



Smithsonian
Institution

SMITHSONIAN DIRECTIVE 103,

February 13, 2012

SMITHSONIAN INSTITUTION STANDARDS OF CONDUCT

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Introduction

(a) Purpose

This directive provides standards of conduct applicable to all Smithsonian trust and federal employees, and serves as guidance to ensure that Smithsonian employees conduct their activities in accordance with accepted principles of ethics and in the best interests of the Smithsonian Institution.

(b) Background

This directive supersedes the version of SD 103, Standards of Conduct, issued on February 13, 2006. It incorporates the basic principles and guidelines of the 2006 standards of conduct, clarifies some of the procedures to be followed in implementing these principles, and provides further guidance in areas that raise substantial ethical concerns. These standards of conduct govern the acts of individual employees. Other standards of conduct govern the acts of individuals who are not Smithsonian employees. See, e.g., SD 208, *Ethical Standards for Smithsonian Institution Volunteers*. Additionally, there are other Smithsonian policies and directives which establish principles of institutional ethics, see *Statement of Values and Code of Ethics* (<http://www.si.edu/about/policies/values-code-of-ethics.asp>), and pertain to employee conduct. See, e.g., Chapter 310, Employment of Relatives, in SDs 212 and 213, *Federal and Trust Personnel Handbooks*. It is the responsibility of each Smithsonian employee to be familiar with these standards and directives.

The Smithsonian standards of conduct are based on federal laws and regulations, principles applicable to public trusts and nonprofit organizations, and accepted professional codes of ethics. They incorporate and expand upon the *Fourteen Principles of Ethical Conduct for Smithsonian Employees*, which are found in Appendix 1.

In addition to the ethics guidance provided in this directive, Smithsonian employees can access the Office of General Counsel (OGC)/Ethics webpage on Prism for general ethics information and to find links to Smithsonian ethics forms.

Introduction
(continued)

(c) Responsibility and Authority

Unit heads are responsible for ensuring that their staff members are aware of the standards of conduct. The Office of Human Resources (OHR) is responsible for ensuring that each employee receives a copy of these standards during orientation. The unit head is responsible for notifying new employees who are subject to the requirement of their obligation to file a Financial Disclosure Report. All new unit heads must contact an OGC ethics counselor to schedule an appointment to be briefed on their responsibilities under these Standards of Conduct.

The primary responsibility rests with the individual employee to become familiar with these standards, to act in accordance with them, and to seek guidance before engaging in any activity that might not be consistent with the principles or specific provisions set forth in these standards. Such guidance may be provided by unit heads and other supervisors, as well as the Ethics Officer, to ensure that the standards will be effective in protecting the individual employee and the Smithsonian.

The General Counsel is the Smithsonian Ethics Officer and is responsible for these standards of conduct and conflict-of-interest matters. The General Counsel may designate other Smithsonian employees as ethics counselors to consult with employees in advance regarding the propriety of activities covered by these standards. Ethics counselors are responsible for the interpretation of these standards, and for advising supervisors and employees regarding the application of the standards on a case-by-case basis.

**§ 1 Loyalty and
Conflicts of Interest**

Smithsonian employees must ensure that their conduct does not compromise the integrity of, or public confidence in, the Smithsonian Institution. Employees must maintain high standards of honesty, integrity, and loyalty to the Smithsonian. Employees must not engage in private or personal activities that might conflict, or appear to conflict, with Smithsonian interests, such as:

**§ 1 Loyalty and
Conflicts of Interest**
(continued)

- using Smithsonian employment for private gain;
- giving preferential treatment to any person or company; and
- failing to make impartial decisions on the Smithsonian's behalf

Employees must also be aware of and guided by the generally accepted professional standards and codes of ethics applicable in their respective professional fields, except to the extent that such standards may conflict with Smithsonian policies.

**§ 2 Compliance,
Clearance,
Interpretation, and
Advice**

Employees must ensure that they comply with the general principles and specific provisions of these standards. If any doubt exists as to whether an activity or planned activity violates these standards, employees are obligated to seek advice immediately from a Smithsonian ethics counselor. Ethics counselors are available to provide interpretation and advice for supervisors and employees.

Certain activities identified in these standards require prior clearance and/or approval by the appropriate supervisory officials and from a Smithsonian ethics counselor. (See Section 7, Outside Activities, and Section 11, Reimbursement.) Under these standards, employees are responsible for providing full disclosure of the relevant facts when seeking clearance or approval to conduct such activities.

**§ 3 Remedial Action
and Discipline**

An employee's failure to comply with these standards is cause for remedial or disciplinary action. Such action may include but is not limited to:

- change in assigned duties;
- divestment of any conflicting interest;
- disqualification from a particular assignment; and
- appropriate discipline, up to and including dismissal.

**§ 4 Federal Laws
Relating to Employee
Conduct**

Apart from disciplinary or remedial action by the Institution arising from violation of these standards, civil and criminal penalties may be imposed for violation of federal statutes, to the extent that such statutes are applicable to federal or trust fund employees.

