



OSHA INSTRUCTION

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SUBJECT Special Government Employee (SGE) Program Policies and Procedures Manual for the Occupational Safety and Health Administration's (OSHA) Voluntary Protection Programs

ABSTRACT

- Purpose:** This instruction describes and implements the policies and procedures governing the administration and operation of Special Government Employee activity conducted under the auspices of OSHA's Voluntary Protection Programs (VPP).
- Scope:** OSHA-wide.
- References:** Voluntary Protection Programs Policies and Procedures Manual CSP-03-01-003.
- Cancellation:** CSP 03-01-001, originally issued as TED 8.3.
- State Impact:** This instruction describes a Federal Program Change for which State adoption is not required.
- Action Offices:** National and Regional Offices.
- Originating Office:** Directorate of Cooperative and State Programs.
- Contact:** Directorate of Cooperative and State Programs (DCSP)
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Executive Summary

This manual cancels and replaces OSHA Instruction CSP 03-01-001, originally issued as TED 8.3. The purpose of this manual is to provide the overall policy framework for Special Government Employee (SGE) activity. This latest revision of the manual expands the role of SGEs and updates and clarifies the requirements to apply, receive training, and participate in SGE activities. The major changes are:

- Citizenship Requirement. The Federal Government requires an individual to be a United States citizen in order to apply for SGE status.
- Confidential Financial Disclosure Report. SGEs are required to update their financial disclosure report annually.
- Department of Defense (DoD) SGEs. Employees from Department of Defense (DoD) VPP sites who meet eligibility requirements to become SGEs.
- Expanded Role of SGE. An SGE can serve in a capacity beyond assisting OSHA personnel during on-site evaluations. The expanded role of an SGE allows the SGE to perform additional qualifying activities outlined in Chapter 2, Section V.
- Injury/Illness of an SGE. If an SGE experiences a safety or health injury/illness while conducting a VPP on-site evaluation or other qualifying activity, the SGE must report the injury/illness to their immediate employer and not OSHA outlined in Chapter 3, Section 3.
- Management Signature. SGE applicants or renewing SGEs must obtain the signature of their supervisor or manager on the SGE Eligibility Sheet prior to application submission. Signature implies agreement with the applicant's qualifications and management's commitment to allow the SGE to serve.
- Process Safety Management (PSM). An SGE applicant who has identified him/herself as a PSM specialist must have PSM Level 1 (or equivalent) training outlined in Chapter 2.
- Renewing SGEs. In order for an SGE to be reapproved, the SGE must have been actively involved in the VPP during his/her previous term of service. To gain reapproval, the SGE must have performed a minimum of three (3) qualifying activities outlined in Chapter 2.
- SGE On-site Evaluation Participation. SGEs are strongly encouraged to participate in a VPP on-site evaluation as soon as possible after completing the SGE course. Thereafter, OSHA requires SGEs to participate in other on-site evaluations and/or perform other qualifying activities.
- SGE Composition on VPP On-site Team. Regional Administrators have the authority to approve an unlimited number of SGEs to serve on a VPP on-site evaluation team so long as the Team Leader is a qualified Federal or State Plan State employee as outlined in Chapter 4.

- SGE Incentives. A chapter has been added that describes incentives, benefits, and awards for active SGEs outlined in Chapter 6.
- State Plan States Memorandum of Understanding (MOU). State Plan States must sign a Memorandum of Understanding (MOU) with Federal OSHA if they wish to use Federal SGEs on State Plan VPP on-site evaluations of VPP applicants or participants. The MOU has been revised to clarify liability issues.

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Chapter 1

Introduction

- I. Purpose. This instruction sets forth the policies and procedures governing administration and operation of OSHA's Special Government Employee Program and activities.
- II. Scope. OSHA-wide.
- III. Reference. Voluntary Protection Programs Policies and Procedures Manual (CSP-03-01-003).
- IV. Cancellation. OSHA Instruction CSP-03-01-001.
- V. Major Changes.
 - A. Citizenship Requirement. The Federal Government requires an individual to be a United States citizen in order to apply for SGE status.
 - B. Confidential Financial Disclosure Report. SGEs are required to update their financial disclosure report annually.
 - C. Department of Defense (DoD) SGEs. Employees from Department of Defense (DoD) VPP sites are eligible to become SGEs.
 - D. Expanded Role of SGE. An SGE can serve in a capacity beyond assisting OSHA personnel during on-site evaluations. The expanded role of an SGE allows the SGE to perform additional qualifying activities outlined in Chapter 2.
 - E. Injury/Illness of an SGE. If an SGE experiences a safety or health injury/illness while conducting a VPP on-site evaluation or other qualifying activity, the SGE must report the injury/illness to their immediate employer and not OSHA (outlined in Chapter 3, Section 3).
 - F. Management Signature. SGE applicants and renewing SGEs must now obtain the signature of their supervisor or manager on the SGE Eligibility Sheet prior to application submission. Signature implies concurrence with SGE applicant's qualifications and management's commitment to provide the resources necessary to support the SGE through the SGE program.
 - G. Process Safety Management (PSM). An SGE applicant who has identified him/herself as a PSM specialist must have PSM Level 1 (or equivalent) training outlined in Chapter 2.
 - H. Renewing SGEs. In order for an SGE to be reapproved, the SGE must have been actively involved in the VPP within his/her previous term of service. To gain

reapproval, the SGE must have performed a minimum of three (3) qualifying activities outlined in Chapter 2.

- I. SGE On-site Participation. SGEs are strongly encouraged to participate in a VPP on-site evaluation as soon as possible after completing the SGE course. Thereafter, OSHA requires SGEs to participate in other on-site evaluations and/or perform other qualifying activities.
 - J. SGE Participation on VPP On-site Team. Regional Administrators have the authority to approve an unlimited number of SGEs to serve on a VPP on-site evaluation team so long as the Team Leader is a qualified Federal or State Plan State employee.
 - K. SGE Incentives. Chapter 6 has been added describing incentives, benefits and awards for active SGEs.
 - L. State Plan States Memorandum of Understanding (MOU). States Plan States must sign a Memorandum of Understanding (MOU) with Federal OSHA if they wish to use federally-approved SGEs on State Plan State VPP on-site evaluations of applicants or participants.
- VI. Federal Program Change. This Instruction describes a Federal Program Change for which State adoption is not required. However, States that wish to use federally-approved SGEs as members of VPP on-site review teams must enter into a Memorandum of Understanding (MOU) with Federal OSHA. Without a signed MOU between OSHA and the State Plan, federal SGEs are not authorized for use by a State Plan. See Appendix A for the approved Memorandum of Understanding template.
- VII. Action Information.
- A. OSHA National Office.
 - 1. Directorate of Cooperative and State Programs. The Directorate of Cooperative and State Programs (DCSP), through the Office of Partnerships and Recognition (OPR), is responsible for: 1) receipt and processing SGE applications; 2) providing final approval within 15-20 working days of application deadline; and 3) nationwide coordination and administrative oversight of Special Government Employee activities. OPR is also responsible for establishing the policies and procedures that govern the operation, monitoring, and evaluation of Special Government Employee activities. The SGE Program Policies and Procedures Manual is the Program's principal policy guidance document for SGE activity. Additionally, OPR provides VPP support and assistance to the Regions, State Plans States, and participants.
 - 2. Directorate of Administrative Programs. The Directorate of

Administrative Programs (DAP), through the Office of Human Resources (HR), is responsible for confirming final approval and receipt of SGE applications from the OPR. These responsibilities include: 1) receipt of accepted SGE applications from OPR for processing; 2) complete form DL1-438, Request for Approval of Expert and Consultant Action for each application received; 3) the HR Officer and Agency Head must sign and date each DL 1-438; and 4) copies are maintained in the DAP Office of Human Resources.

B. OSHA Regional Offices. OSHA VPP Managers and VPP Coordinators/Officers are responsible for contacting, recruiting, and encouraging interested VPP site employees to become SGEs; assisting with SGE training; facilitating the oath of office ceremony for new and renewing SGEs; scheduling SGE participation; and requesting approval for SGE use from the SGE Coordinator.

C. State Plan States.

1. State Plan States may choose to use federally-approved SGEs to serve as members of a VPP on-site review team within the State. Qualified individuals from approved VPP sites in State Plan States may submit their SGE application to OSHA, receive training, and obtain OSHA approval.
2. In order to utilize federally-approved SGEs, a State Plan State must sign a Memorandum of Understanding (MOU) with Federal OSHA. Without a signed MOU between OSHA and the State Plan, federal SGEs will not be authorized for use by a State Plan.
3. A State may establish its own SGE activities, independent of OSHA, for training SGEs from VPP sites within the State to serve as members of a State VPP on-site review team.

VIII. A Brief History of SGE Activity in OSHA.

- A. SGE activities were established in 1994 in order to leverage OSHA's limited resources by utilizing private sector safety and health professionals during VPP on-site evaluations.
- B. An SGE serves in the capacity of a volunteer employee while he or she is assisting OSHA personnel during on-site evaluations. While at an on-site evaluation, an SGE is held to the same ethical and legal standards as a Federal Government employee.

IX. How SGE Activities are Administered. SGE activities are administered jointly by the Directorate of Cooperative and State Programs' Office of Partnerships and Recognition and the Regional VPP Managers.

- A. Office of Partnerships and Recognition (OPR). The SGE Coordinator receives and processes SGE applications, coordinates quarterly training sessions with Regional staff, evaluates and approves requests for SGE usage, and conducts oversight of SGE activities. The SGE Coordinator provides administrative and programmatic support to SGEs during the application, training, and reapplication process; provides quarterly updates of approved SGEs and their contact information; and collects data on SGE usage.
 - B. VPP Managers. Federal or State OSHA employee who coordinates VPP activities and works with SGEs to secure assistance in on-site evaluations, request approval for SGE participation, assists with SGE training and renewals, coordinate administration of the oath of office, and report SGE usage to DCSP.
- X. Definitions.
- A. Active SGE. An SGE whose term of appointment has not expired and who has met the Continuing Eligibility Requirements (outlined in Chapter 2) as expected during each three-year term.
 - B. Application Deadline. The final date in each calendar quarter to receive SGE applications in the Office of Partnerships and Recognition. Applications received after this date will be processed in the following quarter.
 - C. Appointing Official. An OSHA official who is or is serving in the capacity of: 1) Directorate Heads; Director, Office of Partnership and Recognition; OASAM Regional Personnel Officers; Regional Administrators; Area Directors; or Deputies acting in these capacities.
 - D. Assistant Secretary. The Assistant Secretary of Labor for Occupational Safety and Health.
 - E. Mentoring. A formal process to assist companies/facilities interested in the VPP or improving their safety and health management systems.
 - F. New SGE. An individual who has not previously applied to participate as an SGE.
 - G. Oath of Office. The oath required of all employees who enter Federal service or serve as an SGE.
 - H. Process Safety Management (PSM) Specialist (Level 1). An individual who has successfully completed the OSHA Training Institute's (OTI) Course 3300, *Safety and Health in the Chemical Processing Industries* and Course 3400, *Hazard Analysis in the Chemical Processing Industries* and Course 3430, *Advanced PSM in the Chemical Industries* (see Appendix B for course content) or equivalent training or experience as demonstrated by training/ education/job classification, for example, Process Safety Manager, Process Safety Engineer, etc.

