employee Rules of Conduct (31 CFR Part 0, §§ 0.201-217).
- Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury (5 CFR Part 3101, §§ 3101.101-104, 109).

Additionally, financial restrictions and required disclosures apply to “covered” OTS employees, defined by 5 CFR § 3101.109(a) as all examiners regardless of grade, employees in grades 17 and above, and any other OTS employee designated by the Director.

Each employee receives the Resource Guide. If you have any questions about the regulations, contact Liz Helke, OTS Ethics Counselor, at (202) 906-7039.

Summary of Major Restrictions and Responsibilities of OTS Employees

This summary of the important OTS restrictions and responsibilities comes from the above federal regulations and OTS policies. It is not all-inclusive. As an OTS employee you need to be aware of your responsibilities, restrictions, and disclosure requirements under these rules. If you need or desire further information, contact your ethics counselor.

All OTS Employees

All OTS employees must comply with the following restrictions:

- You may not have any financial interest or obligation that conflicts or appears to conflict with your official responsibilities and duties.

- You may not, in an official capacity, participate personally and substantially in any particular matter in which you have a financial interest if the matter will have a direct and predictable effect on that financial interest. (However, the Chief Counsel, Regional Director, or designee may, when appropriate, waive this restriction.) You may not participate by decision, approval, disapproval, recommendation, advice, examination, or other action. This restriction also applies where any household member, minor child, general partner, or organization in which you have a substantial personal involvement has a known financial interest in the matter.
- You may not accept a “gift or gratuity” (that is, an item of monetary value) from any institution that you examine or from its employees. Such conduct may violate federal criminal law. However, OTS does not consider the following items to be a “gift or gratuity” for purposes of this rule:
 - Items of little intrinsic value, such as pencils, inexpensive calendars, and other office supplies.
 - Modest items of food or refreshment that are not part of a meal.
 - Items of food or refreshment shared on an institution’s premises in a business setting such as an institution’s board meeting.
- You may not accept from any prohibited gift source (defined below) food, refreshments, entertainment, or any other item unless it is of a nominal value. You may only accept a nominal value item infrequently, such as during an official conference or other function that you may properly attend.
- You may not accept unsolicited advertising or promotional material if its retail value exceeds \$20 per occasion, up to no more than \$50 from the same source in a calendar year. You must return items exceeding this value to the sender or dispose of them as directed by the Chief Counsel (or designee) or your ethics counselor.
- You must receive prior supervisory approval before speaking about OTS or publishing OTS-related material for a non-agency audience.
- You may not engage in any outside employment or business activity, paid or unpaid, without prior written supervisory permission from your Regional Director or other member of senior agency management such as a Deputy Director.
- You may not directly or indirectly make recommendations or suggestions concerning the acquisition, sale, or other divestiture of securities of any OTS-regulated savings association or savings association holding company.
- You may not purchase property owned by the government and under the control of OTS, or sold under the direction or incident to the functions of OTS, without an appropriate waiver.

- You may not have communications with a thrift, its holding company, or affiliates suggesting either of the following:
 - That the examination process is in any way influenced by political issues or considerations.
 - That either the thrift, its holding company, or affiliates should take a particular position on political or legislative issues.

You must notify your supervisor or ethics counselor if you are aware of any communications that might conflict with or compromise either of these restrictions.

Definition of Prohibited Gift Source

The term “prohibited gift source” (as used in this Handbook Section) means any person, or entity, who meets any one of the following criteria:

- Seeks official action by OTS.
- Does, or seeks to do, business with OTS.
- Conducts activities regulated by OTS.
- Has interests that may be substantially affected by the performance or nonperformance of your official OTS duties.
- Is an organization with a majority of members who fall within any of the above classifications.

Covered OTS Employees

If you are a covered OTS employee, you must comply with the following restrictions and disclosure requirement(s):

- You (or your spouse or minor child) may not knowingly accept or become obligated on, directly or indirectly, any impermissible extension of credit from an OTS-regulated savings association or its subsidiary.¹ However, you (or your spouse or minor child) may obtain a credit card from an OTS-regulated savings association or its subsidiary if the credit card account is non-preferential in that:
 - the borrower satisfies all financial requirements that are generally applicable to applicants for that type of loan; and

¹ With certain exceptions, the rules governing the conduct of OTS personnel prohibit covered OTS employees from obtaining new credit from savings associations or savings association subsidiaries. Employees with credit outstanding as of April 30, 1991, or whose loan is transferred to a prohibited lender by the original, permissible, lender, are grandfathered, provided the employee is repaying the debt according to its original terms.

