

**OFFICE OF THE STATE INSPECTOR GENERAL
POLICY AND PROCEDURE**

SUBJECT

**STANDARDS OF ETHICS
AND CONFLICT OF INTEREST**

Effective Date

April 30, 2021

Number

113

Supersedes

May 20, 2019

Authority

COV § 2.2-2900 et seq. Virginia Personnel Act, COV §2.2-3100 et seq. State and Local Government Conflict of Interests Act

FOIA Exempt Yes No

Attachments Yes No

I. PURPOSE

This operating procedure ensures that all Office of the State Inspector General (OSIG) staff and service providers understand and comply with requirements to act professionally and ethically, and respect the privacy of colleagues.

II. COMPLIANCE

This operating procedure applies to all staff employed by OSIG. Practices and procedures shall comply with applicable state and federal laws and other OSIG directives and operating procedures.

III. DEFINITIONS (PER CODE OF VIRGINIA § 2.2-3101)

Contract – Any agreement entered into by or on behalf of the agency that involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the Commonwealth of Virginia, or some political subdivision thereof. This includes memoranda of agreement. This also includes subcontracts by a contractor who has been awarded a contract by the agency.

Personal Interest - A financial benefit or liability accruing to an officer or employee, or to a member of the employee’s immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits or benefits from the use of property, or any combination thereof, paid or provided by a business that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income or salary, other compensation, fringe benefits or benefits from the use of property; or (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business or (vi) an option to ownership of a business or real personal property of the ownership interest will consist of clause (i) or (iv).

When an employee is employed by a contract vendor/company that provides services to the Commonwealth and the employee does not own more than three percent of the vendor/company, the employee's income from the vendor/company may exceed \$5,000 annually provided the employee is not involved in negotiating or procuring contracts for or on the behalf of the Commonwealth or the vendor/company. This also applies to any member of the employee's immediate family. The Office of the Attorney General may make a determination when there are questions regarding outside employment of OSIG employees. No OSIG employee may enter into a separate contract for services with OSIG.

Personal Interest in a Contract - A personal interest an officer or employee has in a contract with a governmental agency, whether due to being a party to the contract or due to a personal interest in a business that is a party to the contract.

Personal Interest in a Transaction - A personal interest an officer or employee has in any matter considered by his agency. Such personal interest exists where an officer or employee of an agency, or a member of his/her immediate family, has a personal interest in property or a business that is, or governmental agency, or represents or provides services to any individual or business and such property, business or represented or serviced individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity, or (b) an officer, employee or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member or member of his immediate family.

Real Property – Tangible assets including, but not limited to, land or equipment that has value (monetary, charitable, historical, etc.) as determined by OSIG.

Immediate Family – Includes (i) spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee. For individuals who participate in procurement for the agency, this is expanded to include anyone who resides in the same household as the officer or employee.

Subordinate – An employee in a lower position or rank, generally subject to or under the authority of a person in a higher position or with higher rank.

Supervisor – An employee in a higher position or rank, generally overseeing or directing the work of others, or in a direct administrative relationship to someone in a lower level position.

Transaction - Any matter considered by any governmental or advisory agency, whether in a committee or subcommittee or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

IV. PROCEDURES

A. General Conduct - Employees of the Office of the Inspector General shall conduct themselves by the highest standards of ethics so that their actions will not be construed as a conflict of interest or conduct unbecoming an employee of the Commonwealth.

1. OSIG is an Executive Branch Agency that conforms to high professional, ethical and moral standards of conduct.
2. This operating procedure applies to all staff, contract personnel, consultants, hourly wage employees, volunteers, interns and any other person providing services to OSIG.
3. The management team will ensure that all employees, contract personnel, consultants, hourly wage employees, volunteers, interns and any other person providing services to the Commonwealth under the purview of OSIG will be advised of and comply with policies, procedures, protocols and regulations governing standards of ethics and conflict of interest.
4. OSIG employees shall conduct themselves and perform their duties in such a way as to set a first-class example for other Commonwealth employees and thereby gaining their uttermost respect. Employees shall not use their official position to secure privileges for themselves or others, or engage in activities that constitute a conflict of interest.
5. This operating procedure is available to all employees through the OSIG server and locations where hardcopies of OSIG procedures are available.