- I. Renewing SGE. An individual presently serving as an SGE who takes action to continue his/her SGE qualification for another term. Alternatively, an individual who is reapplying after a lapse of SGE service of more than one year.
- J. Safety and Health Professional. An individual employed in a position in which more than 50% of daily duties are dedicated to conducting or managing worksite or corporate safety and/or health activities.
- K. Special Government Employee. A permanent, full-time employee who has been approved and trained by OSHA to assist Federal or State Plan State OSHA staff in conducting VPP on-site evaluations or other qualifying activities.
- L. Special Government Employee Application. The information and forms that must be submitted to the Office of Partnerships and Recognition in order for an individual to be considered for participation as an SGE.
- M. Special Government Employee Coordinator. The Office of Partnerships and Recognition staff member responsible for coordinating and managing federal SGE activities.
- N. Special Government Employee Training. The training course required for participation as an SGE.
- O. Special Government Employee Usage Request. The written request from a VPP Manager, Coordinator/Officer, or Team Leader that is submitted to the SGE Coordinator asking for approval to use a specified SGE on one or more specified on-site evaluations.
- P. State Plan States Memorandum of Understanding (MOU). A formalized, written agreement that a State Plan State and Federal OSHA must sign if the State wants to use federal SGEs on its State VPP applicant or participant on-site evaluations.
- Q. Term of Service. The three-year time period for SGE participation. Individuals wishing to continue participation must reapply every three years.
- R. VPP Coordinator/Officer. A Federal OSHA employee used in the Regions to assist the VPP Manager with VPP on-site evaluations and other VPP-related activities.
- S. VPP Manager. Federal or State OSHA employee who coordinates VPP activities and works with SGEs to secure assistance in on-site evaluations, request approval for SGE participation, assists with SGE training and renewals, coordinate administration of the oath of office, and report SGE usage to DCSP.

Chapter 2

SGE Eligibility, Qualifications, and Application Process

I. Eligibility. The SGE Program accepts new and renewal applications from the following categories of volunteers:

A. VPP Employees. Permanent, full-time employees from approved VPP worksites in states under Federal jurisdiction or in states with OSHA-approved State Plans.

An SGE who moves from a VPP worksite to a non-VPP worksite *within the same corporation* may continue to serve as an SGE, so long as corporate support continues.

Employees from approved VPP DoD sites are eligible to become SGEs.

B. VPP Corporate Participants. The designated corporate safety official for a VPP Corporate participant may designate persons within the organization to become SGEs. Persons designated should be from an approved VPP worksite whenever feasible. However, persons who are not from an approved VPP site and who meet the criteria below may also be designated to become SGEs if the purpose of their SGE participation is to advance VPP within the organization as a whole. All other SGE criteria apply. Criteria specific for VPP Corporate participants are as follows:

1. Applicant must have at least two years of experience in performing safety and health-related duties.
2. Applicant must have attended an entry-level VPP orientation with the corporation or OSHA.
3. Applicant must be knowledgeable about VPP safety and health management system (SHMS) requirements.
4. Applicant must be assigned VPP-related duties within the organization, for example, preparing sites for VPP application; assisting in application preparation and review; assisting with training; assisting in on-site self-evaluations, etc.

II. SGE Qualifications.

A. Citizenship Requirement. The Federal Government requires that an individual be a United States citizen in order to apply for SGE status.

B. Qualifications for All SGEs. All SGEs must meet the following qualifications:

1. Employed full-time at a VPP worksite for at least two (2) years.
2. Management and/or corporate support for participating in the VPP SGE Program.
3. Experience in applying OSHA regulations.
4. Experience (current or within the previous two years) in a leadership position (although not necessarily management) dealing with workplace safety and health. Applicants from a VPP worksite or corporation must have actual VPP experience.
5. Strong interpersonal skills.
6. Sound reading and writing skills.
7. Physically able to perform activities required during the on-site evaluation.

C. Qualifications for Safety and Health Professionals (including Process Safety Management (PSM)).

1. Safety and health experience:

- a. Must have two or more years of experience in the safety and health field.
- b. More than 50% of daily duties must be dedicated to conducting or managing worksite or corporate safety and/or health activities.

2. PSM experience:

- a. Must have successfully completed the OSHA Training Institute's (OTI) Course 3300, *Safety and Health in the Chemical Processing Industries*, Course 3400, *Hazard Analysis in the Chemical Processing Industries*, and Course 3430, *Advanced PSM in the Chemical Industries* (see Appendix B for course content); **or**
- b. Must have successfully completed equivalent training; **or**
- c. Must document work experience and/or other appropriate qualifications, for example, experience as a Process Safety Manager, Process Safety Engineer, etc.
- d. Must include with their application documentation of PSM Level 1 certification (see Appendix B) or equivalent training.

- D. Applicants Who Are Not Safety and Health Professionals. SGEs need not be safety and health professionals. They may be hourly employees or individuals who have experience implementing effective safety and health management systems. Besides meeting the qualifications in C. above, applicants who are not safety and health professionals must also meet the following qualifications:
1. As a general rule, the applicant must be a current employee of a VPP approved employer who has worked at a VPP worksite for a minimum of two years. However, for an exception regarding employees who no longer work at a VPP worksite, see NOTE at I.A., above.
 2. During that minimum two-year period, applicant must have gained experience in at least three of the following activities (or their equivalent):
 - a. Chairing a worksite safety and health task team/committee.
 - b. Working directly with the OSHA VPP on-site review team during the previous on-site review.
 - c. Training others in safety and health procedures.
 - d. Writing and reviewing Job Safety Analyses (JSAs) and/or Behavioral Job Analyses (BJAs).
 - e. Coordinating accident investigations.
 - f. Coordinating proactive safety and health activities such as wellness days.
 - g. Leading worksite hazard inspection teams.
 - h. Coordinating hazard abatement activities.
 - i. Other experience that demonstrates knowledge of safety and health management systems.
- E. Ineligible Applicants/Conflicts of Interest.
1. The Director of Cooperative and State Programs or his/her designee must disqualify any applicant whose employment or financial involvements may present a conflict of interest or the appearance of impropriety. This includes applicants who do consulting work outside of their regular employment at a VPP worksite.

III. SGE Application Process.

- A. Application Cycle and Submission Deadlines. The SGE Coordinator in the Office of Partnerships and Recognition (OPR) processes SGE applications four times per year. Applications must be received in OPR on or before January 15, April 15, July 15 or October 15 of each year. If the deadline falls on a weekend or a federal holiday, applications are due on the first federal business day following the holiday. Applications received after a deadline are held and processed in the next submission cycle.

Failing to attend SGE training within one year of submitting the SGE application will result in the prospective SGE having to reapply.

- B. Required Application Forms for All SGEs (New and Renewing). All forms in the SGE Application must be completed before the application will be processed. If the application is not complete, the SGE Coordinator may notify the applicant and secure the missing information. It is the applicant's responsibility to return the corrected information prior to the deadline. If the corrected application is not received by the deadline, the application will be held until the next application deadline. The required application forms for all SGEs are (See Appendix C – SGE Application):

1. SGE Eligibility Information Sheet.
2. Current Resume or "Optional Application for Federal Employment" Form OF612.
3. Confidential Financial Disclosure Report (OGE-450).

If, at any time during an individual's term of service as an SGE, OSHA discovers that the applicant knowingly withheld information or provided information that was untrue, that individual's participation as an SGE will be terminated by OSHA.

- C. Management Signature. SGE applicants and renewing SGEs must obtain the signature of their supervisor or manager on the SGE Eligibility Information Sheet prior to submission. The signature implies that management agrees with the skills and qualifications of the applicant as provided in the SGE application and supports the applicant's participation.
- D. Ethics Documents. The SGE Application package includes a document that describes the ethics requirements for SGEs. All SGE applicants must acknowledge that they have read and that they understand all ethics requirements.
- E. Confidential Financial Disclosure Report. The SGE Application includes a document that provides a mechanism for determining actual or potential financial conflicts between the SGEs public and private interests and activities. This allows the SGE and OSHA to fashion appropriate protections against such conflicts. The

report shall be:

1. Reviewed and certified by the SGE Coordinator after the SGEs application approval.
2. Updated by the SGE on an annual basis. If no financial changes have occurred, the SGE must notify the SGE Coordinator, in writing, that there are no changes since the previous submission.

IV. Continuing Eligibility Requirements. All renewing SGEs must continue to meet the initial SGE qualifications as outlined in Section II of this chapter.

V. Qualifying Activities. In order for an SGE to be reapproved, the SGE must have been actively involved in the VPP within his/her previous term of service. To gain reapproval, the SGE must have performed a minimum of three (3) Qualifying Activities. One of the three Qualifying Activities must have been participation on a VPP On-site Evaluation Team.

1. Qualifying Activities include the following:
 - a. Participate on a VPP On-site Evaluation Team (minimum requirement of one).
 - b. Assist the Regional VPP Manager with the review of a site's VPP application.
 - c. Assist the Regional VPP Manager with the review of VPP sites' annual self-evaluation report.
 - d. Serve as an instructor/co-instructor for the SGE Course.
 - e. Serve as an instructor/co-instructor for the VPP Application Workshop.
 - f. Provide on-site mentoring to a potential or reapproving VPP site.
 - g. Present a VPP or related safety and health topic at a Regional or National VPPPA Conference.

Chapter 3

SGE Training, Oath of Office, and Terms of Service

- I. SGE Training. SGE training is required for all new applicants. Newly-approved SGEs are required to attend a three-day OSHA training course that provides an overview of OSHA's VPP and the roles and responsibilities of SGEs. OSHA provides the training free of charge.
 - A. Training Notification. The SGE Coordinator must send applicants written notice of where to report for training no later than four (4) weeks prior to the start of the SGE training. Renewing SGEs need not attend SGE training unless notified by the SGE Coordinator.
 - B. Training Frequency. SGE training is conducted several times each quarter. The total number of trainees in any one session may not exceed 35 unless approved by the Director, Office of Partnerships and Recognition following consultation with the course instructor(s).

Request for an ad-hoc class(es) will be considered on a case-by-case basis.
 - C. Training Responsibilities. The SGE Coordinator has primary responsibility for organizing SGE training, with assistance from a VPP Manager. Instructors must be identified based on the needs of the trainees and the geographic location of the training. The lead instructor is generally a VPP Manager with extensive VPP experience in evaluating effective safety and health management systems. The lead instructor may request assistance from experienced SGEs, Compliance Safety and Health Officers (CSHOs), Compliance Assistance Specialists (CASs), or other knowledgeable persons.
 - D. Training Content. Training content will be determined by the Director, Office of Partnerships and Recognition (OPR), with assistance from VPP Managers. Modifications to the training content must be approved by the OPR Director before implementation.
- II. Oath of Office. SGEs may not participate on an on-site evaluation until they have taken the Federal oath of office administered by an OSHA appointing official empowered by the head of the Agency under the authority of 5 U.S.C. 2903. OSHA appointing officials include the Assistant Secretary, Deputy Assistant Secretaries, Regional Administrators, Directorate Heads, Director of the Office of Partnerships and Recognition, Office of the Assistant Secretary for Administration and Management (OASAM) Regional Human Resource Officers, and Area Directors, or a designated deputy who is temporarily acting for one of the officials listed above.
 - A. Oath of Office for New SGEs.

1. The oath of office must be administered to new SGEs after the completion of the class. The VPP Manager is responsible for securing an appointing official to administer the oath and for coordinating the swearing-in activities.
 2. Federal employees need not take the oath of office since it was administered upon their employment with the Federal Government.
- B. Oath of Office for Renewing SGEs. The VPP Manager is responsible for coordinating a suitable time and place for an appointing official to administer the oath of office to renewing SGEs. If the SGEs current term of service has not expired, the three year term will automatically be extended without the need to retake the oath of office or sign a new appointment affidavit.

However, if the SGEs term of service has expired, but the SGE has been reappraised, the SGE must contact the Regional VPP Manager/Coordinator for assistance in: (1) re-taking the "Oath of Office" and (2) signing a new appointment affidavit which will extend the SGE term of service for another three years.