- the terms and conditions of the loan are no more favorable generally than those offered by the same lender to other borrowers in comparable circumstances for that type of loan.

Recusal may be required if you develop a serious dispute with the lender.

In addition, you (or your spouse or minor child) may obtain a loan from an OTS-regulated savings association or its subsidiary if that loan is secured by the borrower's principal residence and is non-preferential, as explained above for credit cards. Recusal is required for principal residence loans. Before applying for such a loan, you must notify your supervisor and ethics counselor of your plans, and after the loan closes, you must submit a certification form describing the terms of the loan.

Examiners must never examine any institution that has extended a loan to him or her, unless an exception applies. Such conduct may violate criminal law.

For limited exceptions, refer to Supplemental Standards 5 CFR § 3101.109(c).

- You (or your spouse or minor child) may not purchase any asset from a savings association or its affiliate, including an institution in receivership or conservatorship. (For limited exceptions, refer to Supplemental Standards § 3101.109(f).)
- You (or your spouse or minor child) may not purchase, own, or control, directly or indirectly, any security of an OTS-regulated savings association or of any company that owns an OTS-regulated savings association. (For limited exceptions, refer to Supplemental Standards § 3101.109(b).)
- You must file required financial disclosures as described below.

Financial Disclosure

Employees in Grade 27 or below must file the annual financial disclosure form(s) by February 15 of each year. If you are an employee in Grade 28 or higher, you must file your forms by May 15 of each year.

- If you are an employee in Grades 17 through 27, or an examiner at any grade, you must file an OTS Confidential Financial Disclosure Form (OTS 1569). Employees below Grade 21 may skip certain questions.
- If you are an employee in Grade 28 or above, you must file an Executive Branch Personnel Public Financial Disclosure Report (SF 278) AND an OTS Confidential Financial Disclosure Form (OTS 1569).

Except for the SF 278, which is public, financial disclosure is confidential. The Privacy Act (5 USC § 552a) governs disclosures of reported information. Authorized OTS, Treasury Department, and certain other officials use the information for the following reasons:

- To ensure ethical conduct.
- To prevent conflicts of interest.
- To monitor compliance with the Standards of Ethical Conduct for Employees of the Executive Branch.
- To monitor the prohibitions on loans to and investments by covered OTS employees (5 CFR § 3101.109 (b) and (c)).

The disclosures also permit regions to schedule assignments so that no OTS employee will examine, supervise, or participate in decisions involving a savings association or savings association subsidiary that has taken any of the following actions:

- Extended credit to the OTS employee (other than a credit card on non-preferential terms).
- Employs a relative (especially in a policy-making position).
- Opened employment discussions, as discussed below.

Negotiations for Employment

As an OTS employee you should not negotiate or have any arrangement concerning prospective employment with any person or organization while simultaneously representing OTS in any particular matter that affects that person or organization. Under 18 USC § 208(a), such negotiations or arrangement may be a crime.

Concerning job offers, you must immediately inform your supervisor of offers of employment in the following circumstances:

- If you do not unconditionally and immediately reject the offer from a savings association or other prohibited source, and
- The region has assigned, or you believe it is likely the region will assign, you to examine, supervise, or make any regulatory decision affecting that prohibited source.

Your supervisor and/or ethics counselor must decide if you should provide an employment restriction (recusal) to eliminate any potential conflict of interest. Recusal from any current assignment(s) should last until you resign or send a written rejection of the employment offer. Outright and immediate rejection of unsolicited offers requires no recusal, but a memorandum to the file or to your supervisor is advisable.

An OTS employee rejected for a job by a prohibited source should generally refrain from participating in OTS matters relating to the potential employer for at least one year. However, a written review of the

matter by an OTS ethics official recommending an exception, may permit earlier participation by the employee.

