

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 5 CFR Part 8301

RIN 3209-AA15

#### Supplemental Standards of Ethical Conduct for Employees of the Department of Agriculture; Additional Rules for Department's Rural Development Employees

**AGENCY:** Office of the Secretary, U.S. Department of Agriculture (USDA).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Department of Agriculture (USDA), with the concurrence of the Office of Government Ethics (OGE), is issuing an interim rule amending the regulations for Department employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), as issued by OGE. The interim rule adds additional rules in a new section applicable to employees of the Rural Development (RD) mission area. This section sets forth certain restrictions on financial interests applicable to RD employees and separate, more-extensive prior approval requirements for RD employees.

**DATES:** *Effective Date:* These interim regulations are effective August 20, 2010. Comments are invited and should be received by September 20, 2010.

**ADDRESSES:** You may submit comments to the Office of Ethics, U.S. Department of Agriculture, on this interim regulation by any of the following methods:

- *E-mail:* [daeo.ethics@usda.gov](mailto:daeo.ethics@usda.gov) [include reference to RD Supplemental Regulation in the subject line of the message].

- *Fax:* 202-690-2642.

- *Postal Mail/Hand Delivery/Courier:* Office of Ethics, U.S. Department of Agriculture, Room 347-W, Stop 0122, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 720-2251. Attention: Michael M. Edwards, Deputy Director.

**FOR FURTHER INFORMATION CONTACT:** Michael M. Edwards, (202) 720-2251.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 2, 2000, with the concurrence and co-signature of OGE, The USDA published a final rule establishing supplemental standards of ethical conduct for employees of USDA (65 FR 58635-40, October 2, 2000). The final rule was issued to supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) that were published by OGE on August 7, 1992, and became effective on February 3, 1993. The Standards, as corrected and amended, are codified at 5 CFR part 2635. The final rule was issued pursuant to 5 CFR 2635.105, which authorizes agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to implement their respective ethics programs. The Department, with OGE concurrence, determined that the supplemental rules for codification in chapter 73 of 5 CFR, consisting of part 8301, are necessary to the success of its ethics program, and has likewise determined that these additional rules are necessary to the success of its ethics program for RD.

##### II. Grace Period

While these regulations are effective upon publication, pursuant to 5 CFR 2635.403(d), whenever an agency directs divestiture of a financial interest under paragraphs (a) or (b) of 5 CFR 2635.403, the employee shall be given a reasonable time, not to exceed ninety (90) calendar days from the date on which divestiture is first directed, in which to comply with the agency's direction.

Divestiture is directed upon publication of this rule. Accordingly, employees who are required to divest financial interests pursuant to publication of this rule shall accomplish required divestiture as follows: Divestiture of financial interests described under § 8301.107(c) of this rule shall be accomplished within

ninety (90) calendar days from the effective date of this rule; termination of outside employment prohibited under § 8301.107(f) of this rule shall be accomplished within thirty (30) calendar days from the effective date of this rule. However, during the 90 and 30 day periods, as long as the employee retains or continues to hold any financial interest that must be divested or employment that must be terminated pursuant to this rule, the employee shall remain subject to any restrictions imposed under 5 CFR part 2635, subpart D, as well as 18 U.S.C. 208 and 5 CFR part 2640. Moreover, employees who, subsequent to the effective date of this rule, either: (1) Unknowingly or through processes such as inheritance acquire, receive, or otherwise obtain financial interests; or (2) engage in outside employment that becomes conflicting through a subsequent official reassignment or change in official duties, shall also have respective 90 and 30 calendar day periods in which to divest such interest, or terminate prohibited outside employment. These periods will be measured from the date on which the employee learns, or reasonably should have learned, that he or she has acquired a prohibited financial interest or that outside employment in which he or she currently is engaged is prohibited by this rule.

#### Analysis of the Regulations

##### Section 8301.107 Additional Rules for Rural Development Employees

USDA's RD has determined that certain additional rules are necessary in order to protect the integrity of its programs. Many RD programs are administered in a highly decentralized manner. Many RD employees reside in the same small communities as the RD loan applicants, borrowers, and program participants they serve. At the same time, many RD employees and/or their family members are RD program participants. Rural Development employees often are part of the very rural communities being serviced by their local RD offices. Given the opportunity and, in many cases, the need for regular, non-official interaction between RD employees and the persons and businesses in their communities serviced by RD, there is a need to establish for RD employees certain limitations regarding outside

employment and to prohibit RD employees from obtaining certain financial holdings. The restrictions contained in paragraphs (c) through (g) of § 8301.107 primarily reinstate employee conduct rules that were in effect at the former Farmers Home Administration (FmHA) and Rural Electrification Administration, the predecessor agencies to RD, prior to the effective date of 5 CFR part 2635, as extended by OGE-issued grace periods to November 1, 1996, for certain existing USDA regulatory prohibited financial interests and prior approval for outside employment requirements.