It is the responsibility of Smithsonian employees to be aware of applicable statutes and to ensure that their conduct does not violate federal laws. References to the federal laws that employees should be aware of can be found in Appendix 2. Also, ethics counselors are available to advise employees about how their conduct, or planned activities, might violate federal statutes.

**§ 5 Gifts,
Entertainment, and
Favors from Outside
Sources**

(a) General Institution Policy

Employees shall not solicit or accept any gift that is or appears to be offered because the employee holds a Smithsonian position or may have influence within the Smithsonian.

In addition, an employee may not solicit or accept a gift from a "prohibited source." A "prohibited source" is any organization that or person who: (1) is seeking official action by the Smithsonian; (2) does business or seeks to do business with the Smithsonian; or (3) has interests that may be substantially affected by performance or nonperformance of the employee's official duties.

Gifts include objects, financial interests, money, entertainment, favors, discounts, travel, lodging, meals, or other arrangements that benefit the employee. Gifts to a member of the employee's family, to any other person because of the recipient's relationship to the employee, or to any person or organization at the request or recommendation of the employee are subject to the same restrictions.

This prohibition does not apply to gifts accepted by or on behalf of the Smithsonian, such as reimbursement of an employee's official travel expenses, or other in-

**§ 5 Gifts,
Entertainment, and
Favors from Outside
Sources** (continued)

kind gifts for official Smithsonian use. (For rules on reimbursements for travel on Smithsonian business, see Section 11.

(b) Exceptions

The prohibitions on accepting gifts set forth in paragraph (a) of this section generally do not apply under the circumstances described below. Even though acceptance of a gift may be permitted by one of the following exceptions, there may be additional considerations, such as special policies or rules on gifts, which apply to employees of particular Institution units or departments, and which require an employee to decline a gift offered by a prohibited source, or offered because of the employee's official position.

Employees should consult a Smithsonian ethics counselor for guidance when gifts are offered to them under circumstances that appear to require particular advice. In addition, the following rules apply:

- An employee may accept a gift when the circumstances make it clear that the gift is motivated by a family relationship or personal friendship rather than by the position of the employee.
- An employee may accept food and refreshments of modest value on infrequent occasions in the ordinary course of business, such as a luncheon or dinner meeting.
- An employee may accept loans from banks or other financial institutions on terms generally available to the public.
- An employee may accept an award or honorary degree, upon clearance by an Ethics Officer, provided that the award or honor, as part of an established program, is (1) made on a regular basis or funded to ensure its continuation on a regular basis, and (2) awarded pursuant to written standards.

**§ 5 Gifts,
Entertainment, and
Favors from Outside
Sources** (continued)

- An employee may accept unsolicited gifts having an aggregate market value of \$50 or less per occasion, provided that the aggregate market value of individual gifts received from any one person or organization under the authority of this exception does not exceed \$100 in a calendar year. This exception does not apply to gifts of cash or of financial interests such as stocks, bonds, or certificates of deposit.
- An employee may accept an unsolicited gift when the employee pays the source of the unsolicited gift the fair-market value of the item and reports the transaction to an ethics counselor for clearance within thirty (30) days of receipt.

(c) Limitations of Exceptions

Notwithstanding any exceptions to the general prohibition on accepting gifts provided in paragraph (b) of this section, an employee shall not: (1) accept a gift in return for being influenced in the performance of an official act; (2) solicit or coerce the offering of a gift; or (3) accept a gift in violation of any statute. Employees should be particularly aware of the statutes described in Appendix 2, which may prohibit them from accepting a gift.

**(d) Gifts and Decorations from Foreign
Governments**

An employee is prohibited from accepting a gift or decoration from a foreign government except as provided in this subsection under the following conditions:

- **Gifts** — An employee may accept and retain a gift from a foreign government, or an entity that is owned or controlled by a foreign government, provided that the gift is tendered and received as a souvenir or mark of courtesy and does not exceed the monetary threshold established in the Foreign Gifts and Decorations Act (FGDA) regulations. For a summary of the current threshold, please review the Foreign Gift Memorandum on the OGC website, and at

**§ 5 Gifts,
Entertainment, and
Favors from Outside
Sources** (continued)

http://prism.si.edu/ogc/Ethics/Foreign%20Gift%20Threshold%20Memo_2011.pdf. An employee may accept a gift from a foreign government that exceeds the threshold when refusal of the gift would likely cause offense or embarrassment to the donor or would otherwise adversely affect the interests of the Smithsonian. Gifts accepted under these circumstances are deemed to have been accepted on behalf of the Smithsonian, and upon acceptance shall become the property of the Smithsonian. Within 30 days of acceptance of such gifts or the employee's return to a regular duty station, the employee must report the gift to the unit head and the General Counsel, and must deposit the gift with the unit head. If the unit head determines that the gift cannot be used for official purposes, it shall be disposed of in accordance with Smithsonian property management regulations.