PROFESSIONAL CONDUCT IN INSTITUTIONS

The following presents professional conduct guidelines that address some issues that examiners may face in their day-to-day work in institutions.

Duration of Onsite Examinations

Examiners should conduct each examination in the most efficient and least disruptive manner possible, to limit the time spent on site at each institution. To this end, examiners should thoroughly scope and plan each examination, targeting problem and high-risk areas.

Preexamination activities should include contacting the institution's management and obtaining lists of employees and documents necessary to perform the examination.

Working Hours

EICs should manage time in a responsible and professional manner. The examination staff conducts examinations on a compressed work schedule. Examiners should obtain approval from the EIC for deviations from assigned working hours during an examination and should explain to the EIC the reason for all absences not preapproved.

The EIC should inform the institution's management of any unusual variances, especially absences, from the normal work schedule. Absences without notice give the impression of lack of responsibility and care.

Working Space

Savings associations should provide adequate working space for examiners. If space is inadequate, examiners may request additional or other space as long as its use does not unreasonably disrupt association operations.

To avoid any appearance of impropriety, when you are working in an institution you should take the following precautions:

- Ensure that a representative of the institution is on the premises whenever you are working.
- Not accept keys to the institution's offices or assume responsibility for its property.
- Not enter places where there is a possibility of access to cash or other negotiable instruments unless a representative of the institution accompanies you.

Access to Information

When you are in an institution you must take care to adhere to the following procedures:

- Carefully protect all information an institution entrusts to you and secure it from unauthorized access.
- Never leave confidential documents unattended; you should lock them up when not in use.
- Never divulge confidential information in any form to unauthorized persons.
- Never leave computers unattended in the following circumstances:
 - While logged onto an OTS system.
 - While the computer is in a status that would allow unauthorized access to an OTS system or to any confidential data stored on diskettes or disk drives.

You should notify the EIC or other supervisors if the institution refuses to provide you with any information needed to conduct an examination.

Breaks

The EIC will determine the propriety, times, and lengths of breaks.

Lunches

You may use an institution's dining facilities if the institution invites you to do so and you pay for your own meals. Examiners on assignments with large crews should stagger their lunch breaks so that the entire crew is not absent from the work place simultaneously.

Professional Decorum

The following guidelines are general prescriptions for interacting with other regulators and institution employees during an examination.

- You should limit unnecessary conversations with other regulators and the institution's employees.
- You should treat institution employees in a courteous, friendly, yet businesslike manner.
- You should not discuss work with unauthorized employees. You should generally confer with the EIC before discussing anything other than routine matters with employees or management.

Smoking

OTS employees who smoke should always be courteous and considerate of others, and should follow any institution rules regarding smoking.

Telephone Calls

You should limit telephone usage, even for official matters. You should avoid personal telephone calls unless they are absolutely necessary.

Parking

You may use an institution's private parking facilities if invited to do so by the institution. The EIC must, however, approve such use, which should not unduly inconvenience employees or customers.

If the institution uses an independent parking facility, you may not park there at the institution's expense.

Travel Expenses

All travel, lodging, and subsistence expenses incurred while on official duty shall be paid for or reimbursed only by OTS. For further information regarding reimbursement for travel and lodging refer to OTS's National Travel Policy manual.

Business Attire

You should wear appropriate business attire at an institution. Standards of appropriateness may vary depending on regional policy, the institution, and the customs of the community.

REFERENCES

See The OTS Employee Ethics and Standards of Conduct Resource Guide.

United States Code (18 USC)

Chapter 11 Bribery, Graft, and Conflicts of Interest
§§ 201-219

Code of Federal Regulations (5 CFR)

Part 2635 Standards of Ethical Conduct for Employees of the Executive Branch
§§ 2635.101-902

Part 735 Employee Responsibilities and Conduct
§§ 735.101-203

Part 3101 Supplemental Standards of Ethical Conduct for Employees of the Department
§§ 3101.101-104 of the Treasury

§ 3101.109 Supplemental Standards of Ethical Conduct for Employees of the Office of
Thrift Supervision

Code of Federal Regulations (31 CFR)

Part 0
§§ 0.201-217 Department of the Treasury Employee Rules of Conduct