Paragraph (a) of § 8301.107 provides that, other than where specified, the additional rules in the section apply solely to all RD employees, other than special Government employees as defined under 18 U.S.C. 202, whether the employees are employed by RD, or one of the RD agencies, the Rural Housing Service (RHS), the Rural Business and Cooperative Service (RBS), or the Rural Utilities Service (RUS).

Paragraph (b) defines the phrase "RD program participant" as any person (including any entity) who, either individually or collectively, (1) Currently has an outstanding loan, loan guaranty, or grant from RD, (2) currently receives any other form of RD financial assistance under a credit, payment, or other program administered by RD, or (3) has an application on file to become an RD borrower, RD grantee, or recipient of any other form of RD financial assistance available under any credit, payment, or other program administered by RD. However, the definition excludes voluntary membership by a person in a utility or public-type facility organization that is an RD program participant.

The new interim rule contains five restrictions on RD employees holding or acquiring conflicting interests. Paragraph (c)(1) of § 8301.107 provides that no RD employee, or spouse or minor child of such an RD employee, shall knowingly own, receive, or acquire stock, or hold any other financial interest in a for-profit entity, or affiliate of a for-profit entity, that is an RD program participant, a business that does or seeks to do business with RD, or one that sells repeatedly to RD borrowers or contractors for payment from RD loan, grant, or loan guaranty funds, if that entity or affiliate is affected by decisions of the particular RD office in which the RD employee serves. The paragraph specifically references types of entities covered as including: Entities engaged in commercial real estate sale and lease, including brokers, sales agents,

mortgage lenders, and other financial servers; title and abstract companies; house/building construction companies and subcontractors; building supply companies and lumberyards; insurance companies; and entities involved in land development.

This provision is subject to two exceptions under paragraph (c)(2). The first exception permits investing in a publicly traded or publicly available mutual fund or other collective investment fund or in a widely held pension or similar fund provided that the fund does not invest more than 5 percent of its assets in securities of any one entity covered under paragraph (c)(1), or more than 25 percent of its assets in securities of any combination of entities covered under paragraph (c)(1).

Under the second exception, the prohibitions contained in paragraph (c)(1) on owning or acquiring a financial interest do not prohibit an RD employee, spouse or minor child from owning "Patronage Capital," as a member in a nonprofit entity, such as an electric, telecommunications, or water cooperative. Patronage Capital is defined as the amounts received for providing a service in excess of the amounts required for operating costs and expenses. Under this definition, Patronage Capital is the equivalent of net income in a commercial for-profit business entity. Cooperative principles require that Patronage Capital be returned to the members who furnished it. When these amounts are credited or allocated to the members, they are referred to as Patronage Capital Credits or Capital Credits. Generally, Capital Credits are retired or paid to members on a First In First Out (FIFO) basis. Because of the capital-intensive nature of the utility industry, Capital Credit retirements are paid on a rotational cycle determined by the Cooperative. These rotational cycles are usually between 15 and 30 years, meaning that Patronage Capital Credits may not be paid to the member for 15 to 30 years after it is earned. Credits are allocated based on the amount of electrical service provided to a consumer. As many RUS employees are residents of rural communities where utilities are provided through cooperatives, prohibiting such interests would impose an undue hardship on the employees, their spouses, and/or minor children. Moreover, RD has determined that these payments, which stem from simple membership, pose little risk of conflicting interests.

Paragraph (d) of § 8301.107 generally provides that no RD employee, or a spouse or minor child of an RD

employee, shall knowingly purchase RD-related real estate properties. Application of this prohibition is subject to waiver under paragraph (g) of this section.