- **Decorations** — Decorations awarded by a foreign government to an employee in recognition of outstanding or unusually meritorious performance may be accepted, retained, and worn by the employee, subject to the approval of the Secretary of the Smithsonian. Upon receipt or tender of the decoration, the employee must contact the OGC to commence the approval process.

In the event that the Secretary does not approve the retention of the decoration by the employee, the decoration is deemed to have been accepted on behalf of the Smithsonian and must be deposited with the Office of the Secretary.

**§ 6 Unauthorized
Solicitations and
Gifts by Employees**

(a) Individual Solicitations and Sales by Employees

Except in connection with official Smithsonian activities, employees shall not solicit or promote the sale of any goods or services on Smithsonian premises or using Smithsonian resources or facilities, including email.

Placing advertisements or notices on bulletin boards or in publications explicitly provided for these purposes by the Smithsonian is permitted.

§ 6 Unauthorized Solicitations and Gifts by Employees
(continued)

(b) Gifts to Supervisors

Employees shall not solicit contributions from other employees for a gift to an official supervisor, make a donation as a gift to a supervisor, or accept a gift from an employee receiving less pay. See 5 *United States Code* (U.S.C.) § 7351. Voluntary gifts of nominal value, which are made on a special occasion such as marriage, illness, or retirement, are permitted.

§ 7 Outside Activities

Employees are entitled to independence in their personal or outside activities, subject to their duty of loyalty to the Smithsonian. In conducting any outside activity, employees must ensure that the activity:

- is compatible with the full and proper discharge of their Smithsonian employment;
- cannot reasonably be construed by the public as an official action of the Smithsonian;
- will not impair the employee's mental or physical capacity to perform assigned Smithsonian duties in an acceptable manner; and
- will not create a conflict of interest or the appearance of a conflict of interest for the employee

Outside Activities Defined

For purposes of these standards, the following definitions apply:

- **"Outside activity"** is any activity an employee engages in, whether for compensation or on a volunteer basis, which is not an official duty or assignment of the employee's Smithsonian position. Work performed by employees for another Smithsonian Institution (SI) unit, apart from their regular duties, is considered an outside activity for the purposes of these standards.

§ 7 Outside Activities
(continued)

- “**Unrelated outside activity**” is an outside activity that is not similar or related to an employee’s Smithsonian responsibilities or areas of expertise.
- “**Related outside activity**” is an outside activity that is similar or related to the employee’s Smithsonian responsibilities or area of expertise.

Ethics Clearance for Related Outside Activities

The Ethics Officer, in determining whether to clear a related outside activity, will consider the following (non-exhaustive) factors:

- Whether the activity is undertaken as part of the employee’s official duties;
- Whether the circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of his or her official position rather than the employee’s expertise on the particular subject matter;
- Whether the invitation to engage in the activity or the offer of compensation for the activity was extended to the employee, directly or indirectly, by a person who has interests that may be affected substantially by the performance or nonperformance of the employee’s official duties, e.g., a prohibited source as defined in SD 103, Section 5(a); and
- Whether the information conveyed through the activity draws substantially on ideas or official data that involve information not available to the public.

Rules Regarding Outside Activities

The following rules are not comprehensive. Employees must consult with and, when required, seek clearance from a Smithsonian ethics counselor for all outside activities which are or may be similar or related to their Smithsonian employment.

§ 7 Outside Activities (continued) **(a) Unrelated Outside Activities**

Smithsonian employees may participate during off-duty hours in the affairs of charitable, educational, religious, public service, and other voluntary organizations, or engage in unrelated outside activities for pay. Prior clearance of these unrelated outside activities, whether voluntary or compensated, is not required, **except for senior executives (see below).**

Employees may not engage in such activities, solicit for, or promote such organizations during Smithsonian duty hours, or attempt to use in any way the name, reputation, property, or facilities of the Smithsonian Institution for the benefit of such activities or organizations. This prohibition includes the use of the employee's official title or Smithsonian affiliation in connection with unrelated outside activities.

(a)(1) Special Rule — Senior Executives

For purposes of Section 7 in this directive, the term "senior executive" is defined as the Secretary, his or her direct reports, and all unit heads on the official SI organizational chart.

Senior executives may not serve on the governing (fiduciary) board of a for-profit company. Additionally, senior executives must report on an annual basis and receive prior written clearance by the Secretary and General Counsel for all non-profit board memberships and paid outside activities (whether related or unrelated to the employee's Smithsonian position).

(b) Political Activities

Employees may participate, as private citizens, in the activities of political groups. However, participation by any Smithsonian employee in partisan political campaigns is restricted by Smithsonian policy. See Smithsonian Announcement of April 1, 2000 (at <http://prism.si.edu/ogc/Ethics/ann00-003.htm>), and Chapter 733 of SD 212, *Federal Personnel Handbook* (also available on Prism).