- C. Appointment Procedures. Each SGE appointee may elect to either "swear" or "affirm" the oath of office. An American flag must be present. The appointing official must meet the qualifications as described on page 1-4.
1. The appointing official must ascertain if the appointee elects to swear or affirm to this affidavit. If the individual wishes to affirm the oath, then the words "So help me God" in the oath and the word "swear" should be stricken wherever these words appear. Only these words may be stricken and only when the appointee elects to affirm the affidavit.
 2. The appointing official must ask all persons present to rise for the administration of the oath of office. The appointing official must stand facing the appointee(s) with the American flag between them and instruct the appointee(s) to raise his or her right hand. The appointing official must read the oath of office in short phrases, waiting for the appointee to repeat each phrase before proceeding to the next.
 3. When the administration of the oath of office is complete, the appointing official must complete and sign the Appointment Affidavit (SF-61). The position of appointment must be "Special Government Employee."
- D. SGE Appointment Affidavits. An Appointment Affidavit (SF-61) must be completed for each SGE who takes the oath of office. This form can be downloaded from the Internet at: www.opm.gov/forms/html/sf.asp. Both the SGE and the appointing official must sign the form after the oath of office has been

administered. After the Appointment Affidavits has been signed by both parties, the VPP Manager or the appointing official is responsible for sending the original signed Appointment Affidavits to:

U.S. Department of Labor – OSHA
OSHA Office of Partnerships and Recognition
200 Constitution Ave., NW – Room N-3700
Washington, DC 20210
ATTN: SGE Coordinator

III. SGE Term of Service. All SGEs are initially appointed to a three-year term of service. SGEs serve at the pleasure of the Assistant Secretary for Occupational Safety and Health. Service is contingent upon proper ethical conduct.

- A. New SGEs. The term of service for new SGEs must be calculated from the date that they successfully complete SGE training and take the oath of office.
- B. Renewing SGEs. The term of service must be calculated from the date their application is reapproved by the Director of Cooperative and State Programs.
- C. Termination of Service. Service as an SGE must be terminated without notice by the Agency if the conditions in Chapter 2 of this Policies and Procedures Manual under which the SGE was originally appointed no longer apply. If the OSHA or State Plan State team leader has evidence or determines that an SGE is not conducting him/herself in a proper manner during a VPP on-site evaluation, the team leader must ask the SGE to leave the worksite immediately. The VPP Manager/Coordinator must provide information about the incident to the Director of Cooperative and State Programs within five business days of the conclusion of the onsite and, if appropriate, recommend that the SGEs term of service be terminated.

Additionally, if complaints are received or made by either OSHA or the host company regarding a particular SGEs performance (or lack thereof), inappropriate behavior/conduct during an on-site evaluation or other qualifying activity, the SGEs term of service will be terminated.

- D. SGE On-site Evaluation Duties. SGEs function as members of a VPP on-site team. SGE assignments may include, but are not limited to, the following on-site evaluation activities:
 - 1. Reviewing company documents that describe or verify the worksite's safety and health management system.
 - 2. Conducting a walkaround of the worksite to ensure that the site's safety and health management system is operating effectively.

3. Interviewing employees of the company and contractors to determine their level of involvement in and perceptions of the worksite's safety and health management system.
 4. Assisting in the preparation of a team report that evaluates the worksite's safety and health management system with respect to VPP criteria.
- E. Other SGE Duties/Qualifying Activities. At the request and discretion of the VPP Manager/Coordinator (or VPPPA in the case of items 5 and 6), SGEs may also be involved in other activities which are outlined below.
1. Assist the Regional VPP Manager with the review of a site's VPP application.
 2. Serve as an instructor/co-instructor for the SGE Course.
 3. Serve as an instructor/co-instructor for the VPP Application Workshop.
 4. Assist the Regional VPP Manager with the review of VPP sites' annual self-evaluation.
 5. Provide on-site mentoring to a potential or reapproving VPP site. (This activity may be coordinated through the Regional VPP Manager or through a VPPPA Mentoring Program Coordinator.)
 6. Present a VPP or related safety and health topic at a Regional or National VPPPA Conference. (This activity shall be coordinated through the Regional or National VPPPA.)
- F. SGE Participation. SGEs are strongly encouraged to participate on a VPP on-site evaluation as soon as possible after completing the SGE course. Thereafter, OSHA requires the SGE to have performed a minimum of three (3) qualifying activities. One of the three qualifying activities must have been participation on a VPP On-site Evaluation Team (see Chapter 2, Section IV). Failing to meet this requirement due to OSHA's cancellation of an on-site or other activity will not adversely affect the SGEs ability to renew their status.
- If an SGE does not meet the participation requirements, OSHA will not approve the SGE for renewal. The SGE must wait at least one year before reapplying. SGE training is only necessary if the lapse in service is greater than three years.
- G. SGE Costs. All costs associated with attending the SGE training and participating in VPP on-site evaluations and other SGE duties are the responsibility of the SGEs employer.

H. Injury/Illness of an SGE. In the event that an SGE experiences a safety or health injury/illness while conducting a VPP onsite evaluation or other qualifying activity, the SGE must report the injury/illness to their immediate employer and notify the onsite team leader. The following factors preclude the Department of Labor from the responsibility of the SGEs injury/illness:

1. OSHA does not pay the salary of the SGE.
2. OSHA does not have day to day oversight of the SGE on a regular basis.
3. OSHA does not oversee the job site.
4. OSHA does not instruct the SGE on how to perform their duties.

Chapter 4

SGE Utilization

I. Utilization of SGEs.

A. SGE Utilization in State Plan States.

1. State Plan States that want to use federally-approved SGEs for VPP on-site evaluations first must have in place a signed and dated Memorandum of Understanding (MOU) with OSHA. An SGE MOU template can be downloaded at www.osha.gov/dcsp/vpp/sge/sge_mou_states.html. See also Appendix A for a sample.
2. SGE MOU Submission Process. A State must secure the appropriate signature from the State Designee and forward the completed MOU to OSHA's SGE Coordinator in the Office of Partnerships and Recognition.

The SGE Coordinator will process the requested MOU and forward it to the Assistant Secretary for approval and signature. Once the MOU is signed, the Directorate of Cooperative and State Programs (DCSP) will notify the State of MOU approval, and the State can begin use of SGEs.

B. Requesting Assistance from SGEs. VPP Managers/Coordinators must request assistance directly from SGEs.

1. Requesting Use of Approved SGEs. Only those individuals whose SGE status is "active" may be requested. Once an SGE has agreed to participate in a specific on-site review, the VPP Manager/Coordinator must request permission from the SGE Coordinator to utilize that SGE.
2. Site Concurrence in Utilizing SGEs. The VPP Manager or VPP Coordinator must inform the VPP applicant/participant of the intention to use an SGE as a member of the VPP on-site evaluation team, and the employer must agree with this arrangement.

C. Composition of OSHA or State Plan State Evaluation Team.

1. The VPP on-site evaluation team must include at least one Federal or State employee serving in the capacity of Team Leader. SGEs may not serve as Team Leaders or Backup Team Leaders unless they are conducting an OSHA Regional/Area Office VPP on-site evaluation.
2. With approval by the Regional Administrator and if the Team Leader is a

qualified Federal or State Plan employee, an unlimited number of SGEs may serve on a VPP on-site evaluation team.

D. Requesting an SGE. Requests for SGEs must be submitted to the SGE Coordinator, at a minimum, no later than two weeks prior to the scheduled on-site evaluation. Late requests, however, may be approved on a case-by-case basis. Requests must be e-mailed and must include the following information:

1. The full name and company of the SGE requested.
2. The company name, city, and state of the worksite that is being evaluated.
3. The beginning date and expected duration of the on-site evaluation.

A VPP Manager must use discretion where there may be a potential conflict of interest outside the normal approval process. Such examples may include, but not limited to, DoD SGEs evaluating the same service branch/Defense Department for which they are employed or same/similar industries for private sector SGEs. The VPP Manager should consult with the site being evaluated prior to the SGE being approved.

E. SGE Approval and Notification.

1. The SGE Coordinator reviews requests for SGEs and approves or denies those requests. The SGE Coordinator may deny a request for an SGE based on the following criteria:
 - a. Information in the request is incomplete.
 - b. The requested SGE is not yet approved, or his/her term of service has expired.
 - c. A financial conflict of interest or the appearance of impropriety precludes participation of the requested SGE.

The SGEs Financial Disclosure Report will be reviewed upon each request to ensure there are no financial conflicts between the requested SGE and the site to be evaluated.

2. The SGE Coordinator must respond to a request for an SGE via e-mail within ten (10) working days of receipt. If a request is denied, the SGE Coordinator may assist the Regional or State Plan State staff in finding a replacement SGE in time for the evaluation.

Chapter 5

Application Processing and Program Administration

I. Application Processing.

A. Receipt of Applications. The SGE Coordinator is responsible for tracking and managing each SGEs application from the time of receipt until the SGE has taken the oath of office. When an application arrives in the Office of Partnerships and Recognition (OPR), the SGE Coordinator must date stamp it and determine whether it includes all required information.

1. Evaluating the Application. The application must contain the following completed forms:

- a. SGE Eligibility Information Sheet.
- b. Current resume or “Optional Application for Federal Employment” Form OF612.
- c. Confidential Financial Disclosure Report (OGE-450).

The SGE Coordinator must verify that the resume or OF612 contains position-specific safety and health experience. If the resume or OF612 does not include position-specific information, the SGE Coordinator may contact the applicant and request information that satisfies this requirement.

2. Verifying all Required Signatures. The applicant must physically sign all applicable signature areas of the SGE Eligibility Information Sheet, Form OF612 (if applicable), and the Confidential Financial Disclosure Report (OGE-450). No electronic signatures are accepted. If an applicant does not sign one of these forms, the SGE Coordinator must receive, at a minimum, a fax, or photocopy of a signed original.

3. Confidentiality. Due to the sensitivity of some information contained on the SGE application, all SGE applications are stored and locked in file cabinets accessible only by the SGE Coordinator and the OPR Director.

B. Preparing the Application Submission Package.

1. Confidential Financial Disclosure Report. The SGE Coordinator must separate the Confidential Financial Disclosure Report (OGE-450) from the rest of the application. This information is confidential and must not be submitted to the Office of Human Resources or discussed with any other

staff member.

2. Application Processing Checklist. The SGE Coordinator must print the SGE Application Processing Checklist, located on the DCSP server at: *Q:\cspOPR\SGE/Application cover sheet.doc*, and complete the checklist, verifying that all forms are attached.
 3. Consolidate the Application Submission Package. After verifying that all forms are completed and attached to the SGE Application Processing Checklist, the SGE Coordinator must sign and date the form.
 4. File the Completed Application Submission Package. After the SGE Application Processing Checklist has been signed, the SGE Coordinator must attach the Confidential Financial Disclosure Report (OGE-450) to the original application packet, attach these documents to the completed application submission package, and file the entire package in the corresponding quarterly submission file until the application due date.
- C. Transmitting Completed Application Submission Packages to the Office of Human Resources. The SGE Coordinator must transmit to OSHA's Office of Human Resources all the completed application submission packages. This should occur as soon after the application due date as possible.
- D. Communication with SGE Applicants and Renewing SGEs. The SGE Coordinator is responsible for maintaining communication with applicants, renewing SGEs and VPP Managers/Coordinators. These responsibilities include:
1. E-mail notification that the application has been received for review and processing.
 2. E-mail notification that the application has been approved and that the applicant is invited to attend training.
 3. E-mail notification of renewed appointment.
- E. Preparing SGE Training Certificates and Appointment Affidavits. The SGE Coordinator must prepare the SGE training certificates. After the certificates are prepared, the SGE Coordinator must transmit them to OSHA's Controlled Correspondence Unit (CCU) in preparation for signature by the Assistant Secretary. The SGE Coordinator must also prepare appointment affidavits for each prospective new SGE. Signed training certificates and appointment affidavits must be completed prior to the beginning of training and must be sent to the training site or the designated Regional instructor.