Paragraph (e)(1) of this section prohibits an RD employee, or a spouse or minor child of an RD employee, from engaging in certain transactions with persons whom the RD employee, or spouse or minor child of the RD employee, knows or reasonably should know to be an RD program participant directly affected by decisions made by the employee's RD office, unless certain exceptions apply. The transactions covered by this general prohibition include sales of real property, leases of real or personal property, the sale or purchase of personal property, and obtaining personal services from RD program participants. As provided in paragraph (e)(2), the general prohibition does not apply to transactions involving goods available to the general public at posted prices that are customary and usual within the community (e.g., sale of a tractor through placing an advertisement in the local newspaper). As with paragraph (d), above, application of this general prohibition also is subject to waiver under paragraph (g) of this section.

Paragraph (f) of § 8301.107 contains a prohibition on RD employees providing outside consulting services to an RD program participant if the program participant is affected by decisions of the particular RD office in which the RD employee serves. It is the position of USDA that such service by an RD employee would often result not only in the employee being tempted to use his or her official position, or nonpublic RD information, to benefit himself or herself, but would almost always result in the perception among RD program participants of such misuse. In light of the potential risk to the faith of the public in the integrity of RD programs, this prohibition is not subject to waiver.

Under 5 CFR 2635.403(a), RD may, by supplemental regulation, prohibit or restrict employees from holding financial interests that RD determines would cause a reasonable person to question the impartiality or objectivity with which RD programs are administered. The important local role that RD plays in rural communities as a lender and loan guarantor, and the resulting impact that it has upon the rural real estate industry, warrants supplemental safeguards against placing any RD employee in a position to secure, or appear to secure, private gain for himself or herself, or for any other person, by virtue of the public position he or she holds.

The sensitive and diverse mission of RD involving the institutions it assists makes it appropriate to restrict ownership of certain financial interests dealing with rural real estate ownership and rural construction interests by an RD employee, or spouse and/or minor child of an RD employee. Such restrictions are necessary in order to (1) maintain public confidence in the impartiality and objectivity with which RD executes its mission, (2) eliminate public concern, particularly in the area serviced by the employee's RD office, that sensitive information provided to RD might be used for private gain, and (3) avoid a significant number of recusals which would hinder program operations.

The prohibitions under paragraphs (c) and (d) apply whether the prohibited financial interest involved is obtained by the employee, spouse, or minor child directly or indirectly if the financial interest is obtained knowingly by the employee, spouse, or minor child. For example, an employee would violate paragraph (d) should he or she obtain otherwise prohibited RD property through an agreement with another person under which the other party poses as a front for the RD employee. Because application of the prohibitions in paragraphs (d) and (e) may result in undue financial hardship to various RD employees and RD program participants in certain instances, the prohibitions may be waived in accordance with the standards at paragraph (g) of § 8301.107. Under this paragraph, an RD employee may submit a written request to the RD State Director for the employee's State or the Deputy Administrator for Operations and Management. Either of these officials, as appropriate, may make a determination in advance after consulting with the USDA Office of Ethics that a transaction would satisfy the conditions, as explained below. Paragraph (g) also provides that a waiver may impose appropriate additional conditions, such as a written disqualification. This waiver provision reflects, in large part, a similar provision that existed in the former FmHA rules prior to the effective date of the Standards and which lapsed when the Standards became effective as a final rule.

A waiver may be granted by the RD State Director or Deputy Administrator for Operations and Management based on his or her finding, after consultation with the USDA Office of Ethics, that: (1) The transaction is not inconsistent with the Standards at part 2635 of this title or this part; (2) the transaction is not otherwise prohibited by law, including 7 U.S.C. 1986 (prohibiting Department

employees from benefiting, or receiving a fee, commission, gift, or other consideration, in connection with any transaction or business under the Consolidated Farm and Rural Development Act, 7 U.S.C. 1921 *et seq.*); and (3) under the particular circumstances, application of the prohibition to the transaction is not necessary to avoid the appearance of misuse of position or loss of impartiality, nor otherwise needed to ensure confidence in the impartiality and objectivity with which agency programs are administered. In addition, the transaction must be found to be free of duress or favoritism and to not involve a contractual relationship or obligation exceeding 365 consecutive calendar days.