§ 7 Outside Activities (c) Outside Activities
(continued)

(1) Voluntary Outside Activities

Smithsonian employees are encouraged to participate on a voluntary or uncompensated basis in the activities of organizations that are related to or support the employee's SI position or area of expertise. Participation in such outside professional activities may be permitted on official time with supervisory approval if such activities relate to an employee's Smithsonian duties and are determined to be in the interests of the Smithsonian.

Smithsonian employees may not serve in an official Smithsonian capacity on a governing board of an outside organization unless appointed by the Secretary of the Smithsonian, or designee, pursuant to: (1) a federal statute mandating official representation on the board by the Smithsonian Institution; or (2) a determination by the General Counsel that, based on the official duties of the employee, there is no likelihood of a conflict of interest or impairment of the duty or loyalty to the Smithsonian Institution.

Only an employee designated as an official representative of the Smithsonian to an outside governing board, pursuant to an appointment by the Secretary, will be eligible for indemnification pursuant to the Board of Regents' indemnification resolution and guidelines.

(2) Compensated Outside Related Activities

Employees must obtain written approval from their supervisor and the unit head, and clearance from an ethics counselor, before engaging in compensated outside related activities (including, but not limited to, consulting, teaching, lecturing, or writing) that are similar or related to their Smithsonian responsibilities or areas of expertise.

§ 7 Outside Activities
(continued)

For purposes of this directive, the term “compensated” refers to all forms of monetary remuneration, including but not limited to honoraria, fees, salaries, and royalties. This term does not include reimbursements for travel expenses.

A clearance form is available on the OGC home page on Prism for outside activity clearance requests.

(d) Use of Smithsonian Name or Official Title

(1) Unpaid nonprofit activities. Employees may use, or permit the use of, their official Smithsonian title or allow reference to their association with the Smithsonian for the limited purpose of professional identification in connection with their unpaid outside professional activities on behalf of or in association with a nonprofit entity.

However, any such use of an employee’s official title or association with the Smithsonian beyond mere professional identification or biographical data requires advance clearance by the employee’s supervisor, unit head, and an ethics counselor.

(2) Paid and for-profit activities. Any use of an employee’s official title or association with the Smithsonian in connection with either outside professional activities on behalf of or in association with a nonprofit organization for which the employee will receive compensation for the activity, or any outside professional activities on behalf of or in association with a commercial entity, whether or not the employee will receive compensation for the activity, requires advance clearance by the employee’s supervisor, unit head, and an ethics counselor.

In addition, no such uses will be cleared if they give the appearance that an employee’s outside activities are endorsed by the Smithsonian or

§ 7 Outside Activities
(continued)

conducted under the auspices of the Smithsonian, or that the employee's Smithsonian position is being used for private gain.

(3) Author credits. Clearance is not required for standard author credits in connection with articles to be published in scholarly journals for which the employee will not receive compensation. Other uses of an employee's official title in scholarly, educational or professional publications require advance clearance by the employee's supervisor, unit head, and an ethics counselor.

(e) Writing or Speaking about the Smithsonian

An employee may not receive compensation from any source other than the Smithsonian for writing or speaking about the Smithsonian, its collections, programs, or operations, when the subject of such writing or speaking activity falls within the scope of the employee's official duties and responsibilities.

An employee may receive compensation from an outside source for writing or speaking about the Smithsonian itself, its collections, programs, or operations where it is determined that the subject of the writing or speaking activity falls outside of the scope of the employee's official duties and responsibilities; and the writing or speaking activity is approved in advance by the employee's supervisor, unit head, the Under Secretary with supervisory oversight of the employee's unit, and when cleared by an ethics counselor.

In reviewing such requests, all approving officials will ensure that the proposed activity: (1) is compatible with the full and proper discharge of the requestor's Smithsonian employment; (2) cannot reasonably be construed by the public as an official action of the Smithsonian; (3) does not interfere with planned Smithsonian activities or strategic initiatives; and (4) will

§ 7 Outside Activities (continued) not impair the employee's mental or physical capacity to perform assigned Smithsonian duties in an acceptable manner.

(f) Outside Activities and Dual Compensation

Except as specifically provided in these standards, all outside activities must be carried out on an employee's personal time (including annual or unpaid leave), apart from his or her Smithsonian duty hours. Receiving additional compensation from any outside source for work within the scope of an employee's Smithsonian duties and responsibilities may subject the employee to fines and imprisonment. See 18 U.S.C. § 209.

(g) Smithsonian Contracts with Employees and Relatives of Employees

To ensure compliance with applicable laws and regulations, and to avoid a conflict of interest or the appearance of a conflict of interest or of favoritism, a proposed contract with a Smithsonian employee, a relative of a Smithsonian employee, an employee of a federal agency, and/or a member of any Smithsonian Institution board, must be referred by the Office of Contracting and Personal Property Management (OCon&PPM) to a Smithsonian ethics counselor for review and clearance.

