

INTER-AMERICAN FOUNDATION (IAF)

5 CFR Chapter LXIII

22 CFR Part 1001

**Supplemental Standards of Ethical Conduct for Employees of the
Inter-American Foundation**

RIN 3209-AAOO, 3209-AAO4, 3209-AA15

59 FR 3771

January 27, 1994

ACTION: Final rule.

SUMMARY: The Inter-American Foundation ("Foundation"), with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the Foundation that supplement the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635. The Foundation is also repealing its regulations that were superseded by these standards and by the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

EFFECTIVE DATE: These regulations are effective January 27, 1994.

FOR FURTHER INFORMATION CONTACT: Adolfo A. Franco, Designated Agency Ethics Official, or Evan M. Koster, Alternate Designated Agency Ethics Official, Inter-American Foundation, 901 N. Stuart Street, Arlington, VA 22203. Telephone 703-841-3800.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published a final rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (Standards). See *57 FR 35006-35067*, as corrected at *57 FR 48557* and *57 FR 52583*. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, established uniform standards of ethical conduct that apply to all executive branch personnel.

With the concurrence of OGE, *5 CFR 2635.105* authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. The Foundation, with OGE's concurrence, has determined that the following supplemental

regulations, being codified in part 7301 of new chapter LXIII of 5 CFR, are necessary to the successful implementation of the Foundation's ethics program. By this rulemaking, the Foundation is also repealing its regulations at 22 CFR part 1001 which have been superseded by the Standards and by OGE regulations at 5 CFR part 2634, Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture.

II. Analysis of the Regulations

Section 7301.101 General

New § 7301.101(a) of 5 CFR explains that the supplemental regulations apply to employees of the Inter-American Foundation, with the exception of members of the Foundation's Board of Directors and Advisory Council, and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. Section 7301.101(a) also provides a cross-reference to the executive branch-wide financial disclosure regulations contained in 5 CFR part 2634.

The head of each executive branch agency is required by 5 *CFR* 2638.202(b) to appoint a designated agency ethics official and an alternate agency ethics official to carry out the duties specified in 5 *CFR* 2638.203. Section 7301.101(b) specifies that the Foundation's General Counsel will serve as its designated agency ethics official and that the Deputy General Counsel will serve as the alternate agency ethics official. Section 7301.102 of these supplemental regulations gives the designated agency ethics official and the alternate the additional responsibility of approving requests for prior approval to engage in compensated outside teaching, speaking and writing activities.

Section 7301.102 Prior Approval for Outside Teaching, Speaking and Writing

Under 5 *CFR* 2635.803, an agency that determines it is necessary or desirable for the purpose of administering its ethics program may, by supplemental regulation, require its employees to obtain prior approval before engaging in specific types of outside activities. Under 22 CFR 1001.5(c), which is being repealed by this final rule, the Foundation has required its employees to obtain prior approval to engage in outside teaching, lecturing or writing. To ensure compliance with the executive branch-wide limitations on teaching, speaking and writing at 5 *CFR* 2635.807, and based on its experiences with the similar requirement that has been in effect under 22 CFR 1001.5(c), the Foundation has determined that it is desirable for the administration of its ethics program to continue to require Foundation employees to obtain prior approval to engage in compensated teaching, speaking and writing. Section 7301.102 (a), thus, imposes such a requirement for prior approval by the designated agency ethics official or the alternate agency ethics official. To ensure that approval is granted in accordance with applicable standards, 5 *CFR* 7301.102(b) provides that approval shall be granted only upon a determination that the outside teaching, speaking or writing is not expected to involve conduct prohibited by statute or Federal regulations, including 5 CFR part 2635.

III. Repeal of Foundation Employee Responsibilities and Conduct Regulations

Because the Foundation's regulations on Employees Responsibilities and Conduct have been superseded by the new executive branch standards of ethical conduct and financial disclosure

regulations, 5 CFR parts 2634 and 2635, the Foundation is repealing all of existing 22 CFR part 1001. To ensure that Foundation employees are on notice of the ethical standards and financial disclosure requirements to which they are subject, the Foundation is replacing its old standards at 22 CFR part 1001 with a new standard at 22 *CFR 1001.1* which cross-references 5 CFR parts 2634 and 2635, as well as the Foundation's supplemental regulations at 5 CFR part 7301.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

In accordance with the Administrative Procedure Act (*5 U.S.C. 553* (b) and (d)(3)), the Foundation has found that good cause exists for waiving as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to the rules and repeals. Public comment is unnecessary because these regulations merely revoke existing regulations in accordance with previously issued Government-wide regulations and make non-substantive amendments. In addition, since these regulations relate to agency management and personnel they are exempt from notice and comment under *5 U.S.C. 553* (a)(2).

Executive Order 12866

In promulgating these final regulations, the Foundation has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These regulations have not been reviewed by the Office of Management and Budget under that Executive order, as they deal with agency organization, management, and personnel matters and are not, in any event, deemed "significant" thereunder.

Regulatory Flexibility Act

The Foundation has determined under the Regulatory Flexibility Act (*5 U.S.C. 601 et seq.*) that these regulations will not have a significant impact on small business entities because they affect only Foundation employees.

Paperwork Reduction Act

The Foundation has determined that the Paperwork Reduction Act (*44 U.S.C. chapter 35*) does not apply because these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects

5 CFR Part 7301

Conflict of interests, Government employees.

22 CFR Part 1001

Conflict of interests, Government employees.

Dated: January 11, 1994.

Adolfo A. Franco,
General Counsel, Inter-American Foundation.

Approved: January 14, 1994.

Stephen D. Potts,
Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Inter-American Foundation, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and title 22 of the Code of Federal Regulations, as follows:

TITLE 5-[AMENDED]

1. A new chapter LXIII, consisting of part 7301, is added to title 5 of the Code of Federal Regulations to read as follows:

5 CFR CHAPTER LXIII-INTER-AMERICAN FOUNDATION

PART 7301-SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE INTER-AMERICAN FOUNDATION

Sec.

7301.101 General.

7301.102 Prior approval for outside teaching, speaking and writing.

Authority: 5 U.S.C. 7301; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp. p. 306; 5 CFR 2635.105, 2635.803; 5 CFR 2638.202(b).

§ 7301.101 -- General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Inter-American Foundation, with the exception of members of the Foundation's Board of Directors and Advisory Council, and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635, directors and other employees are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634.

(b) *Designated agency ethics official.* For purposes of this part and otherwise as required by 5 CFR 2638.202, the General Counsel of the Inter-American Foundation shall serve as the designated agency ethics official. The Deputy General Counsel shall serve as the alternate agency ethics official.

§ 7301.102 -- Prior approval for outside teaching, speaking and writing.

(a) Before engaging in outside teaching, speaking or writing, for compensation, an employee, with the exception of members of the Foundation's Board of Directors and Advisory Council, shall obtain prior written approval from the designated agency ethics official or the alternate agency ethics official.

(b) Approval shall be granted only upon a determination that the outside teaching, speaking or writing is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

22 CFR CHAPTER X-INTER-AMERICAN FOUNDATION

2. Part 1001 is revised to read as follows:

PART 1001-EMPLOYEE RESPONSIBILITIES AND CONDUCT

Authority: *5 U.S.C. 7301.*

§ 1001.1 -- Cross-references to employee ethical conduct standards and financial disclosure regulations.

Directors and other employees of the Inter-American Foundation should refer to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the Inter-American Foundation regulations at 5 CFR part 7301 which supplement the executive branch standards, and the executive branch financial disclosure regulations at 5 CFR part 2634.