II. SGE Program Administration.

- A. Reapplication by SGEs. The SGE term of service is three years. The SGE Coordinator must send each SGE, VPP Manager and VPP Coordinator a reapplication e-mail notification 90 to 120 days before expiration of the SGEs term of service. The reapplication process is detailed in Chapter 2.
- B. Customer Service to SGE Applicants/Participants. The SGE Coordinator's most important responsibility is customer service. The SGE Coordinator must be responsive to all inquiries regarding the SGE Program.
- C. Customer Service to VPP Managers/Coordinators. The SGE Coordinator must be responsive to VPP Managers/Coordinators.
- D. Customer Service to Office of Human Resources. The SGE Coordinator must work closely with the Office of Human Resources. The SGE Coordinator's role includes:
 - 1. Verifying application information.
 - 2. Contacting the applicant if additional experience or other information is needed to process and approve the application.
- E. SGE Data Management.
 - 1. Contact and Experience Data. The SGE Coordinator must enter all of the data from each Application Submission Package into the SGE database.
 - 2. SGE E-mail Addresses. After each prospective SGE has been approved and has taken the oath of office, the SGE Coordinator must submit his/her e-mail addresses to Directorate of Information Technology (DIT) to be added to the SGE global e-mail listing. If an SGE no longer meets the SGE qualifications, the SGE Coordinator must immediately remove his/her name and e-mail address from the e-mail listing.
 - 3. Modifications to SGE E-mail Addresses. It is the responsibility of each SGE to provide the SGE Coordinator with any e-mail address modifications in a timely manner.
 - 4. Out-of-Date E-mail Addresses. If the SGE Coordinator attempts to contact an SGE via e-mail and receives an "invalid e-mail address" error message, the SGE Coordinator will contact the Regional VPP Manager for assistance. If the SGE Coordinator and Regional VPP Manager are unable to reach the SGE, the SGEs term of service will be terminated.
 - 5. Requested On-site Participation Data. When an SGE is approved to

participate on an on-site evaluation, the SGE Coordinator must enter the information into the SGE Database within five working days.

6. Removing an SGE from the Active List. If the SGE Coordinator determines that an SGE no longer meets program qualifications, the SGE Coordinator will notify the respective VPP manager, update the SGE database and convert the identified SGEs status from “active” to “inactive.”

F. SGE Reports. Reports issued by the Office of Partnerships and Recognition are sent to the VPP Managers.

1. Report of Active SGEs. This report lists all active SGEs and is provided to the VPP Managers on a quarterly basis or at their request.
2. Specialized Reports. Specialty reports can be generated upon request to the SGE Coordinator. These include, for example: Active SGEs in a particular Region or State; SGE activity report; PSM qualified SGEs; and Industrial Hygienist qualified SGEs.

G. Planning and Coordination of Training. The SGE Coordinator is responsible for initiating the planning process for SGE training courses. Prior to the beginning of each fiscal year, the date and location of SGE training needs to be determined in advance of the application deadline corresponding to a training session. Ad-hoc classes will be considered on a case-by-case basis.

1. Networking with VPP Managers. The SGE Coordinator should discuss timeframes for upcoming training sessions with the VPP Managers and encourage them to host the event or to work with a VPP site in their Region to host the event.
2. Coordinating Training with a VPP Site or Other Host Organization. If a VPP site or other organization offers to host SGE training, the VPP Manager must first discuss the offer with the SGE Coordinator. The SGE Coordinator must not accept the offer before the VPP Manager determines whether this arrangement is acceptable and that the Region is able to provide the necessary training resources.
3. End of Training. At conclusion of training, the SGE Course instructor will present the host site with a Certificate of Appreciation.
4. Postponement of SGE Training. In the event that a training class needs to be postponed, the SGE Coordinator will notify all applicants via e-mail who are scheduled to attend the class.

5. Deferral of Training by an SGE Applicant. An SGE applicant occasionally will be unable to attend the SGE training as scheduled, in which case he or she may defer training until the next available training session. The SGE Coordinator must consider a deferred application as one received during the current application period.

Failure to attend SGE training within one year of submitting the SGE application will result in the prospective SGE having to reapply.

Chapter 6

SGE Incentives, Benefits and Awards

- I. Incentives/Benefits. In the interest of encouraging SGE participation and recognizing SGEs' value to VPP and OSHA, the Agency offers the following incentives/benefits:
- A. Certification Points. SGEs may earn Certified Safety Professional (CSP) or Certified Industrial Hygienist (CIH) certification points by doing the following:
1. Attending and successfully completing the VPP SGE three day training course. The certification maintenance points are noted on the bottom of the SGE Certificate of Completion.
 2. Participating in VPP on-site evaluations. Each 40-hour VPP on-site evaluation is equivalent to 1 CM point for CIH and .625 COC credit for CSP.
- B. Continuing Education Units (CEU). SGEs are awarded continuing education units upon attending and successfully completing the VPP SGE three day training course. The CEU points are noted on the bottom of the SGE Certificate of Completion.
- C. Tuition Waiver for OSHA Training Institute (OTI) Courses. Active SGEs are eligible to attend OSHA Training Institute courses in Arlington Heights, Illinois and have their tuition waived. To qualify for the benefit, you must be an active SGE who have completed at least one qualifying activity. The SGE must contact the SGE Coordinator directly to register. The SGE Coordinator will oversee course registration and provide final course approval and confirmation. To facilitate the registration process, each SGE must:
1. View the OTI Searchable Course Schedule for a complete list of available courses at <https://www.osha.gov/dte/oti/index.html>. The individual course listings will indicate the number of seats available.
 2. Make a course selection and note the course number, course title, and date offered.
 3. Forward the course information to the SGE Coordinator.

The SGE Coordinator will notify the respective VPP Manager and process SGE course registration through OTI. An e-mail notification will go directly from OTI to the SGE, confirming his/her slot for the selected course. NOTE: Travel arrangements should not be made until e-mail confirmation is received.

D. Recognition.

1. Lapel Pins. Prior to the start of a new SGEs first on-site evaluation, the VPP Team Leader will present a lapel pin to the SGE.
2. Thank-You Letters. After an SGE participates on a VPP on-site evaluation, the VPP Manager will send the SGEs manager a letter of appreciation for the SGEs contributions to the on-site evaluation.

The Regional VPP Manager/Coordinator will assure that the SGE assisting with the class will be provided either a certificate of appreciation or a letter from the Regional Administrator.

II. SGE of the Year Award.

A. Purpose. This award is designed to recognize an SGE who epitomizes and exhibits exceptional support, effort, and action in VPP, and in so doing sets him/herself apart from other SGEs. The person selected must meet the following criteria:

1. Be actively involved in volunteer activities that benefit the VPP.
2. Perform outreach and assistance to employers/employees outside his/her own company.
3. Demonstrate an outstanding commitment to the partnership ideals of VPP.

B. Candidate Selection Process. The Director, Cooperative and State Programs will solicit one candidate from each Regional VPP Manager and forward the names and supporting recommendations to the SGE Coordinator.

C. Scoring. Each candidate will be reviewed and scored by Regional and National Office VPP staff based on the criteria outlined in A.1.-3., above. The National Office score will be the average of the scores submitted by National Office VPP staff. The SGE of the Year will be determined by tallying the candidates' Regional and National Office scores. The top score will be the winner.

D. Announcement of Winner. Each year the Director, Cooperative and State Programs will determine the appropriate venue for announcing the SGE of the Year.

Appendix A

Memorandum of Understanding for State Plans

MEMORANDUM OF UNDERSTANDING
between
THE STATE/Commonwealth of _____,
DEPARTMENT OF _____
A STATE PLAN STATE
and
THE UNITED STATES DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

I. Purpose and Authority

Pursuant to section 21(c)(2) of the Occupational Safety and Health Act of 1970, (29 U.S.C. § 656, the Act), the State of _____, _____ (designated state agency) and the Occupational Safety and Health Administration (OSHA) agree that the State of _____ may request and, within the prescribed intent, scope, policies and procedures of OSHA, use duly authorized Federal employees, some of whom may be Federal volunteers who have the status of Special Government Employees (SGEs) as defined at 18 U.S.C. § 202(a), as members of the State's Voluntary Protection Programs (VPP) on-site review teams.

II. Duties of Duly Authorized Federal Employees

A. The Federal members of the State of _____ VPP on-site review team duties will include, but are not limited to:

1. Reviewing company documents that describe or verify the worksite's safety and health management system;
2. Conducting a walkaround of the worksite to ensure that the site's safety and health management system is operating effectively;
3. Interviewing employees of the company and contractors to determine their level of involvement in and perceptions of the worksite's safety and health management system; and
4. Assisting in the preparation of a report that evaluates the worksite's safety and health management system with respect to VPP criteria.

B. The duties of the Federal members of the State of _____ VPP on-site review team shall not include, at any time, the role of Team Leader or other primary decision maker.

III. Period of Performance

This agreement shall commence upon its execution by both parties. Activities shall begin as

soon as possible.

Either party may terminate this agreement on 30 days written notice to the other.

IV. Miscellaneous

The State may be asked to provide reports, information and/or recommendations to OSHA regarding activities, expenses and feedback about its experience under this agreement.

The State shall take all reasonable steps to protect the safety and health of the Federal employees acting as members of the on-site review team.

V. Effect of Agreement

This agreement is between government entities and is not intended to confer any right upon any private person.

Nothing in this agreement shall be interpreted as limiting, superseding or otherwise affecting either agency's normal operations or decisions in carrying out its statutory or regulatory duties. This agreement does not limit or restrict the parties from participating in similar activities or arrangements with other entities.

This agreement does not itself authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or to enter into any contract or other obligations.

AGREED TO

[NAME]
Assistant Secretary of Labor for
Occupational Safety and Health

Date

FOR THE STATE OF _____

Agency

Signature

Date

Name

Title

Appendix B

Process Safety Management (PSM) Level 1 Requirements

Process Safety Management (PSM) Level 1 Requirements

Below are the course descriptions for the OSHA Training Institute (OTI) Course #3300 *Safety and Health in the Chemical Processing Industries*, Course #3400 *Hazard Analysis in the Chemical Processing Industries* and Course #3430 *Advanced PSM in the Chemical Industries*. To ensure compliance with Process Safety Management (PSM) Level 1 training, you must have received equivalent training in the concepts identified below.

OSHA Training Course (OTI) Course #3300 *Safety and Health in the Chemical Processing Industries*

Course focuses on the recognition, evaluation, and control of safety and health hazards in the chemical industry. The standard 29 CFR 1910.119 is reviewed in detail. In addition, the course is designed to teach students how to review safety analyses used in the management of highly hazardous chemicals. Topics include a review of the strengths and weaknesses of common analytical methodologies such as: What-If, Checklist, What-If/Checklist, and Hazard Operability Studies (HAZOP). Students participate in exercises on reading process and instrumentation diagrams (P&IDs) and reviewing hazard analysis studies.

OSHA Training Course (OTI) Course #3400 *Hazard Analysis in the Chemical Processing Industries*

Course focuses on mechanical integrity and other significant safety and health issues at facilities regulated by 29 CFR 1910.119, Process Safety Management for Highly Hazardous Chemicals. Highlights include the analysis of requirements for materials, the study of specific equipment items identified as critical to process safety management, and the identification of how these materials and equipment fail. What must be done to prevent catastrophic failures in a variety of specific industries and processes is discussed in detail.

OSHA Training Course (OTI) Course #3430 *Advanced PSM in the Chemical Industries*

Course is designed to address the recognition, evaluation, and control of hazardous operations in chemical processing facilities. The course focuses on providing the policies and procedures for conducting inspections scheduled in response to OSHA Notice 09-06 (CPL 02) PSM Covered Chemical Facilities National Emphasis Program, effective July 27, 2009. Topics will include: a review of chemical hazards using available resources external to OSHA; examination of the processes, equipment, available standards, and recognized and generally accepted good engineering practices (RAGAGEPs); use of the Dynamic List questions; and effective documentation of inspection findings. The application exercises simulate and support pre-inspection preparation, document management, and case file and report preparation. A variety of case study workshops, review of previous incident and inspection experiences, and participant experiences provide a forum for expanding the students' resources and references for conducting these critical inspections. Students must review four previously archived webinars/webcasts posted in LearningLink prior to attending this class: 0007 PSM of Reactive Hazards, 0014 PSM of Ammonia Refrigeration, 0017 PSM of Chlorine Hazards, and 0022 Chemical Industry NEP.

Appendix C

SGE Application

*Application
for
Special Government Employee (SGE)

Voluntary Protection Programs*



Revised April 2018



**U.S. Department of Labor
Occupational Safety and Health Administration**

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Confidential Financial Disclosure Report (OGE-450) not included in application packet. You must visit <https://www.oge.gov/web/oge.nsf/Confidential%20Financial%20Disclosure> to complete and attach to SGE application.

