

CODE OF ETHICS

Policies:

The Department of Health Code of Ethics (Code) is the written document that supports the culture of ethical and efficient service to the citizens of the State. The Code describes the behavior expected of employees who perform these services.

Department of Health - Code of Ethics

Department of Health employees must comply with all applicable laws and regulations. The Department of Health will not condone employee conduct that either violates, or has the appearance of violating, the law, including the ethical provisions. This includes receiving payments for illegal acts, indirect contributions, rebates, or bribery.

If an employee is uncertain about the application or interpretation of any legal or procedural requirement, the employee should ask for guidance from his or her immediate supervisor.

Conflicts of Interest

Department of Health employees must perform their duties in an ethical manner. Employees must not use their position or knowledge gained from their position for private or personal advantage. Arkansas Code Annotated (ACA) §21-8-304 lists certain activities that are ethically prohibited activities for state employees and officials. If an employee becomes involved in a situation that could be considered a prohibited activity, the employee should immediately communicate all the facts to his or her immediate supervisor.

21-8-304 Prohibited activities.

- (a) *No public official or state employee shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that is not available to others except as may be otherwise provided by law.*
- (b) *No public official or state employee shall accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position which is declared by law or regulation to be confidential.*
- (c) *No public official or state employee shall disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit.*



Outside Activities, Employment, and Directorships

Department of Health employees should avoid acquiring any business interest, engaging in outside employment, or participating in any activity outside the Department of Health that would conflict with his or her official duties.

Relationships with Clients and Suppliers

Employees must adhere to ACA §19-11-705 in their relationships with clients and suppliers to avoid any conflict of interest. In addition, any employee who has or obtains any benefit from a state contract with a business in which the employee has a financial interest shall make a disclosure to the Director of DFA in accordance with ACA §19-11-706 and the Rules and Regulations for Implementing Governor's Executive Order 98-04.

19-11-705 Employee conflict of interest.

- (a) **(1) Conflict of Interest.** *It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefore, in which to the employee's knowledge:*
- (A) *The employee or any member of the employee's immediate family has a financial interest;*
 - (B) *A business or organization has a financial interest, in which business or organization the employee, or any member of the employee's immediate family, has a financial interest; or*
 - (C) *Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is a party.*
- (1) *"Direct or indirect participation" shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.*
- (b) **Financial Interest in a Blind Trust.** *Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest if disclosure of the existence of the blind trust has been made to the Director of the Department of Finance and Administration.*



- (c) **Discovery of Conflict of Interest, Disqualification, and Waiver.** Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the Director of the Department of Finance and Administration and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the director in accordance with § [19-11-715\(b\)](#) for an advisory opinion as to what further application, if any, the employee may have in the transaction, or for a waiver in accordance with § [19-11-715\(c\)](#).

19-11-706 Employee disclosure requirements.

- (a) **Disclosure of Benefit Received from Contract.** Any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the Director of the Department of Finance and Administration. However, this section shall not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.
- (b) **Failure to Disclose Benefit Received.** Any employee who knows or should have known of such benefit and fails to report the benefit to the director is in breach of the ethical standards of this section.

Gifts, Entertainment, and Favors

Employees must not accept entertainment, gifts, personal favors or preferential treatment that could influence, or appear to influence, their decisions in performing their job functions. Specific procurement law addressing gratuities is codified in ACA §19-11-707 and included in Part 4 of the Procurement Law and Regulations promulgated by the Office of State Procurement. Refer to [Rules and Gifts](#) issued by the Arkansas Ethics Commission for detailed rules on gifts at: http://arkansasethics.com/rules/Rules_on_Gifts.doc

19-11-707 Gratuities and kickbacks.

- (a) **Gratuities.** It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefore.
- (b) **Kickbacks.** It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order.



Kickbacks and Prohibited Commissions

Department of Health employees must not receive kickbacks, prohibited commissions or other prohibited payments from third parties. Violations of this rule will result in imposition of the penalties provided by law. Specific procurement law addressing kickbacks and commissions is codified in ACA §19-11-707 and §19-11-708 and included in Part 4 of the Procurement Law and Regulations promulgated by the Office of State Procurement.

19-11-708 Prohibition against contingent fees.

- (a) **Contingent Fees.** *It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.*
- (b) **Representation of Contractor.** *Before being awarded a state contract other than by procedures set forth in the Arkansas Purchasing Law, § [19-11-201](#) et seq., and regulations promulgated thereunder for small purchases, every person shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards.*
- (c) **Notice.** *The representation prescribed in subsection (b) of this section shall be conspicuously set forth in all contracts and solicitations therefor.*

Organization Funds and Other Assets

Employees who have access to Department of Health funds in any form must follow the prescribed procedures for recording, handling, and protecting money as detailed in DFA's Financial Management Guide or other explanatory materials, or both. If an employee has knowledge of fraud or waste of public assets, the employee should immediately advise his or her immediate supervisor.

Personal use of Department of Health funds or assets is strictly forbidden.

Organization Records and Communications

The Department of Health's books and records must reflect accurate and timely recording of all business transactions. Full disclosure of assets, liabilities, receipts and disbursements must be made.

Employees must not make or engage in any false record or communication whether internal or external, including but not limited to:

- False expense, attendance, production, financial, or similar reports and statements
- False advertising, deceptive marketing practices, or other misleading representations



Dealing With Outside People and Organizations

Employees must not use their position or affiliation with the Department of Health when communicating regarding matters not involving Department of Health business. Employees must not use organization identification, stationery, supplies, and equipment for personal or political matters.

When communicating publicly on matters that involve Department of Health business, employees must not speak for the Department of Health on any topic, unless they are certain that the views they express are those of the Department of Health's management, and that it is the Department of Health management's desire that such views be expressed publicly.

When dealing with anyone outside the Department of Health, including public officials, employees must take care not to compromise the integrity or damage the reputation of the Department of Health or any other entity.

Prompt Communications

Employees of the Department of Health will respond promptly and accurately to all requests for information and complaints, regardless of the source.

Privacy and Confidentiality

When handling financial and personal information about customers or others with whom the Department of Health has dealings, observe the following principles:

1. Collect, use, and retain only the personal information necessary for Department of Health business. Whenever possible, obtain any relevant information directly from the person concerned. Use only reputable and reliable sources to supplement this information.
2. Retain information only for as long as necessary or as required by law. Protect the physical security of this information.
3. Limit internal access to personal information to those with a legitimate business reason to have the information. Use personal information only for the legitimate business purpose for which it was obtained. Release of any information to persons not involved with the stated business purpose should be made by management in response to a Freedom of Information Act request.

Reporting Suspected Fraud

Department of Health employees have a responsibility to report occurrences of ethical violations, fraud, waste or abuse of Department of Health resources that can be verified through investigation. Department of Health employees shall be protected against any form of retaliation, including discharge, for reporting, in good faith, occurrences of ethical violations, fraud, waste or abuse of Department of Health resources as stated in the Arkansas Whistleblower Act (ACA §§21-1-601–609). Investigations to substantiate reported allegations will be conducted in a confidential manner.



Allegations of ethical violations or fraud may be reported to the Arkansas State Employees' Fraud, Waste, and Abuse Report Center (1-800-952-8248) or to the Office of Accounting - Internal Audit Section by telephone (682-0370). A complainant may also choose to report fraud, waste or abuse by completing a Complaint Form obtained at the following web site

http://www.arkansas.gov/dfa/accounting/acc_ia_fraud_reporting.html. Complaint forms can be mailed directly to the Office of Accounting - Internal Audit Section. (See forms instructions for the Complaint Form.)

Note: Also, see Occurrence and Subsequent Loss Reporting policy in this Volume for procedures related to reporting occurrences of theft of any kind, including money or loss due to employee dishonesty.