Moreover, because farm leases and other transactions between RD employees and RD program participants are so common within rural communities, RD has determined that not providing RD employees (on their own behalf or on behalf of their spouses or minor children) the opportunity, through the waiver provision, to obtain an advance determination that the transaction would be consistent with ethics requirements would impose an undue financial hardship upon the RD employees (including their spouses and/or minor children) and the RD program participants. While the waiver request is submitted by the RD employee, the standards for granting such a waiver set forth in (g)(2) specifically require a showing that, in addition to satisfying the primary Government ethics conditions for the RD employee noted above, the transaction is in the best interests of the RD program participant and that denial of the requested waiver would likely cause significant hardship to the RD program participant. Such additional waiver provisions, based on a balancing of ethical considerations against the potential financial hardship to the RD program participant, provide flexibility and fairness while raising the level of decision-making visibility and accountability. Requiring requests for advance determinations to be submitted to the appropriate RD official permits the agency to have control over these interactions without imposing undue financial hardships. As a result, approved transactions will have visibility and accountability.

Paragraph (h) of § 8301.107 requires an RD employee, not otherwise required to do so under § 8301.102, to obtain prior approval from RD before engaging in outside employment that: (1) Relates to the real estate industry in the area serviced by the particular RD office in which the RD employee serves, or

(2) involves a person whom the RD employee knows, or reasonably should know, to be an RD program participant directly affected by decisions made by the particular RD office in which the RD employee serves.

This requirement also reflects a similar requirement contained within the former FmHA rules and which lapsed on November 1, 1996. While outside interaction is vital to RD employees and to the community in which they live, the potential for outside employment opportunities leading to favoritism and a loss of impartiality, or an appearance thereof, is significant enough to justify agency concerns. Thus, USDA has determined that it is necessary to require approval before any of its RD employees may engage in any outside employment in such businesses where potential for actual or perceived favoritism or a loss of impartiality is significant. Specifically, the parties involved in real estate transactions are generally real estate agents, appraisers, brokerage agents, title attorneys, bank board members, etc. In the opinion of USDA, prior approval is necessary in order to maintain public confidence in the impartiality and objectivity with which RD executes its various functions; to eliminate public concern, particularly in the area serviced by the employee's RD office, that sensitive information provided to or by RD employees might be used for private gain; and to avoid a significant number of recusals that would hinder program operations.

Mitigating against the impact of this restriction is the fact that this paragraph covers only RD employees, not their spouses or minor children. Moreover, there is a provision set forth in § 8301.102(e)(1) that will provide the flexibility to exempt from the prior approval requirement categories of outside employment that are deemed to pose little or no ethical risk to RD employees.

#### IV. Matters of Regulatory Procedure

##### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(a)(2), USDA is not required to provide a general notice of proposed rulemaking, opportunity for advance comment, and a 30-day delay in effectiveness as to this interim rule because it is a matter relating to Federal personnel. This rulemaking contains statements of policy, interpretive rules, and conduct regulations related to USDA personnel and, in significant part, reissues in revised form the prohibited financial interest and outside employment rules that existed in the former FmHA prior

to the effective date of 5 CFR part 2635. However, because this rule may be improved, comments may be submitted on or before September 20, 2010. All comments will be analyzed and any appropriate changes to the rule will be incorporated in the subsequent publication of the final rule.

While the rule is effective upon publication, pursuant to 5 CFR 2635.403(d), whenever an agency directs divestiture of a financial interest under paragraphs (a) or (b) of 5 CFR 2635.403, the employee shall be given a reasonable time, normally not to exceed ninety (90) calendar days from the date on which divestiture is first directed, in which to comply with the agency's direction.

The divestiture requirement is directed upon publication of this rule. Accordingly, employees who are required to divest financial interests pursuant to publication of this rule shall complete required divestiture of financial interests under paragraph (c) of § 8301.107 within 90 calendar days from the date of publication, except in cases of unusual hardship as determined by RD. Employees who are required to terminate conflicting outside employment under paragraph (f) of § 8301.107 shall accomplish required termination within thirty (30) calendar days from the date of publication, except in cases of unusual hardship as determined by RD. During the 90- and 30-day periods, as long as the employee retains or continues to hold any financial interest that must be divested or employment that must be terminated pursuant to this rule, the employee shall remain subject to any restrictions imposed under 5 CFR part 2635, subpart D, as well as 18 U.S.C. 208 and 5 CFR part 2640.

#### *Congressional Review*

The Department has found that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress. This rulemaking is related to Department personnel.

#### *Executive Orders 12866 and 12988*

Since this rule relates to Department personnel, it is exempt from the provisions of Executive Orders 12866 and 12988.

#### *Paperwork Reduction Act*

The Department has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this regulation.

#### **List of Subjects in 5 CFR Part 8301**

Conflict of interests, Executive Branch standards of conduct, Government employees.