Eligibility

The SGE Program accepts new and renewal applications from the following categories of volunteers:

- VPP site employees. Permanent, full-time employees from approved VPP worksites in states under federal jurisdiction or in states with OSHA-approved State Plans.
- Corporate/Headquarter employees. Permanent, full-time employees who have direct oversight of one or more approved VPP in states under federal jurisdiction or in states with OSHA-approved State Plans.
- Approved SGEs who move from a VPP worksite to a non-VPP worksite ***within the same corporation*** and who continue to have corporate support for SGE participation.

The SGE Program will consider ineligible and will disqualify the following applicants:

- Any applicant whose employment or financial involvements may present a conflict of interest or the appearance of impropriety.

Qualifications to Participate

All SGE applicants must meet the following qualifications:

- United States citizenship.
- Employed at a VPP worksite for at least two (2) years.
- Management and/or corporate support for participating in the VPP SGE program.
- Experience applying OSHA regulations.
- Experience (current or within the previous two years) in a leadership position (although not necessarily management) dealing with workplace safety and health. Applicants from a VPP worksite or corporation must have actual VPP experience.
- Strong interpersonal skills.
- Sound reading and writing skills.
- Physically able to perform activities required during the on-site evaluation.

Safety and Health Professionals must meet these additional qualifications:

- Two or more years of experience in the safety and health field.
- If employed, more than 50% of daily duties must be dedicated to conducting or managing worksite or corporate safety and/or health activities.
- In addition, safety and health professionals who are ***Process Safety Management (PSM) Specialists:***
 - ✓ must have successfully completed the OSHA Training Institute's (OTI) Course 3300, Safety and Health in the Chemical Processing Industries, Course 3400, Hazard Analysis in the Chemical Processing Industries, and Course 3430, Advanced PSM in the Chemical Industries, and must include with their application documentation of PSM Level 1 certification; ***or***
 - ✓ must have successfully completed equivalent training; ***or***
 - ✓ must document work experience and/or other appropriate qualifications, for example, experience as a Process Safety Manager, Process Safety Engineer, etc.

Qualifications of SGE applicants who are not Safety and Health Professionals:

SGEs need not be safety and health professionals. They may be hourly employees who have several years of experience implementing effective safety and health management systems.

Besides meeting the qualifications above, these applicants must also meet the following qualifications:

- As a general rule, must be a permanent full-time employee of a VPP worksite who has worked at a VPP site for a minimum of two years. However, an SGE who moves from a VPP worksite to a non-VPP worksite *within the same corporation* may continue to serve as an SGE, so long as corporate support continues.
- During that minimum two-year period, must have gained experience in at least three of the following activities (or their equivalent):
 - ✓ chairing a safety/health committee;
 - ✓ working directly with the OSHA VPP on-site review team during the previous on-site review;
 - ✓ training others in safety and health procedures;
 - ✓ writing and reviewing Job Safety Analyses (JSAs) and/or Behavior Job Analyses (BJAs);
 - ✓ coordinating accident investigations;
 - ✓ coordinating proactive safety and health activities such as wellness days;
 - ✓ leading worksite hazard inspection teams;
 - ✓ coordinating hazard abatement activities; or
 - ✓ other experience that demonstrates knowledge of safety and health management systems.

Program Information

- Applicants must complete and submit an application to participate as a volunteer OSHA Special Government Employee (SGE) for VPP.
- Employees from approved VPP DoD sites are also eligible to become SGEs.
- SGE applications are processed four times each year. Applications must be received in the Directorate of Cooperative and State Programs, Office of Partnerships and Recognition on or before January 15, April 15, July 15 or October 15 of each year. If the deadline date falls on the weekend or a Federal holiday, applications are due on the first Federal business day following the applicable deadline date. Late applications will be held until the next submission deadline.
- All new applicants must attend training. A new SGE applicant will not be approved to attend training until his/her application has been approved by OSHA. Applicants whose application has been approved will receive e-mail notification by the SGE Coordinator of the date and location of training.
- Failure to attend SGE training within one year of submitting the SGE application will result in the prospective SGE having to reapply.
- The term of service for SGEs is three years. SGEs serve at the pleasure of the Assistant Secretary of Labor for the Occupational Safety and Health Administration. A SGEs service is contingent upon proper and ethical conduct. The term of service for new SGEs begins upon successful completion of the SGE training course. The term of service for renewing SGEs is calculated from the approval date of their reapplication.
- The Director of Cooperative and State Programs or his/her designee will disqualify from eligibility all applicants whose employment or financial involvements may present a conflict of interest or the appearance of impropriety.
- As a member of a VPP On-site Evaluation Team, an SGEs assignments may include, but are not limited to, the following activities:
 - ✓ reviewing company documents that describe or verify the worksite's safety and health management system;
 - ✓ conducting a walkaround of the worksite to ensure that the site's safety and health management system is operating effectively;
 - ✓ interviewing employees of the company and contractors to determine their level of involvement in and perceptions of the worksite's safety and health management system; and
 - ✓ assisting in the preparation of a team report that evaluates the worksite's safety and health management system with respect to VPP criteria.
- Currently-serving SGEs must reapply to participate at the end of their term of service. OSHA will send a renewal reminder e-mail to each SGE prior to their expiration of service.
- In order for an SGE to be reapproved, the SGE must have been actively involved in the VPP within his/her previous term of service. To gain reapproval, the SGE must have performed a minimum of three (3) qualifying activities. One of the three qualifying activities must have

been participation on a VPP On-site Evaluation Team. Qualifying activities include the following:

- ✓ Participation on a VPP On-site Evaluation Team (minimum requirement of one);
 - ✓ Assisted the Regional VPP Manager with the review of a site's VPP application;
 - ✓ Served as an instructor/co-instructor for the SGE Course;
 - ✓ Served as an instructor/co-instructor for the VPP Application Workshop;
 - ✓ Assisted the Regional VPP Manager with the review of VPP sites' annual self-evaluation report;
 - ✓ Provided on-site mentoring to a potential or reapproving VPP site; and
 - ✓ Presented a VPP or related safety and health topic at a Regional or National VPPPA Conference.
- SGEs are encouraged to participate on at least one VPP on-site evaluation and/or other qualifying activities as soon as possible after completing the SGE training course.
 - All costs associated with attending the SGE training and participating on VPP on-site evaluations are the responsibility of the SGEs employer.
 - In the event that an SGE experiences a safety or health injury/illness while conducting a VPP onsite evaluation or other qualifying activity, the SGE must report the injury or illness to their immediate employer and not OSHA. The following factors preclude the Department of Labor from the responsibility of the SGEs injury/illness:
 - ✓ OSHA does not pay the salary of the SGE.
 - ✓ OSHA does not have day to day oversight of the SGE on a regular basis.
 - ✓ OSHA does not oversee the job site.
 - ✓ OSHA does not instruct the SGE on how to perform their duties.

Application Instructions and Checklist

The following forms must be **completed, signed, and dated** for your application to be processed. This instruction and checklist is for your convenience. If you have any questions, please contact the SGE Coordinator at (202) 693-2213. Keep a copy of your application for your files and future reference.

- ✓ Complete the SGE Eligibility Information Sheet.

- ✓ Include a copy of your most recently updated resume **or** “Optional Application for Federal Employment” Form OF612. Position-specific safety and/or health experience must be included on your resume or on the OF612. **Failure to include position-specific safety and/or health experience may result in delays in processing your application or disqualification.**

- ✓ Please complete the "Confidential Financial Disclosure Report" OGE Form 450. **Remember to sign and date the form.** The form is not part of the SGE Application packet, but can be found on the SGE webpage www.osha.gov/dcsp/vpp/sg.html or the U.S. Office of Government Ethics webpage <https://www.oge.gov/web/oge.nsf/Confidential%20Financial%20Disclosure>.

- ✓ Please read "How to Keep Out of Trouble: 2018 Summary of the Ethics Rules.”

_____ SGE Eligibility Information Sheet

_____ Current Resume or “Optional Application for Federal Employment” Form OF612

_____ Confidential Financial Disclosure Report - OGE Form 450

Return these forms with a cover letter to:

U.S. Department of Labor – OSHA
SGE Coordinator
Directorate of Cooperative and State Programs
200 Constitution Avenue, NW, Room N-3700
Washington, DC 20210

SGE Eligibility Information Sheet

SGE Contact Information: (Check one) New SGE Renewing SGE

Your Name and Title: Last First Mid Init. Job Title _____

Your Company Name: _____

Site Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____ E-mail: _____

ELIGIBILITY

Applicants actively employed by VPP Participants:

OSHA VPP Site DOE VPP Site State OSHA VPP Site

Your worksite's first official VPP approval date: _____ Your starting employment date: _____

Corporate-level applicants: Please provide the site name, address and approval date of the VPP site you

control: Site Name: _____ Complete mailing address: _____

Date of VPP approval: _____

Based on the "Qualifications to Participate" (Page 4), are you applying as a safety and/or health professional? Yes No

Field(s) of Expertise (mark all that apply):

Safety Professional CSP Health Professional CIH PSM-Level 1 (see qualifications)

Ergonomics Construction Spanish-Speaking Maritime Other (specify):

If you are not applying as a safety or health professional, please list at least three of the required experiences from the "Qualifications to Participate" (Page 4) that you have participated in while working at your present VPP site.

Waiver of Claims Against the Government:

I hereby waive any and all claims against the United States Government or the state in which I perform services, for any compensation on account of my services as an SGE rendered in connection with an on-site evaluation of an applicant to OSHA's VPP Program or a State Plan State's VPP Program.

Signature of Employee

Ethical Conduct for Government Employees:

I have read and fully understand the *Summary of Ethics Rules for Special Government Employees*.

Signature of Employee

U.S. Citizenship:

Are you a United States citizen? Yes No
(If no, you are unable to apply to become a Special Government Employee (SGE))

Management Contact Information:

Name of Manager/Supervisor: _____ Title: _____

Corporation: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Signature of Manager/Supervisor

(Signature required. Signature implies concurrence with SGE applicant’s qualifications and management’s commitment to provide the resources necessary to support the SGE through the SGE program.)

Renewing SGEs Only: In order to extend your three-year term, indicate below which qualifying activities you were involved in during your previous term of service.

Participated on VPP On-site Evaluation: Site name _____ Date of evaluation _____

Reviewed of a site’s VPP Application: Site name _____

Assisted with review of VPP site’s annual self-evaluation report: Region _____

Co-Instructor of SGE Course or VPP Application Workshop:

Location _____ Date of training _____

Mentored applicant or reapproval of VPP site: Applicant/site name _____

Presented a VPP or safety & health topic at a Regional or National VPPPA Conference:

Location _____ Date _____

Other _____

OMB Control Number: 1218-0239 Expires 04-30-2021

Public reporting burden for this collection of information is voluntary and is estimated to average 8 minutes per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Partnerships and Recognition, Department of Labor, Room N-3700, 200 Constitution Avenue., N.W., Washington,DC 20210.

GENERAL INFORMATION

You may apply for most Federal jobs with a resume, the attached *Optional Application for Federal Employment* or other written format. If your resume or application does not provide all the information requested on this form and in the job vacancy announcement, you may lose consideration for a job. Type or print clearly in dark ink. Help speed the selection process by keeping your application brief and sending only the requested information. If essential to attach additional pages, include your name and Social Security Number on each page.

- For information on Federal employment, including job lists, alternative formats for persons with disabilities, and veterans' preference, call the U.S. Office of Personnel Management at **912-757-3000**, **TDD 912-744-2299**, by computer modem **912-757-3100**, or via the Internet (Telnet only) at **FJOB.MAIL.OPM.GOV**.
- If you served on active duty in the United States Military and were separated under honorable conditions, you may be eligible for veterans' preference. To receive preference if your service began after October 15, 1976, you must have a Campaign Badge, Expeditionary Medal, or a service-connected disability. Veterans' preference is not a factor for Senior Executive Service jobs or when competition is limited to status candidates (current or former career or career-conditional Federal employees.)
- Most Federal jobs require United States citizenship and also that males over age 18 born after December 31, 1959, have registered with the Selective Service System or have an exemption.
- The law prohibits public officials from appointing, promoting, or recommending their relatives.
- Federal annuitants (military and civilian) may have their salaries or annuities reduced. All employees must pay any valid delinquent debts or the agency may garnish their salary.
- Send your application to the office announcing the vacancy. If you have questions, contact that office.