(h) Employment or Positions with Foreign Governments

Smithsonian employees may not become employees of or accept positions with any foreign government. Employees must consult with an ethics counselor prior to making any commitment to perform services for a foreign government or any of its instrumentalities.

(i) Personal Acquisition of Museum Objects

Employees may not acquire museum objects in direct competition with the collecting activities of any of the museums or collecting units of the Smithsonian Institution. Direct competition with the Smithsonian may

§ 7 Outside Activities
(continued)

occur if an employee purchases an object that the employee knows, or would have reason to believe, that a Smithsonian collecting unit would be interested in acquiring if it were aware of the opportunity.

In case of uncertainty regarding the Smithsonian's interest in the object, the employee must consult with the appropriate curator or collecting unit director. In cases of conflict, or the appearance thereof, clearance must be obtained from an ethics counselor. In cases where the conflict cannot be resolved in other ways, clearance may require providing the Smithsonian with the opportunity to purchase or otherwise acquire the object, or, if already acquired by the employee, a reasonable time for the Smithsonian to decide whether to obtain the object from the employee upon payment of the employee's costs of acquisition.

Smithsonian employees who are responsible for acquiring objects for Smithsonian collections must obtain prior clearance from the employee's unit head and from an ethics counselor to personally acquire any object, material, or specimen that may be within the scope of those collections. Employees of Smithsonian collecting units must comply with specific policies on personal collecting that may be established in unit collections management policies.

Clearance is not required for objects received by employees as bequests, or for gifts which can be accepted pursuant to Section 5(b) of these standards.

(j) Dealing in Museum Objects, Materials, or Specimens

Smithsonian employees directly responsible for acquiring objects for Smithsonian collections shall not deal (i.e., buy and sell for profit on a regular basis or maintain an interest in any dealership) in objects, materials, or specimens similar to those collected by the unit in which they are employed. Any other dealing by Smithsonian employees in objects of the type collected by the Smithsonian requires prior clearance by the employee's unit head and an ethics counselor.

§ 7 Outside Activities
(continued)

(k) Appraisals of Museum Objects

Employees may not make estimates of monetary value (i.e., “appraisals”) of objects, materials, or specimens of the types collected by Smithsonian museums. Appraisals may be made solely for internal Smithsonian use, such as insurance valuations for loans.

**§ 8 Restrictions
on Activities after
Leaving Smithsonian
Employment**

Smithsonian employees should be aware that conflicts of interest and the appearance of such conflicts may arise if they are involved with matters as employees which may benefit them financially after their Smithsonian service has ended. Such questions should be discussed with the employee’s unit head and an ethics counselor. Senior-level employees, in particular, should consult with an ethics counselor when leaving Smithsonian employment.

For purposes of Section 8 in this directive, the term “Senior-level employee,” as defined by OHR, includes the following employees:

- Federal — all employees in pay plans ST and SL, and non-graded employees in pay plan GG.
- Trust — all employees in pay plans SA, SZ, SY, IL, and SB employees as designated by OHR.

(a) Lifetime Restriction on Certain Activities

A person shall not, at any time after ending employment at the Smithsonian, represent anyone other than the Smithsonian Institution or the United States in connection with a particular matter (i) in which the Smithsonian is a party or has a direct interest; (ii) in which the person participated personally and substantially while employed by the Smithsonian; and (iii) which involved a specific party or specific parties at the time of such participation. See 18 U.S.C. § 207 (a)(1).

**§ 8 Restrictions
on Activities after
Leaving Smithsonian
Employment**
(continued)

**(b) One-Year Restriction on Certain Activities by
Senior-Level Employees**

A senior-level employee shall not, for one year after his or her Smithsonian employment has ended, knowingly make any communication to or appear before a Smithsonian employee on behalf of anyone other than the United States in connection with any matter in which he or she seeks official action by that Smithsonian employee. See 18 U.S.C. § 207(c).

A senior-level employee shall not, for one year after his or her Smithsonian employment has ended, represent, aid, or advise a foreign entity with the intent to influence any U.S. Government official or employee. Certain exemptions may apply. See 18 U.S.C. § 207(f).

(c) Two-Year Restriction on Other Activities

A person shall not, for two years after his or her Smithsonian employment has ended, knowingly make any communication to or appear before a Smithsonian employee on behalf of anyone other than the United States, in connection with a particular matter (i) in which the Smithsonian Institution or the United States is a party or has a direct and substantial interest, (ii) which was under the person's official responsibilities (but in which that person did not participate personally and substantially) during the last year of his or her Smithsonian employment, and (iii) which involved a specific party or specific parties at the time it was so pending. See 18 U.S.C. § 207 (a)(2).

**§ 9 Prohibition
on Official Actions
that Could Affect
an Employee's
Financial Interests**

An employee shall not participate in an official capacity in any matter in which, to the employee's knowledge, the employee or the employee's spouse, minor child, business partner, or a person or organization with which the employee is connected has a financial interest. See 18 U.S.C. § 208.