■ For the reasons set forth in the preamble, the Department of Agriculture, with the concurrence of the Office of Government Ethics, is amending 5 CFR part 8301 as follows:

#### **PART 8301—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE**

■ 1. The authority citation for part 8301 is revised to read as follows:

**Authority:** 5 U.S.C. 301, 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 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, 2635.403(a), 2635.802(a), 2635.803.

■ 2. A new section 8301.107 is added to read as follows:

#### **§ 8301.107 Additional rules for RD employees.**

(a) *Application.* Except where otherwise noted below, this section applies to all of the Department's RD employees, other than special Government employees, as defined at 18 U.S.C. 202, including employees of the Rural Housing Service, Rural Business and Cooperative Service, and Rural Utilities Service.

(b) *Definition of RD program participant.* For purposes of this section, the phrase "RD program participant," includes any person (including any entity) who, either individually or collectively, currently has an outstanding loan, loan guaranty, or grant from RD, currently receives any other form of RD financial assistance under a credit, payment, or other program administered by RD, or has an application on file to become an RD borrower, RD grantee, or recipient of any other form of RD financial assistance available under any credit, payment or other program administered by RD. Voluntary membership by a person in a utility or public-type facility organization that is an RD program participant does not make the person an RD program participant.

(c) *Prohibited financial interests.* (1) Except as provided for in paragraph (c)(2) of this section, an RD employee, or a spouse or minor child of an RD employee, shall not knowingly own, receive, or acquire stock, or hold any other financial interest in a for-profit entity, or affiliate of a for-profit entity, that is an RD program participant, a business that does or seeks to do

business with RD, or one that sells repeatedly to RD borrowers or contractors for payment from RD loan, loan guaranty, or grant funds, if that entity or affiliate is affected by decisions of the particular RD office in which the RD employee serves. Types of entities covered by this section include, but are not limited to the following:

- (i) Entities engaged in commercial real estate sales and leasing, including brokers, sales agents, mortgage lenders, and other financial servers;
- (ii) Title and abstract companies;
- (iii) House/building construction companies and subcontractors;
- (iv) Building supply companies and lumberyards;
- (v) Insurance companies; and
- (vi) Entities involved in land development.

(2) *Exceptions.* (i) Nothing in this section prohibits an RD employee, or a spouse or minor child of an RD employee, from owning any of the interests described in paragraph (c)(1) of this section where the interest is held through investment in a publicly traded or publicly available mutual fund or other collective investment fund or in a widely held pension or similar fund provided that the fund does not invest more than 5 percent of its assets in any one entity covered under paragraph (c)(1) of this section and does not invest more than 25 percent of its assets in any combination of entities covered under paragraph (c)(1) of this section.

(ii) Nothing in this section prohibits an RD employee, or a spouse or minor child of an RD employee, from owning Patronage Capital that the employee receives simply by reason of being a member of a nonprofit entity, such as an electric, telecommunications, or water cooperative. For purposes of this section, Patronage Capital is defined as amounts received for providing a service in excess of the amounts required for operating costs and expenses.

(d) *Prohibited real estate purchases.* Except in cases where a waiver has been granted pursuant to paragraph (g) of this section, no RD employee, or spouse or minor child of an RD employee may personally, or through the participation of another person, knowingly purchase real estate or personal property: Mortgaged or pledged to the Government through RD; held in the RD inventory; for sale under forfeiture to RD; or from an RD program participant.

(e) *Prohibited transactions with RD program participants.* (1) Except in cases where a transaction is subject to the exceptions set forth in paragraph (e)(2) of this section, or where a waiver has been granted pursuant to paragraph

(g) of this section, no RD employee or spouse or minor child of an RD employee, may knowingly: Purchase an interest in or sell real property to; lease real property to or from; sell to, lease to or from, or purchase personal property from; seek or accept credit from RD-financed cooperative associations; or employ for compensation a person whom the RD employee or spouse or minor child of the RD employee, knows or reasonably should know is an RD program participant directly affected by decisions of the particular RD office in which the RD employee serves.

(2) *Exceptions.* Paragraph (e)(1) of this section does not apply to a sale, lease, or purchase of personal property, if it involves goods available to the general public at posted prices that are customary and usual within the community. (f) *Prohibited outside employment.* No RD employee may provide personal consulting services for any person or entity with an application on file with, grant from, or outstanding loan or loan guaranty with RD, if the application, grant, or outstanding loan or loan guaranty could be affected directly by decisions of the particular RD office in which the RD employee serves.

(g) *Waiver—(1) Approving officials.* A written request for an exception to the prohibitions found in paragraphs (d) and (e) of this section may be submitted in advance of the transaction by the RD employee (whether on his or her own behalf, or on behalf of the employee's own spouse or minor child) to:

(i) The RD State Director, for RD State-level employees; or  
(ii) The Deputy Administrator for Operations and Management, for RD State Directors and National Office employees.

(2) *Standards.* The RD State Director or Deputy Administrator for Operations and Management may grant a written waiver from this prohibition based on a determination made with the concurrence of the USDA Office of Ethics that all three of the following conditions are satisfied:

(i) The waiver is not inconsistent with part 2635 of this title, this part, or 7 U.S.C. 1986, nor otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered;

(ii) The transaction:

(A) Appears free of duress or favoritism;

(B) Does not involve a contractual relationship or obligation that exceeds 365 consecutive calendar days; and

(C) Is in the best interests of the RD program participant; and

(iii) A denial of the request would likely cause significant hardship to the RD program participant.

(3) *Additional conditions.* A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification. Approval of a waiver under this paragraph does not exempt the employee from complying with other applicable programmatic requirements under 7 CFR part 3550.9.

(h) *Additional prior approval requirement for outside employment.* (1) Any RD employee wishing to engage in outside employment as defined in paragraph (b) of § 8301.102 and who is not otherwise required to obtain approval therefor under that section, shall obtain prior written approval in accordance with the procedures set forth in paragraphs (c) and (d) of § 8301.102 if the outside employment is covered under paragraph (h)(2) or paragraph (h)(3) of this section.

(2) Outside employment is subject to the prior approval requirement of this paragraph if it involves any of the following activities, if conducted in the area serviced by the RD office in which the employee serves:

(i) Sale, appraisal, or assessment of real estate;

(ii) Performance of real estate brokerage services;

(iii) Service as a title attorney or title insurance representative;

(iv) Real estate development, including the construction of houses or other buildings;

(v) Service as an officer or on the board of directors of a bank or savings and loan association;

(vi) Service as an officer, member of the board of directors or trustees, or as an employee of an RD-financed entity;

(vii) Service as an officer, employee, or member of a governing board of a State, county, municipal, or other local political jurisdiction having the power to tax or zone real estate;

(viii) Membership in grazing associations, un-incorporated Economic Opportunity cooperatives, rental housing groups, and closely-held labor housing organizations;

(ix) Insurance sales; or

(x) Land speculation.

(3) Outside employment is also subject to the prior approval requirements of this paragraph if it is with or for a person whom the RD employee knows, or reasonably should know, is both:

(i) An RD program participant; and  
(ii) Directly affected by decisions made by the particular RD office in which the RD employee serves.

Dated: August 8, 2010.

**Thomas J. Vilsack,**  
Secretary.

Approved: August 13, 2010.

**Robert I. Cusick,**  
Director, Office of Government Ethics.  
[FR Doc. 2010-20722 Filed 8-19-10; 8:45 am]

**BILLING CODE 3410-01-P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### 31 CFR Part 215

RIN 1510-AB06

### Withholding of District of Columbia, State, City and County Income or Employment Taxes by Federal Agencies; Technical Amendment

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Technical amendment.

**SUMMARY:** This document contains a technical amendment to the final regulation (31 CFR 215.3), published in the **Federal Register** of Friday, January 13, 2006, (71 FR 2150). The regulation provides procedures for entering into a withholding agreement, including providing an address for the Secretary of the Treasury for withholding agreement consent letters. This document corrects the address to which the letters are sent.

**DATES:** Effective on August 23, 2010.

**FOR FURTHER INFORMATION CONTACT:** Agency Enterprise Solutions Division, 202-874-9428.

### SUPPLEMENTARY INFORMATION:

#### I. Background

The procedures for entering into a withholding agreement provided in 31 CFR § 215.3 include an address to the Secretary of the Treasury for withholding agreement consent letters. The address provided in the published regulations indicates the Assistant Commissioner, Federal Finance, as the recipient. The address is amended to indicate the Assistant Commissioner, Payment Management, as the recipient of the letters.

#### II. Need for Correction

As published, the final regulations contain an inaccurate address which may cause delay delivery and processing.