THE FEDERAL GOVERNMENT IS AN EQUAL OPPORTUNITY EMPLOYER

PRIVACY ACT AND PUBLIC BURDEN STATEMENTS

- The Office of Personnel Management and other Federal agencies rate applicants for Federal jobs under the authority of sections 1104, 1302, 3301, 3304, 3320, 3361, 3393, and 3394 of title 5 of the United States Code. We need the information requested in this form and in the associated vacancy announcements to evaluate your qualifications. Other laws require us to ask about citizenship, military service, etc.
- We request your Social Security Number (SSN) under the authority of Executive Order 9397 in order to keep your records straight; other people may have the same name. As allowed by law or Presidential directive, we use your SSN to seek information about you from employers, schools, banks, and others who know you. Your SSN may also be used in studies and computer matching with other Government files; for example, files on unpaid student loans.
- If you do not give us your SSN or any other information requested, we cannot process your application, which is the first step in getting a job. Also, incomplete addresses and ZIP Codes will slow processing.
- We may give information from your records to: training facilities; organizations deciding claims for retirement, insurance, unemployment or health benefits; officials in litigation or administrative proceedings where the Government is a party; law enforcement agencies concerning violations of law or regulation; Federal agencies for statistical reports and studies; officials of labor organizations recognized by law in connection with representing employees; Federal agencies or other sources requesting information for Federal agencies in connection with hiring or retaining, security clearances, security or suitability investigations, classifying jobs, contracting, or issuing licenses, grants, or other benefits; public and private organizations including news media that grant or publicize employee recognition and awards; and the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, the National Archives, the Federal Acquisition Institute, and congressional offices in connection with their official functions.
- We may also give information from your records to: prospective nonfederal employers concerning tenure of employment, civil service status, length of service, and date and nature of action for separation as shown on personnel action forms of specifically identified individuals; requesting organizations or individuals concerning the home address and other relevant information on those who might have contracted an illness or been exposed to a health hazard; authorized Federal and nonfederal agencies for use in computer matching; spouses or dependent children asking whether the employee has changed from self-and-family to self-only health benefits enrollment; individuals working on a contract, service, grant, cooperative agreement or job for the Federal Government; non-agency members of an agency's performance or other panel; and agency-appointed representatives of employees concerning information issued to the employee about fitness-for-duty or agency-filed disability retirement procedures.
- We estimate the public reporting burden for this collection will vary from 20 to 240 minutes with an average of 40 minutes per response, including time for reviewing instructions, searching existing data sources, gathering data, and completing and reviewing the information. You may send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to U.S. Office of Personnel Management, Reports and Forms Management Officer, Washington, DC 20415-0001.
- Send your application to the agency announcing the vacancy.

OPTIONAL APPLICATION FOR FEDERAL EMPLOYMENT - OF 612

You may apply for most jobs with a resume, this form, or other written format. If your resume or application does not provide all the information requested on this form and in the job vacancy announcement, you may lose consideration for a job.

1 Job title in announcement Special Government Employee (SGE)	2 Grade(s) applying for N/A	3 Announcement number N/A
4 Last name <u>Last</u>	First and middle names <u>First</u> <u>Mid Init.</u>	5 Social Security Number
6 Mailing address City State ZIP Code -		7 Phone numbers (include area code) Daytime () Evening ()

WORK EXPERIENCE

8 Describe your paid and nonpaid work experience related to the job for which you are applying. Do **not** attach job descriptions.

Job title (if Federal, include series and grade)

1)

From (MM YYYY) MM YYYY	To (MM YYYY) MM YYYY	Salary \$	per Year	Hours per week 40
Employer's name and address				Supervisor's name and phone number ()
Describe your duties and accomplishments				

Job title (if Federal, include series and grade)

2)

From (MM YYYY) MM YYYY	To (MM YYYY) MM YYYY	Salary \$	per Year	Hours per week 40
Employer's name and address				Supervisor's name and phone number ()
Describe your duties and accomplishments				

9 May we contact your current supervisor? YES NO If we need to contact your current supervisor before making an offer, we will contact you first.

EDUCATION

10 Mark highest level completed. Some HS HS/GED Associate Bachelor Master Doctoral

11 Last high school (HS) or GED school. Give the school's name, city, State, ZIP Code (if known), and year diploma or GED received.

12 Colleges and universities attended. Do **not** attach a copy of your transcript unless requested.

1)	Name	Total Credits Earned		Major(s)	Degree - (if any)	Year Received
		Semester	Quarter			
	City	State	ZIP Code			
2)						
3)						

OTHER QUALIFICATIONS

13 **Job-related** training courses (give title and year). **Job-related** skills (other languages, computer software/hardware, tools, machinery, typing speed, etc. **Job-related** certificates and licenses (current only). **Job-related** honors, awards, and special accomplishments (publications, memberships in professional/honor societies, leadership activities, public speaking, and performance awards.) Give dates, but do **not** send documents unless requested.

GENERAL

14 Are you a U.S. citizen? YES NO Give the country of your citizenship. USA

15 Do you claim veterans' preference? NO YES Mark your claim of 5 or 10 points below.

5 points Attach your DD 214 or other proof. 10 points Attach an *Application for 10-Point Veterans' Preference* (SF 15) and proof required.

16 Were you ever a Federal civilian employee? NO YES For highest civilian grade give: Series Grade From (MM YYYY) To (MM YYYY)

17 Are you eligible for reinstatement based on career or career-conditional Federal status? NO YES If requested, attach SF 50 proof.

APPLICANT CERTIFICATION

18 I certify that, to the best of my knowledge and belief, all of the information on and attached to this application is true, correct, complete and made in good faith. I understand that false or fraudulent information on or attached to this application may be grounds for not hiring me or firing me after I begin work, and may be punishable by fine or imprisonment. I understand that any information I give may be investigated.

SIGNATURE

DATE SIGNED

How To Keep Out Of Trouble

2018 Summary of the Ethics Rules



**U.S. Department of Labor
Office of the Solicitor
Office of Legal Counsel
Counsel for Ethics Tel. No. (202) 693-5528**

HOW TO KEEP OUT OF TROUBLE

As a Department of Labor employee, you have been placed in a position of trust and are held to a high standard of ethical conduct. Everyone who enters into public service for the United States has a duty to the American people to maintain the highest standards of integrity.

This handout contains a summary of the rules set forth in conflict of interest statutes and the *Standards of Ethical Conduct for Employees of the Executive Branch*. It also covers several related matters that may arise while you are an employee at the Department. You should retain this handout and use it as a handy reference source.

The world of ethics can be a complex one. The purpose of this summary is to help you recognize some potential trouble spots that may arise during your service with the Department. This summary should not be regarded as definitive or comprehensive. The resolution of many ethics issues depends on the specific facts involved. Therefore, you are encouraged to seek advice of an ethics counselor when an ethics issue arises.

The legal bases for the ethics requirements described in this guide are numerous and varied. Many of the requirements are statutory and *persons who violate them may be subject to removal from Federal office and criminal penalties, which may include fines and imprisonment*. Other requirements are the subject of government-wide regulations issued by the U.S. Office of Government Ethics (OGE). These OGE regulations set forth the basic code of conduct for all Federal employees and are a starting point for resolving most ethics-related questions. The Department of Labor also has its own regulations and internal policies for a number of areas described in this summary. Finally, various Executive Orders impose additional obligations and requirements on employees, particularly for presidentially-nominated/Senate confirmed offices and other non-career positions. All employees can access the statutes, regulations, Department policies, and Executive Orders online, and should be familiar with their provisions.¹

There are several ways to ensure that you are fully aware of your responsibilities in this area. First, you must review the OGE ethics regulations at an early point in your tenure and receive initial ethics training. Most employees receive ethics training as part of their orientation shortly after arriving at the Department. Additionally, if you are required to file a public financial disclosure report, you are required to attend a “live” ethics briefing annually. Employees required to file a confidential financial disclosure report are required to attend an “interactive” ethics briefing every year. [Note: Your personnel office or your agency ethics contact will notify you as to whether you are required to file

¹ For a list of and electronic links to these regulations, see <https://oge.gov/web/oge.nsf/Laws+and+Regulations/>

a public or confidential financial disclosure report.] Ethics briefings may also be provided upon the request of an office.

Finally, you are strongly encouraged to ask questions whenever you have any concerns about ethics-related matters. In this area, “preventive medicine” is the best course of action to avoid embarrassment to you, the Secretary, and the Department. Each Department and agency has a Designated Agency Ethics Official and an Alternate Designated Agency Ethics Official; see below for this and other contact information.

Designated Agency Ethics Official:

Kate S. O’Scannlain

Solicitor of Labor

OScannlain.Kate.S@dol.gov

(202) 693-5265

Acting Alternate Designated Agency Ethics Official:

Robert M. Sadler, Acting Associate Solicitor,

Office of Legal Counsel

Sadler.Robert2@dol.gov

(202) 693-5528

Office of Legal Counsel

For advice about ethics laws and regulations and restrictions on political activities and lobbying, you should contact the **Counsel for Ethics**, Rob M. Sadler, at (202) 693-5528, E-mail: sadler.robert2@dol.gov; or **Ethics Attorney**, Zach Mancher, at (202) 693-5694, E-mail: mancher.zachary.d@dol.gov. For Financial Disclosure questions, please contact the **Ethics Program Manager**, Marilynn Brown at (202) 693-5510, E-mail: brown.marilynn@dol.gov.

“Warranties and Limitations” This document is designed to be a basic, “user-friendly” summary of the ethics requirements. It is not an independent regulation and does not supersede any of the legal authorities described within. This summary is meant solely to familiarize you with the requirements, help you recognize and deal with potential pitfalls, and alert you to when additional advice by an ethics counselor would be useful.

**PRINCIPLES OF ETHICAL CONDUCT
AND EMPLOYEE OBLIGATIONS**

To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the following fundamental principles of ethical service set forth in 5 C.F.R. 2635.101(b):

- (a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.
- (b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- (c) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- (d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
- (e) Employees shall put forth honest effort in the performance of their duties.
- (f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.
- (g) Employees shall not use public office for private gain.
- (h) Employees shall act impartially and not give preferential treatment to any private organization or individual.
- (i) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- (j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- (k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those -- such as Federal, State, or local taxes -- that are imposed by law.

(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or disability.²

(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to Executive Order.

Additionally, several positions within the Department have specific responsibilities under the Federal ethics rules, as seen in 5 C.F.R. 2638.102-106, including:

- All employees, who are charged to make ethical conduct the hallmark of government service;
- All supervisors, who have heightened responsibilities and must serve as models for subordinates, ensure that subordinates are aware of their ethical obligations, work with ethics officials to resolve conflicts of interest and enforce government ethics laws and regulations;
- Human resource officials;
- Inspectors General; and
- Agency heads.

FINANCIAL CONFLICTS OF INTEREST

General Rule. You may not, as part of your Government duties, participate in any matter that would have a direct and predictable effect on your financial interests. This rule applies to any matter involving deliberation, decision, or action that is focused on the interests of specific parties or a discrete and identifiable class of entities. If you have such interests, you must disqualify yourself from participating in the matter unless an exemption applies or you are granted a waiver. This is a criminal statute. See 18 U.S.C. § 208.

Financial Interests of Relatives and Business Associates. The financial interests of certain other persons are considered so intertwined with your own that they are

²These regulations have not been updated since their enactment. During the intervening years, court cases and executive orders have expanded equal opportunity protections to include sexual orientation and gender identity. We expect all employees to adhere to all laws and regulations, even if not explicitly named here. *See, e.g. U.S. v. Windsor*, 133 S. Ct. 2675 (2013), Exec. Order 13,087, 3 C.F.R. 191 (1999).

attributed to you for purposes of the rule forbidding you from participating in matters affecting your interests. These persons include your spouse, minor children, general partners, non-Federal employers, and prospective employers (including persons with whom you are negotiating for employment), groups and organizations of which you are an officer, director, or trustee, and members of your household.