For the purpose of this policy, an employee is considered to have a connection to a person or organization with whom the employee is negotiating or

**§ 9 Prohibition
on Official Actions
that Could Affect
an Employee's
Financial Interests**
(continued)

has any arrangement concerning prospective employment, or with an organization (for profit or nonprofit) in which the employee is serving as officer, director, trustee, general partner, or employee.

Ownership of shares of a widely diversified mutual fund, or an insignificant number of shares in a corporation, are exempt as being too remote or inconsequential to affect the integrity of an employee's services.

Whenever an employee holds a potentially conflicting interest or a question might be raised concerning the influence of financial interests on the integrity of an employee's official services, the employee must consult with an ethics counselor to determine whether the employee should recuse him- or herself from participating in an action or request a waiver to participate in the action.

Waivers under this section require the approval of the employee's supervisor, unit head, Under Secretary, the ethics counselor, and the Under Secretary for Finance and Administration.

**§ 10 Confidential
Financial Disclosure
Report and Conflict-
of-Interest
Declaration**

(a) Confidential Financial Disclosure Report

A "Confidential Financial Disclosure Report" (Form SI-1085) (hereafter termed the "Report") requires employees to provide information that may reveal a potential conflict of interest, and thus assists employees in avoiding actual conflicts of interests. The criteria for determining who must file the Report are based on an employee's position with the Institution or on the employee's authority to act on behalf of the Institution.

**§ 10 Confidential
Financial Disclosure
Report and Conflict-
of-Interest
Declaration**
(continued)

The Report must be completed each year by:

- persons who have the authority to approve or review significant commitments of Smithsonian resources which may benefit individuals, businesses, or other organizations outside the Institution. An employee with the authority to approve contracts or purchases for more than \$100,000 of Smithsonian resources in a single transaction is required to file the Report. The term “authority to approve” includes making determinations that are generally accepted by supervisors or others who review such determinations;
- individuals who are authorized to commit Smithsonian resources to a project (e.g., approve a requisition committing funds to a project) as well as those with signature authority to obligate the funds. Resources may consist of funds, collections, or other Smithsonian assets; and
- individuals who participate personally and substantially through their decisions or the exercise of significant judgment in contracts, grants, or procurements

(1) Mandatory Filing of the Confidential Financial Disclosure Report

The following individuals are required to file the Report:

- (a) The Secretary, his or her direct reports, and all unit directors. (The term “unit” refers to Smithsonian museums, offices, research centers, and institutes, as shown in the official organizational chart of the Institution located on the Office of the Secretary’s webpage on Prism.) These individuals are

**§ 10 Confidential
Financial Disclosure
Report and Conflict-
of-Interest
Declaration**
(continued)

referred to collectively as senior executives and have additional responsibilities for disclosure, review, and clearance of outside activities. See Section 7 of this directive.

- (b) All principal procurement officers and alternate procurement officers with delegated contract signature authority from the Contracting Officer, the Director of the Smithsonian Astrophysical Observatory (SAO), or the Director of the Smithsonian Tropical Research Institute (STRI).
- (c) All other employees with the authority to:
- approve single purchases of more than \$100,000 of supplies, equipment, or services (such as for travel, transportation, exhibitions, special events, printing, construction, and repairs);
 - approve the purchase of objects at a cost in excess of \$100,000 for resale;
 - approve the purchase of objects for the collections in excess of \$100,000
 - approve lending or disposal of collection items valued at more than \$100,000;
 - review or approve a contractor's performance where the contract is valued at more than \$100,000; or
 - take action on behalf of the Institution as part of their official duties, which may result in obligating the Institution in excess of \$100,000 per transaction.

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Financial Disclosure
Report and Conflict-
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Declaration**
(continued)

**(2) Filing within 30 Days of Occupying a New
Position**

New Smithsonian employees in positions requiring reporting, and existing Smithsonian employees who transfer to another Smithsonian position that requires reporting under this section, must file the Report within 30 days of assuming their positions, providing information for the prior 12-month period.

(3) Filing in Conjunction with Exit Clearance

Individuals terminating their employment with the Smithsonian who are required to file this form must have an ethics counselor verify that a completed form for the period between his or her prior filing and the date in which the individual's Smithsonian employment ends is on file and has been reviewed.

**(4) Process and Schedule for Completing the
Annual Reports**

The Office of General Counsel will distribute instructions annually to unit heads about their responsibilities in connection with this section, as required under these standards.

(5) Sanctions

Employees may be subject to disciplinary action for failure to file a Report on time. Sanctions may range from a formal letter of reprimand placed in the employee's file to a two-week suspension. Failure to file the Report at all may result in a disciplinary action, up to and including dismissal.

**(6) Protests with Respect to Filing Confidential
Statements**

Any person who believes that a position has been improperly included as one requiring the filing of a Report is encouraged to discuss the

**§ 10 Confidential
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(continued)

matter with the ethics counselor, and, if not satisfied, shall be given the opportunity for review of the complaint. The final determination to require an employee to file a Report will be made by the Under Secretary for Finance and Administration or designee.

(7) Effect of Filing a Financial Report

The filing of a required Report and the disclosure of certain financial or other interests do not in any way exempt the employee from full compliance with these standards, or from any disciplinary action as a result of noncompliance.

For example, the listing of outside employment does not relieve the employee of the obligation to seek consultation, and clearance if necessary, to ensure that the employment does not involve a conflict of interest or the appearance of a conflict of interest.

(8) Review of Financial Reports

Ethics counselors shall review all Reports filed annually. When this review indicates a conflict between the employee's financial interests and the employee's responsibilities in providing services for the Institution, the ethics counselor will bring the conflict to the attention of the employee and attempt to resolve the situation.

It is the duty of the employee to cooperate with the ethics counselor and to provide such additional information that the ethics counselor deems necessary to resolve an issue that poses a potential conflict. If the conflict cannot be resolved after discussing it with the employee, the ethics counselor shall forward to the Under Secretary for Finance and Administration a written report on the conflict. The Under

**§ 10 Confidential
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Declaration**
(continued)

Secretary for Finance and Administration, or designee, shall decide what, if any, remedial or disciplinary action is required to end the conflict or appearance of conflict.

(b) Conflict-of-Interest Declaration

All employees of the Smithsonian are expected to have read these standards of conduct and to avoid conflicts of interests between their official Smithsonian duties and their personal financial interests.

All Smithsonian employees who have signature authority, or the authority to approve or review contracts for \$100,000 or less, will be required to sign a declaration (“Conflict-of-Interest Declaration” or the “Declaration”) that they have read the standards of conduct, have had the opportunity to discuss any potential conflicts of interests with an ethics counselor, and to the best of their personal knowledge have complied with their obligations under these standards of conduct.

**(1) Process and Schedule for Completing the
Conflict-of-Interest Declaration**

The Office of General Counsel will distribute instructions annually to unit heads about their responsibilities in connection with this section as required under these standards.

(2) Sanctions

Employees who are required to file the Declaration may be subject to disciplinary action for failure to file a Declaration on time. Sanctions may range from a formal letter of reprimand placed in the employee’s file to a two-week suspension. Failure to file the Declaration at all may result in disciplinary action, up to and including dismissal.

**§11 Reimbursements
by Outside
Organizations
for Travel Expenses
by Employees while
on Smithsonian
Business**

The Smithsonian may accept travel benefits (e.g., transportation, lodging, meals, and related expenses), in-kind or by reimbursement to the Smithsonian, from non-federal sources (such as for-profit and not-for-profit entities, state, local, and foreign governments and governmental entities) for Smithsonian employees in their official capacities to attend meetings, conferences, seminars, symposia, and other similar functions.

**(a) Procedures for Approval of Reimbursements by
Non-federal Sources**

Smithsonian employees shall obtain clearance from an ethics counselor prior to accepting such support from (1) a for-profit entity, or (2) a foreign government. Written approval of an ethics counselor must be obtained prior to completion of the travel authorization process, and should be requested at least two weeks in advance of the travel.

Reimbursements for travel expenses by for-profit entities and foreign governmental sources must be made payable directly to the Smithsonian. SI employees are not permitted to accept cash, checks, or similar reimbursements given directly to the employee from these sources. However, employees may accept in-kind benefits such as an airline ticket acquired by the outside source in the name of the SI employee, subject to prior ethics clearance by an ethics counselor.

Checks or similar reimbursements for travel expenses by state and local governments and not-for-profit entities, i.e., United States charitable organizations under Internal Revenue Code section 501(c)(3), may be made directly to the employee, provided that the employee: (1) completes the direct reimbursement clearance form (available on the OGC intranet website); (2) receives prior, written approval from the supervisor and prior ethics clearance for direct reimbursement; and (3) attaches a copy of the form to the travel authorization documents.

**§11 Reimbursements
by Outside
Organizations
for Travel Expenses
by Employees while
on Smithsonian
Business**
(continued)

**(b) Limitations on Reimbursements for Travel on
Smithsonian Business**

Employees may not be reimbursed, or payments made on their behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.

Payment or reimbursement may not be accepted for the travel and related expenses of a spouse or other individual who is not a Smithsonian employee and will not participate in an official capacity while traveling. However, such individuals may accept food and incidental benefits of nominal value. Approval from the appropriate Under Secretary must be obtained before accepting or agreeing to accept payment or reimbursement for travel expenses of a spouse or other individual who is not a Smithsonian employee but who will travel in an official Smithsonian capacity.

**§ 12 Use of
Smithsonian
Property**

(a) Prohibition on Private Uses

Employees shall not directly or indirectly make use of or permit the use of Smithsonian property of any kind for other than officially approved activities. Smithsonian property includes all Smithsonian assets, tangible and intangible, such as funds, facilities, equipment, supplies, staff time and services, intellectual property rights, and information that is unavailable to the general public.

Incidental and occasional personal use of Smithsonian computer and communications systems is permitted, provided that such use does not interfere with the conduct of Smithsonian business and is consistent with Smithsonian policies on the use of such systems. See SD 931, Use of Computers, Telecommunications Devices and Networks, which is available on Prism, for more information on this policy.

**(b) Ownership of Data and Materials Prepared
by the Institution**

All work products, including manuscripts, lectures, photographs, and all other materials prepared by

**§ 12 Use of
Smithsonian
Property** (continued)

employees within the scope of their employment, are the property of the Smithsonian. See 17 U.S.C. §§ 101, 105, and 201. Employees should seek the advice of an ethics counselor before engaging in any outside activity, including agreeing to author as a private individual any publication that substantially draws on materials prepared in the course of carrying out their Smithsonian responsibilities. See also Section 7(e), Writing or Speaking about the Smithsonian.

**§ 13 Restrictions
on Disclosure
of Information**

Unless specifically authorized to do so, employees may not disclose any Smithsonian information which is of a confidential or privileged nature, or any other information of such character that its disclosure might be contrary to the best interests of the Smithsonian. Such information may include private, personal, or business-related information furnished to the Smithsonian in confidence. Security and investigative data for official use only shall not be divulged to unauthorized persons or agencies.

**§ 14 Financial
Responsibility**

An employee shall pay debts properly and in a timely manner, especially those imposed by law, such as federal, state, or local taxes. A debt means a just financial obligation acknowledged by the employee or reduced to judgment by a court. If there is a dispute between an employee and a creditor, the Smithsonian will not determine the validity or amount of the disputed debt.

All employees should be aware that the Smithsonian may be required by law under certain circumstances to attach employee wages or salary for enforcement and collection of consumer debts, child support, and alimony obligations. See SD 116, Claims Against Employee Wages, which is available on Prism.

**§ 15 Gambling,
Betting, Lotteries,
and Lending Money**

(a) Gambling, Betting, and Lotteries

No employee shall participate, while on Smithsonian premises or while on duty for the Smithsonian, in any

**§ 15 Gambling,
Betting, Lotteries,
and Lending Money**
(continued)

gambling activity, including, but not limited to, the operation of a gambling device, conducting or participating in a lottery or pool, involvement in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(b) Lending Money for Gain

While on duty, or while on Smithsonian Institution premises, employees are forbidden to lend money to anyone under any arrangements for the purpose of monetary profit or other gain. This prohibition is not applicable to operations of a recognized employee credit union or employee welfare plan.

**§ 16 Borrowing
Money from
Subordinates**

No supervisor may borrow money from subordinates, nor request or require any subordinate to co-sign or endorse a personal note.

**§ 17 Disclosure
of Personal
Relationships
in the Workplace**

Close personal relationships in the workplace between supervisors and those they supervise increase the potential for apparent or actual conflicts of interest, perceptions of favoritism and claims of sexual harassment. An employee engaged in a romantic, intimate, or sexual relationship with either another employee whom he or she supervises (either directly or through others), or a person associated with the Smithsonian whom he or she supervises (either directly or through others), must promptly disclose the relationship to his or her supervisor. The supervisor will determine what changes or actions may be necessary to resolve the apparent or actual conflict in the best interests of the Smithsonian, including but not limited to adjusting reporting or working relationships.

**§ 18 Appeals
from Determinations
and Waivers
of Provisions
of these Standards**

(a) Request for Waiver

Employees may request that the ethics counselor waive application of these standards on the grounds that their enforcement would be contrary to the best interests of

**§ 18 Appeals
from Determinations
and Waivers
of Provisions
of these Standards**
(continued)

the Smithsonian or would cause undue hardship to an individual and would not violate applicable law. A request for a waiver, with a full description of the relevant facts, should be made to the ethics counselor.

(b) Appeal of Denial of a Waiver

An employee may appeal to the Under Secretary for Finance and Administration, or designee, a decision by the ethics counselor declining to waive these standards.

(c) Appeals from Ethics Counselor Rulings

Employees may appeal to the Under Secretary for Finance and Administration, or designee, rulings made by the ethics counselor interpreting these standards of conduct.

(d) Procedures for Appeals

An appeal, with full disclosure of the relevant facts, should be forwarded to the Under Secretary for Finance and Administration through the Smithsonian ethics counselor. To assist the Under Secretary's consideration of appeals from ruling of the ethics counselor, the Under Secretary for Finance and Administration may designate an individual to act on his or her behalf, or convene a committee to advise on the matter under consideration.

The employee may appear before the committee or the Under Secretary for Finance and Administration's designee, or make a written submission to the committee, the designee, or the Under Secretary. The determination by the Under Secretary for Finance and Administration, or designee, shall be final.

CANCELLATION:
INQUIRIES:
RETENTION:

SD 103, March 23, 2010
Office of General Counsel (OGC)
Indefinite. Subject to review for currency 24 months from date of issue