B. Prohibited Conduct - The rules listed below are intended to be illustrative, but not all-inclusive, of unacceptable conduct. No OSIG staff shall:

1. Solicit or accept money or other things of value for services performed within the scope of their official duties, except the compensation, expenses or other remuneration paid by OSIG. This does not prohibit the acceptance of special benefits that may be authorized by law. It does prohibit the acceptance of frequent flyer points or other similar benefits from airlines or hotels for the employee's personal use, but they may be accepted and used for future business purposes. Acceptance of such benefits must be reported to the business manager. In accordance with state travel regulations, the business manager must report balances and business uses on a quarterly basis to the agency fiscal officer. Excluded from this is an employee's campaign for office per *Code of Virginia* § 2.2-3103. Per the Office of the Attorney General, campaign contributions used solely for the purpose

of the campaign are allowed. Should the employee decide to pull out of the campaign, all contributions should be returned to the donor(s). If the employee is unable to identify the donor(s), the contributions need to be given to a charity and documented as such.

2. Offer or accept money or any other thing of value for or in consideration of obtaining employment, appointment or promotion within OSIG.
3. Willfully use for their economic benefit, or that of another party, any confidential information that has been acquired by reason of his or her position but that is not available to the public.
4. Accept any money, loan, gift, favor or service from anyone doing business with the Commonwealth. This does not include unsolicited promotional items of nominal or low value, normally less than \$20. Staff is encouraged to use prudent and reasonable judgment in these matters. Whenever possible, such items should be shared with all staff in a common area.
5. Accept any business or professional opportunity wherein the employee may gain a financial benefit where the opportunity being afforded may influence their conduct in the performance of official duties.
6. Record meetings and/or interviews without the knowledge and consent of every executive branch agency employee in attendance. If any attendee indicates that he/she is recording the meeting, each attendee shall document consent in a sworn statement; however, this statement does not apply to administrative activities or criminal investigations as required or authorized by law. OSIG will provide a copy of this sworn statement to all meeting attendees within 24 hours of the meeting conclusion.

C. Prohibited Contracts

1. No OSIG employee shall have a personal interest in a contract with OSIG other than negotiated contracts for employment (specific positions only). Employees cannot be part of negotiations or procurement of a contract that involves an employer they work for as a second job.
2. No OSIG employee shall have a personal interest in a contract with any other agency of state government unless such contract is:
 - a. Awarded as a result of competitive sealed bidding or competitive negotiation as defined in COV §2.2-4301; or
 - b. Awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

D. Employment of Family Members

1. No employee shall be employed in a position where they serve as a direct supervisory or administrative role to their spouse, significant other or any other relative residing in the same household.

2. Employees are responsible for reporting any instances where spouses or significant others are employed by a state agency. Employees may be restricted from certain assignments if there is a situation where a spouse or significant other is employed at an agency under audit or investigation. This action is taken to ensure objectivity and to avoid the appearance of any conflict of interest.
 3. Per *Code of Virginia* § 2.2-3110, two individuals within the same agency should not enter into marriage unless they have been employed by the agency for a period of at least five years.
- E. Real Property - No employee on behalf of OSIG or the Commonwealth may participate in the sale, lease or exchange of real property when the employee has a real interest in the property.
- F. Prohibited Transactions – OSIG employees having a personal interest in any transaction involving OSIG or the Commonwealth shall disqualify themselves from acting on behalf of the Commonwealth in such transaction. The employee's disqualification shall be noted in the record of the transaction of OSIG.
- G. Disclosure Statements
1. Employees in positions designated by the Governor shall file a disclosure statement of personal interests on appropriate forms as furnished by the secretary of the Commonwealth.
 2. All vacancies advertised for recruitment for those positions designated as “state filers” (see Governor’s Executive Order 16 (2010)) must indicate the requirement of filing a personal financial statement in accordance with *Code of Virginia* § 2.2-3100 et seq. State and Local Government Conflict of Interests Act.
 3. All state filers are required to complete training regarding the State and Local Government Conflict of Interests Act and the Virginia Public Procurement Act. The Office of the Attorney General provides the online training and the OSIG Security Office will assign this mandated training for state filers.
 4. All employees, contractors and consultants are required to complete the OSIG Statement of Objectivity (attached) upon employment. This form should be updated annually at minimum, during the performance review process or when a change occurs that requires an update. Any changes should be reported to the business office as soon as possible after the occurrence.
- H. Political Activities
1. OSIG employees are encouraged to exercise their right to vote for political candidates of their choice. However, because of the potential for conflict or apparent conflict of interest, the possibility of compromising the neutrality, efficiency or integrity of this executive agency, and to comply with federal law, an officer or employee of OSIG may not:

- a. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.
 - b. Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.
2. Employees in OSIG supervisory and managerial positions shall be especially mindful of how their words and deeds might be construed or might influence other OSIG employees.
 3. Any OSIG employee whose salary is financed in whole or in part by appropriations, loans or grants made by the United States government or a federal agency is prohibited from being a candidate for public elective office in a partisan election. Partisan elections are defined by participation of political parties in the election.
 4. Employees whose salary is financed by state funds only are permitted to run for office. All campaign activities must be conducted outside of working hours and should not use any state equipment or be conducted on agency property.

I. Public Presentations

1. When employees are representing OSIG, writings and presentations concerning OSIG shall be considered regular work for which no additional compensation may be accepted.
2. When employees are not representing OSIG, employees shall clearly identify that what they are saying is their individual opinion and not that of OSIG.

J. Ownership of Data

1. Data collected or property invented or created by OSIG employees as part of OSIG employment using OSIG resources shall be the property of the Commonwealth and shall be available for use as needed by any authorized OSIG employee.
2. Unauthorized release of such data is prohibited.
3. Data may be released to the public if such is dictated by a Freedom of Information Act request and is in compliance with *Code of Virginia* § 2.2-3800 et seq. Government Data Collection & Dissemination Practices Act.

K. Outside Activity – OSIG considers itself the primary employer for all its employees.

Therefore, any outside employment including ownership of business must be approved by OSIG.

1. An employee who performs work for or receives compensation from a person or business performing contract work for OSIG should ensure that this situation does not create a violation of this operating procedure or *Code of Virginia* § 2.2-3100 et seq. State and Local Government Conflict of Interests Act. Employees and managers should consult their human resources department for guidance.
2. Employees approved to work outside employment, second jobs or to own a business (through an approved *Request for Permission to Secure Employment Outside*

Regular Working Hours) must ensure that business relationships cannot be perceived or construed as being a conflict of interest.

3. No employee shall engage in any other employment or activity that is prejudicial to OSIG's operations, either in another agency or outside of state service, or in any private business or in the conduct of a profession during the hours for which he or she is employed to work, or outside such hours in a manner or to an extent that affects or is deemed by the employing agency as likely to affect their usefulness as an employee or that is likely to be in violation of the State and Local Government Conflict of Interests Act. Outside employment or business relationships between supervisors and subordinates may create a conflict of interest and must be disclosed and approved.
4. Regardless of the outside employment being considered, any outside employment request may be denied if it is in violation of the State and Local Government Conflict of Interests Act.
5. Employees may not accept payment for services from any person(s) or organization(s) other than OSIG without written approval of the state inspector general, or designee, documented on a *Request for Permission to Secure Employment Outside Regular Working Hours*.
6. The written approval shall only be made for a maximum of one year or a specified period less than one year. If conditions change with the employee's employment with OSIG, which require a withdrawal of the outside employment authorization, OSIG will give the employee two weeks' notice in writing.
7. Failure to obtain permission for outside employment may result in disciplinary action under the Standards of Conduct.
8. Any questions regarding the propriety of an OSIG employee's outside work or activity should be directed the employee's immediate supervisor.

V. REFERENCES

U. S. Code Sections: 1501-1508, Federal Hatch Political Activities Act 401, Federal Election Campaign Act Amendments of 1974

Code of Virginia § 2.2-3800 et seq. Government Data Collection & Dissemination Practices Act

Code of Virginia § 2.2-3100 et seq. State and Local Government Conflict of Interests Act.

Code of Virginia § 2.2-2900 et seq. Virginia Personnel Act

Code of Virginia § 2.2-4300 et seq. Virginia Public Procurement Act.

VI. REVIEW DATE

This procedure shall be reviewed and updated no later than April 1, 2022.

Signature copy on file

MICHAEL C. WESTFALL

State Inspector General