Remedies: Generally, the following remedies are utilized to address such conflicts:

- *Disqualification*—the employee disqualifies him or herself from working on the matter;
- *Divestiture*—where a financial interest would cause an employee to disqualify from central responsibilities, selling the interest may be necessary; and
- *Resignation*—from the outside position when it poses such a conflict.

Exemptions. Disqualification is not necessary if the interest meets an exemption, as it is set out in 5 C.F.R. 2640.201 and 2640.202, such as:

- held in a broadly diversified mutual fund (a fund which, according to the fund's prospectus, does not concentrate its investments in a particular industry sector or geographic area);
- held in a sector mutual fund (i.e., a fund investing in a specific industry sector) and (1) the affected holding is not invested in the sector in which the fund concentrates; or (2) the aggregate market value of the disqualifying interest in all sector mutual funds (including those of persons whose interests are imputed to the employee) does not exceed \$50,000;
- a publicly-traded stock or bond holding of \$15,000 or less (unless the matter involves specific parties and holdings in all affected parties total more than \$15,000);
- a publicly-traded security or long term Federal or municipal security in an entity that is not a party to the matter, but may be affected by the matter, and the aggregate market value of the holdings does not exceed \$25,000; or
- a publicly-traded stock or bond holding of \$25,000 or less if the matter at issue is a general policy matter and the total value of investments in the entities likely to be affected by the policy is \$50,000 or less.

Waivers. There are limited circumstances in which the disqualification requirement may be waived, thereby allowing you to participate in matters affecting your financial interests. The waivers must be prepared by the Counsel for Ethics and approved by the head of your agency or bureau.

APPEARANCES OF BIAS

General Rule. In addition to the statutory restrictions above, there is an additional restriction in the Standards of Conduct that prohibits you from participating in matters in which certain persons with whom you have close ties (“covered relationships”) are parties or are representing parties, if, under a reasonable person standard, participation would cause an appearance of loss of impartiality. The key test for determining if participation in a particular matter creates the appearance of loss of impartiality is whether, in your judgment, a reasonable person with knowledge of the relevant facts would question your impartiality in the matter. See 5 C.F.R. 2635.502.

Persons with whom you have a “covered relationship” include:

- persons with whom you are seeking business;
- members of your household;
- close relatives;
- employers and clients (and prospective employers and clients) of your parents, dependent children, and spouse;
- former non-Federal employers and clients (generally for a one-year period or for a two-year period if you received an extraordinary payment from the former employer); and
- organizations (other than political parties) in which you are an active participant.

Exceptions. When the needs of the Government outweigh appearance concerns, special authorization to participate in the matter may be available. The Counsel for Ethics must evaluate whether a waiver is appropriate and can assist in the preparation of the necessary documentation in such cases.

General Rule concerning “For Profit Policy.” The Department has a longstanding policy that employees should not participate in events hosted by for profit entities except in special circumstances. Call the Counsel for Ethics for specific advice.

GIFTS

General Rule concerning Personal Gifts from non-Federal sources. You may not accept gifts given to you because of your Government position. You may not accept gifts from a person or firm that has a contract, a grant, or other business with your agency or is seeking such business; is regulated by your agency; or has interests that

may be affected by performance of your duties. Gifts to your spouse or minor children are considered gifts to you in most circumstances. See 5 C.F.R. 2635.202.

Optics Concerns. The appearance of favoritism or impropriety can cause embarrassment to both you and the Department, and employee's actions should promote the public's trust. Thus, even where acceptance of a gift may be permitted by one of the below exceptions, an employee should refuse it if it would lead to questions of the employee's integrity or impartiality. See 5 C.F.R. 2635.201(b). Several factors should be considered when making this determination—including the gift value, the timing, the interests of the giver, and whether disproportionate access is involved—and employees should contact the ethics office if they have any questions.

Exemptions and Exceptions regarding Personal Gifts. Under 5 C.F.R. 2635.203-204, there are a number of items that can be accepted, including (but not limited to):

- gifts of \$20 or less (other than cash) (up to \$50 per year from the same source);
- gifts based on a personal relationship (such as from a relative or friend);
- free attendance and meals at an event where the employee is officially presenting;
- invitations to widely attended events (if the ethics office approves and your supervisor provides you a written determination finding that the agency interest in your attendance outweighs the appearance that you may be improperly influenced);
- items of little intrinsic value (such as cards, plaques, trophies);
- discounts available to a broad range of persons;
- awards and honorary degrees (in specified circumstances);
- meals, lodging, transportation, and other benefits offered because of an outside business relationship or outside employment (or your spouse's business or employment);
- business meals overseas (if a foreign national is present) (up to the *per diem* for the city); and
- gifts from a foreign government of \$390 or less (gifts of greater value may be accepted, but become property of the United States Government).

General Rule concerning Gifts between Employees. You may not offer a gift to a supervisor or accept a gift from a subordinate. See 5 C.F.R. 2635.302.

Exemptions concerning Gifts between Employees. You may, under regulatory exemptions found at 5 C.F.R. 2635.304, offer to a supervisor or accept from a subordinate:

- a gift on a special occasion (such as a wedding, the birth or adoption of a child, retirement, or recovery from a serious illness);
- items of \$10 or less given occasionally;
- food shared in the office;
- personal hospitality at one's home; or
- a gift to a host or hostess.

BRIBES AND SALARY SUPPLEMENTATION

General Rule. You may not receive anything of value from a non-Federal source for taking action or failing to take action in your Government position. You may not accept payment for performing your official duties from a source other than the Government. See 18 U.S.C. §§ 201 and 209.

TRAVEL AND OFFICIAL SPEECHES

General Rule. The travel and related expenses associated with the exercise of your official duties should be paid for with appropriated funds. However, in certain limited and exceptional circumstances, an agency head or the Deputy Secretary may authorize acceptance of travel and related expenses if an unsolicited offer is received from certain types of organizations.

An Assistant Secretary or other head of a DOL agency may authorize approval of acceptance of travel and related expenses under the Government Employees Training Act (5 U.S.C. § 4111, 5 C.F.R. 410.502 and DLMS 7 Chapter 400). This authority allows the agency head to approve acceptance of certain expenses from non-Federal sources incident to attendance at training sessions or meetings. Non-Federal source means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, nonprofit organization or association, state, local, or foreign government, or international or multinational organization. The Department of Labor limits acceptance to certain donors. Approval may only be given to accept expenses from nonprofit and tax-exempt ["501(c)(3)"] organizations and expenses paid from the treasury of a state, county, or municipality. Agency heads may not approve acceptance of these expenses where approval would create the appearance of favoritism or undue influence or if it would be otherwise unethical or improper to do so.

Additionally, under the Federal Travel Regulations (31 U.S.C. § 1353, 41 C.F.R. Part 304-1 and DLMS 7 Chapter 400), the Assistant Secretary for Administration and Management may approve the acceptance, by an agency head, of travel and related expenses from 501(c)(3) organizations, government entities, and foreign entities so that an agency employee may attend a meeting or similar function.

Such travel-related gifts may not be solicited. Official approval must be given in advance of the trip. Accordingly, any such request should be made well in advance of the travel.

For-profit Policy. The Department has a longstanding policy against official participation in a function sponsored solely by a for-profit entity. It serves to avoid any appearance of giving such entities preferential treatment or of offering special access. Some events fall outside the scope of the policy, and there is a process by which an individual can request an exception from the Deputy Secretary. If you have any questions regarding the policy, please contact the ethics office.

**NON-FEDERAL EMPLOYMENT AND
OUTSIDE ACTIVITIES**

General Rule on Outside Activities. You may not engage in outside employment or any other outside activity that conflicts with your Government responsibilities. This restriction includes employment that requires disqualification from significant duties and activities that create an appearance of using your public office for private gain. (For instance, disqualification is required from matters affecting private employers.) Also, some DOL agencies may have their own rules governing outside activities. Accordingly, it is important to check with your agency before participating in an outside activity. See 5 C.F.R. 2635.802.

Working for a Foreign Government. The Emoluments Clause of the U.S. Constitution prohibits you from accepting any compensation, including salary or travel expenses, from any foreign government, except as authorized by statute (for example, see the travel section above).

Outside Practice of Law. There are special rules for employees of the Office of the Solicitor who may be thinking of engaging in the practice of law. Some *pro bono* activities may be allowed, as long as the individual or organization seeking *pro bono* services does not have business before your agency and the activity does not include representation before a Federal agency or Federal court. Other situations will need to be determined on a case-by-case basis. If you are an attorney, you should consult both your applicable bar rules as well as the Counsel for Ethics.

Teaching, Speaking, and Writing. Generally, you may teach courses at accredited colleges, universities, and other educational institutions if such activity will not interfere with the performance of your Government duties. However, there may be restrictions on receiving payments for other types of teaching, speaking, or writing that relates to official duties. See 5 C.F.R. 2635.807. Call the Counsel for Ethics for specific advice.

Honoraria. Generally, you may accept honoraria in connection with outside speaking engagement and other activities, provided the activity is unrelated to your official responsibilities.

Special Rules for PAS and Other Non-Career Senior Officials. A Presidential appointee to a full-time, non-career position may not receive any outside earned income for outside employment or any other outside activity performed during his or her tenure in that office. Non-career senior officials (those occupying a position classified above GS-15 of the General Schedule) may not receive outside earned income that exceeds 15% of the annual rate of basic pay for level II of the Executive Schedule in a calendar year. ***For calendar year 2018, that amount is \$28,050.*** In addition, non-career senior officials may not receive compensation for:

- practicing a profession which involves a fiduciary relationship;
- affiliating with or being employed to perform professional duties by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship; or
- permitting your name to be used by any of the foregoing entities.

See 5 C.F.R. 2636.301.

POLITICAL ACTIVITIES

General Rule Concerning Engaging in Political Activities. Under the Hatch Act, you may not engage in partisan political activities during duty hours or while on Government premises (unless you are a Presidential appointee in a position requiring Senate confirmation). However, most employees may actively engage in a wide range of partisan political activities during non-duty hours, although you may not solicit or receive campaign contributions or host a political fundraiser. You also may not run for office in a partisan political election (except as an independent candidate in certain localities). In addition, you may not use Government equipment, supplies, services, staff, or your Government title for partisan political purposes. See *generally* 5 C.F.R. Part 734.

Please contact the Counsel for Ethics for a more comprehensive handout on the rules governing political activity.

LOBBYING THE GOVERNMENT

General Rule. You may not contact any Federal agency or Federal court on behalf of others to influence Government action, unless authorized as part of your official duties. See 18 U.S.C. §§ 203 and 205.

Please note that this law can cause particular trouble for individuals when they join or leave Federal service, because it prohibits you from receiving legal fees, partnership shares, bonuses, or other forms of compensation that are derived from representational services of others in matters before the executive branch or courts. It may require you to give up a financial interest in an ongoing contingency fee case where the U.S. has an interest or require your former/future firm to segregate their funds. Please contact the ethics office if you think this may apply to you. 18 U.S.C. § 203.

Exceptions. You may represent the following parties before Federal entities if you clear the representation with the ethics office and you do not accept compensation:

- your parents;
- your spouse
- your children
- an estate or trust; and
- other Federal employees (in some personnel disputes, provided that such representation does not conflict with official responsibilities). 18 U.S.C. §§ 203(d) and 205(e).

In addition, you may also represent professional, recreational, and similar groups before the Government if: (1) the majority of the organization's members are Federal employees or their spouses or dependents; (2) the matter does not involve claims against the Government, proceedings in which the organization is a party, or Government financial benefits to the organization; and (3) you do not receive compensation. Contact the Counsel for Ethics if you need to obtain approval to represent others before the Government. 18 U.S.C. § 205(d)

The Anti-Lobbying Act. Federal law prohibits any appropriated funds from being used for "grass roots" lobbying activities. See 18 U.S.C. § 1913. In addition, an appropriation rider prohibits use of DOL funds for publicity or propaganda purposes designed to support or defeat legislation before Congress. These laws have been construed as permitting agencies to inform Congress of the Administration's position on matters before Congress and otherwise responding to oversight requests. Additionally, these regulations do not prohibit the Department from informing the public about pending legislation affecting the Department or even expressing the Department's view on pending legislation. They do, however, prohibit the Department from engaging in or promoting grass roots lobbying, i.e., the Department may not contact outside individuals or organizations for the purpose of encouraging them to contact legislators to advocate views on legislative matters or use official resources to assist a private lobbying effort.

MISUSE OF GOVERNMENT POSITION AND RESOURCES

General Rule. You may only use Government resources for official, authorized Government activities. This includes Government equipment, supplies, services (including telephone and fax services), and the time of Government personnel. See 5 C.F.R. 2635.704-705.

Use of Official Title. Your official title may not be used in connection with non-Government activities. You are prohibited from using public office for your own private gain or the private gain of another. See 5 C.F.R. 2635.702. Therefore, you should generally not endorse any product, service, organization or enterprise in an official capacity. For example, if you serve as an honorary co-chair of a charitable event, you may not do so in your official capacity, and you must be listed on the invitation or program by name only, or preceded by the term "Honorable," if appropriate.

Nonpublic Information. Information you learn as part of your Federal employment may not be used for private activities, unless it is information readily available to the public at large. Restrictions on personal use apply to nonpublic data, economic analyses, private personnel information, census data, and other nonpublic information. The improper disclosure of certain information (privacy, trade secrets, national security) is subject to criminal penalties. See 5 C.F.R. 2635.703.

Government Office Equipment, Internet and E-mail Services. The Department has a policy that allows personal use of Government office equipment (computers, facsimile, photocopiers, telephones), the Internet and e-mail during duty hours on a limited basis (infrequent and short duration), if it does not interfere with performance of your duties or office operations, unless your agency has a policy prohibiting such use. However, you may not use Government office equipment, the Internet or e-mail at any time for:

- operating a commercial business or profit-making venture;
- partisan political activities;
- prohibited lobbying activities;
- any use that results in an additional charge to the Government;
- engaging in prohibited conduct;
- obtaining, viewing or distributing sexually explicit material;
- any activity that would discredit the Department; or
- any action that would violate a statute or regulation.

Because this limited use is considered a privilege, employees have no inherent right or entitlement to use DOL office equipment for personal use. In addition, DOL employees do not have a right or expectation of privacy while using any Government office equipment at any time, including accessing the Internet and using e-mail. The full Department policy is contained in DLMS 9, Chapter 900.

Sponsorship and Co-Sponsorship of Outside Organizations. A frequent question that arises is whether the Department may co-sponsor conferences and other events with non-governmental entities. However meritorious these events or organizations may be, Department employees must be very cautious about lending the Department's name or seal to such an event or entity and should consult with the Office of Legal Counsel to make sure the relationship does not violate any law or policy. In addition, because such arrangements generally raise other issues aside from ethics considerations, such as appropriations and Federal Advisory Committee Act issues, you should consult with appropriate contacts in the Office of the Solicitor.

Fundraising. Similarly, you may not engage in fundraising in your official capacity unless such action is specifically authorized, as in the case of the Combined Federal Campaign. You may engage in fundraising (other than political) in your personal capacity so long as it is not done during duty hours and involves no official resources, including email. Also, you should not allow your official title to be used in connection with private fundraising activities. Finally, you should not personally solicit from people or organizations you know to be regulated by or are seeking action from your DOL component, or that may have an interest in matters that can be affected by your official duties. See 5 C.F.R. 2635.808.

Social Media. The Federal Ethics rules apply to social media use, in both your personal and official capacity. The Office of the Solicitor released guidance on the use of social media and an FAQ on the guidance this past year. Both can be found on LaborNet. <http://labornet.dol.gov/me/hr/ethics/Ethics-and-Use-of-Social-Media.pdf> Contact the Counsel for Ethics for further advice.

SEEKING EMPLOYMENT RESTRICTIONS

General Rule. While you are a Department employee, you may enter into discussions or agreements regarding future employment with anyone. However, once an employment search begins you must disqualify yourself from participating as a Federal employee on any matter likely to affect an entity that you have contacted, or that has contacted you, regarding future employment. This restriction applies whether the contact is direct or through an intermediary, such as a headhunter. Your disqualification must continue until:

- you leave Federal service;
- either you or the prospective employer rejects future employment; or
- two months have passed since you sent an unsolicited notice of interest in employment. See 5 C.F.R. 2635.602.

Special Rule for Procurement Officials. If you are participating in a procurement above the simplified acquisition threshold (\$150,000), you must report prospective

employment contacts to your supervisor and the Counsel for Ethics in writing. See 41 U.S.C. § 423(c).

POST EMPLOYMENT RESTRICTIONS

General Rule. After leaving Federal service, you will be permanently barred from representing others before Federal agencies or courts concerning particular matters involving specific parties (such as contracts, licenses, litigation, and investigations) if you participated in the particular matters personally and substantially while with the Federal Government. You will also be barred for two years from representing others concerning specific-party matters that were pending under your official responsibility during the last year of your Government service, such as matters on which a subordinate worked, even though you did not participate personally and substantially. See 18 U.S.C. 207.

“Representational activities” include attending meetings, writing letters, making telephone calls and engaging in other communications to Government officials with the intent to influence Government action. They do not include behind-the-scenes activities or requests for publicly available information.

You are also barred from disclosing nonpublic information regarding certain ongoing trade or treaty negotiations.

Rule for Senior Employees. If you are a senior employee, you will be barred for one year from contacting your former agency or from representing or assisting in representing a foreign government or foreign political party in matters involving the United States Government. The term “senior employee” includes employees whose salary is set by the Executive Schedule or whose rate of basic pay exceeds 86.5 percent of the rate for level II of the Executive Schedule (EL II). ***For CY 2018, that amount is \$164,004.***

Special Rule for Procurement Officials. Employees may not accept compensation from the contractor on a contract valued at over \$10 million for one year after they have served either as a procurement official on the procurement, as a program manager, or as an administrative contracting officer on that contract. See 41 U.S.C. § 423(d).

Exceptions to Post Employment Restrictions. There are some exceptions to the post employment restrictions for all employees, including for testifying in court and representing international organizations. There is also an exception for senior employees when they represent state and local governments, institutions of higher learning, or hospital or medical research organizations.

For more information, contact the Counsel for Ethics for advice or to obtain a handout further explaining the rules regarding post employment restrictions.

FINANCIAL DISCLOSURE

Basic Guidelines. High-level officials in the Executive Branch are required to report certain financial interests publicly to ensure that every citizen can have confidence in the integrity of the Federal Government. These forms are available to the public upon request. The following people are required to file Public Financial Disclosure Reports (OGE 278e forms): Presidential appointed-Senate Confirmed employees, Presidential Appointees, career and non-career members of the Senior Executive Service, all schedule C employees, and administrative law judges. Public filers also must report transactions involving securities. You will receive a monthly notice concerning this obligation.

Other employees whose performance of Federal duties could have a significant impact on the interests of members of the public are required to file Confidential Financial Disclosure Reports (OGE Form 450). These forms are, except in very limited circumstances, exempt from public disclosure.

Financial disclosure reports are collected upon entry into a position for which such reports are required, annually thereafter, and upon termination from federal service. If you are designated as required to file such a report, please keep in mind that the information you disclose is used to provide advice to you in order to ensure that you do not inadvertently engage in prohibited activities. In order to provide this advice (and to certify that the report includes all necessary information) it is important that the information you provide be as complete as possible. See *generally* 5 C.F.R. Part 2634.

Specifically, please be sure to include the following information:

- the full name of any mutual fund (not just the generic name of the company managing the fund);
- specific holdings in any pension funds, trusts, or investment accounts;
- a short description of the activities or industry sector of any privately-held company or limited partnership; and
- assets and sources of income of your spouse.

For advice about financial disclosure matters, you should contact the *Ethics Program Manager*, Marilynn Brown, at (202) 693-5510.

EXECUTIVE ORDER ETHICS PLEDGE

General Guidance. On January 28, 2017, President Trump issued Executive Order 13770, Ethics Commitments by Executive Branch Appointees. One of the requirements under the Executive Order is that appointees of his Administration sign an Ethics Pledge confirming a commitment to abide by the provisions the President has set forth in the Order. These requirements are in addition to those set forth in the ethics laws and regulations as described earlier in this Guide. Non-career appointees (including Presidentially-appointed/Senate confirmed officials, Presidential appointees, non-career members of the Senior Executive Service, and Schedule C employees) at the Department of Labor, with few exceptions, must sign the Ethics Pledge and are subject to its provisions.

Generally, under the Executive Order, appointees must commit to:

- not accept gifts from registered lobbyists or lobbying organizations (subject only to a limited number of the exceptions provided in the OGE Standards of Ethical Conduct, as well as other exceptions that OGE may authorize in the future for situations that do not implicate the purpose of the gift ban);
- disqualifying themselves for two years from official participation in any particular matter involving specific parties in which a former employer or client is or represents a party, if the appointee served that employer or client during the two years prior to the appointment;
- disqualify for two years after appointment, if the appointee was a registered lobbyist during the prior two years, from official participation in any particular matter on which he or she lobbied during the two years prior to appointment (or any particular matter that falls within the same specific issue area);
- agree that any hiring or other employment decisions will be based on the candidate's qualifications, competence and experience;
- not engage in activity on behalf of any foreign government or foreign political party which would require registration under the Foreign Agents Registration Act;
- not engage in lobbying activities at the Federal agency for which he served for five years after termination of the appointment; and
- not lobby any covered executive branch official (as described in the Lobbying Disclosure Act) or any noncareer SES appointee for the remainder of the Administration.

The Executive Order also provides for enforcement of the Pledge through civil action by the Attorney General. Moreover, the Order provides for agency debarment proceedings against former appointees found to have violated the Pledge, pursuant to debarment procedures established by each agency in consultation with OGE.

Gifts from Lobbyists. As mentioned above, the Ethics Pledge prohibits appointees from accepting gifts from registered lobbyists or lobbying organizations for the duration of their service as an appointee. In order to provide more certainty to appointees, this

prohibition covers only gifts received from a lobbyist or lobbying organization that actually has filed a registration with the Secretary of the Senate and the Clerk of the House of Representatives. The registration lists are available via searchable registrant databases.³

The Office of Government Ethics Guidance on this issue emphasizes that the phrase “registered lobbyist or lobbying organization” includes any “organization filing a registration,” not just lobbying firms. In particular, the ban includes any organization that registers because it employs at least one in-house lobbyist on its own behalf. The ban also applies without regard to whether the particular lobbyist or organization has any dealings with the appointee’s own agency.

"Gifts" are most items of value; examples are free attendance at dinners and other meals, receptions, sporting events, and similar widely attended gatherings. Exclusions from this definition of gifts include, but are not limited to:

- Modest refreshments (e.g., coffee & donuts);
- Items of little intrinsic value (e.g., greeting card, plaque) intended solely for presentation; and
- Benefits available to all Government employees or all uniformed military personnel.

The only gift exceptions applicable to the Ethics Pledge are:

- Gifts based on a personal relationship;
- Discounts and similar benefits;
- Gifts resulting from a spouse’s business or employment;
- Customary gifts/gratuities provided by a prospective employer;
- Gifts authorized by an OGE-approved agency supplemental regulation; and
- Gifts accepted under specific statutory authority.

BUT NOTE: Other exceptions to the Government’s regulatory ethics prohibition on gifts are not exceptions to this Pledge restriction, e.g., you may not accept a gift from a registered lobbyist such as a lunch even if the value of the lunch was equal to or less than \$20. Similarly, an appointee may not attend a widely attended reception or other gathering sponsored by a registered lobbying organization, or when the invitation comes from a registered lobbyist.

Prepared by the Counsel for Ethics, U.S. Department of Labor – February 2002/ Revised January 2018

³ See <http://lobbyingdisclosure.house.gov/>;
http://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm.