

# Ethics and Professional Conduct Policy

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

The South Carolina Department of Commerce (Agency) is committed to operating all activities within the spirit and letter of all laws and regulations affecting its employees, customers and stakeholders. This is a public agency and *all* employees must exercise the highest level of integrity, ethics, confidentiality and objectivity in their actions and relationships which may affect the Agency. All Commerce employees (Employees) are expected to adhere to and follow the laws governing public employment and the Rules of Conduct outlined in the South Carolina Ethics Act. Any questions or concerns should be addressed with the Agency Ethics Officer (AEO) who for the Agency is the Chief Legal Counsel.

Five ethical principles are central to all of the rules contained in the Code:

**Honesty** - Employees should be truthful and sincere in all interactions with the public and with each other.

**Fairness** - Employees should seek to make impartial, just, and equitable decisions.

**Integrity** - Employees should always act in a manner that instills public confidence and should avoid participating in any matter where a real or perceived conflict of interest exists.

**Respect** - Employees should demonstrate respect to others at all times.

**Loyalty** - Employees should remain loyal to the State and the citizens they serve and should not engage in any conduct that calls into question this loyalty.

Employees should be guided, first and foremost, by these ethical principles while performing their individual job duties and responsibilities. The following more specific rules are intended to be an application of these principles.

## **Gifts and Other Things of Value**

Employees must ensure the highest level of objectivity in dealing with the Agency's vendors, suppliers, contractors and other economic development groups and avoid the appearance of impropriety. Except as provide below, employees and their immediate family may not accept a gift or anything of value for yourself from a person or entity given as a result of your employment with the State.

Exceptions:

1. Gifts given because of a relationship that existed before your employment with the State or reasons other than your employment with the State.
2. Promotional, informational, or educational items given you in the course of your employment with a value of less than \$10 may be accepted in accordance with the terms and conditions of the South Carolina Ethics Act.
3. Acceptance of a personalized trophy or plaque.
4. Gifts given by a representative of a client, foreign country, or other governmental organization whereby refusing the gift could result in cultural, political or customer relationship misunderstanding and confusion. Such gift must be given to the agency representative who will record the gift on behalf of the Agency. When appropriate, the gift should be shared with all Agency Employees, donated to charity or displayed at the Agency.

Employees may not receive compensation for speaking engagements. However, they may accept a meal provided in conjunction with the speaking engagement where all participants are entitled to the same meal. In addition, Employees may accept or be reimbursed for actual and reasonable travel and lodging expenses related to the speaking engagement.

Gifts that include travel, lodging and/or meal expenses paid for on behalf of an Employee to participate in a work-related event, that could otherwise have been paid for by the agency employing the employee, is a gift to the Agency, not the individual Employee, and is not prohibited with the following two exceptions: (1) Agency may never receive any gift from a lobbyist; and (2) an Employee may receive a gift from a lobbyist's principal up to the amounts prescribed by or as

allowed by the State Ethics Commission in accordance with the South Carolina Ethics Act.

### **Conflicts of Interests**

While the Agency has no wish to interfere in any Employee's outside activities, Employees shall not engage in any activities or conduct that constitute conflicts of interest as defined by South Carolina law. An Employee may not make, participate in, or influence a governmental decision in which you, a family member, an individual with whom you are associated, or a business with which you are associated has an economic interest. You may not have an economic interest in a contract with the Agency if you are authorized to perform an official function relating to the contract. Any concerns or questions should be addressed with the AEO as soon as a potential issue arises.

Employees may not have outside employment which creates a real or perceived conflict of interest or is incompatible with the duties of the employee. Any outside employment that has the potential for creating an appearance of a conflict of interest must be approved in advance by the AEO and Secretary of Commerce.

The AEO will review and determine whether an actual perceived conflict exists. If the AEO determines no conflict exists, he must document, in writing, the basis for the determination actual or perceived. If it is determined that such a conflict exists, the Employee must immediately remove themselves from the decision, vote, or process, as appropriate. The AEO must keep written documentation of all recusals.

### **Confidentiality**

Employees understand that in the course of their employment with the Agency, they may have access to data or other confidential information related to the recruitment of economic development projects. Such information is exempt from public disclosure pursuant to the South Carolina Freedom of Information Act and may also be subject to nondisclosure agreements between the Department and third parties. Such confidential information includes, but is not limited to:

the identity of prospective companies or economic development projects as well as the existence of ongoing discussions regarding proposed projects and any and all documents related to the

recruitment of economic development projects, including but not limited to, working papers and communications, incentive and grant applications and related preliminary agreements, and information obtained from third parties, including but not limited to, confidential and proprietary financial, strategic planning, trade secret, or other information belonging to companies considering economic development projects in South Carolina.

As related to this confidential information:

- Employees will treat all such information as confidential and not appropriate for public dissemination under any circumstances, except when specifically authorized by the Agency or the terms of a nondisclosure agreement to which Agency is a party.
- Unless authorized as part of Employee's work responsibilities or by the appropriate authority/administrator or by the terms of a nondisclosure agreement to which the Agency is a party, Employees will not at any time, directly or indirectly, divulge, disclose, or communicate such information to any person, company, government entity, or other entity.
- If Employees are unsure whether certain data or other information is covered by this Code, Employees will preserve confidentiality of the item until receiving clarification from the AEO.
- Any unauthorized disclosure of confidential information concerning actual or proposed confidential economic development projects is outside the scope of my employment and may subject Employees to personal liability in the event a third party company claims that the Agency has breached its obligations of confidentiality under a nondisclosure agreement.
- Employees must agree to conduct themselves and represent the Agency in a professional manner in all electronic communications and otherwise with respect to business dealings or relationships involving the Agency.
- Employees are prohibited from using confidential data gained through their employment for personal gain.

### **Post-Employment Restrictions**

Employees gain many valuable skills and connections while employed by the Agency. Accordingly, Employees may one day want to utilize these skills and connections outside of state employment. Citizens must have confidence, however,

that while employed with the Agency, Employees are working solely for the benefit of the Agency and not to use their position to create opportunities for themselves upon their departure that could result in a conflict of interest. The following post-employment rules are found in current state law and are not intended to limit employment opportunities of Agency Employees; instead, they prohibit individuals from engaging in certain activities:

1. **SECTION 8-13-755.** Restrictions on former public official, member, or employee serving as lobbyist or accepting employment in field of former service.

A former public official, former public member, or former public employee holding public office, membership, or employment on or after January 1, 1992, may not for a period of one year after terminating his public service or employment:

- (1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during his public service or employment; or
- (2) accept employment if the employment:
  - (a) is from a person who is regulated by the agency or department on which the former public official, former public member, or former public employee served or was employed; and
  - (b) involves a matter in which the former public official, former public member, or former public employee directly and substantially participated during his public service or public employment.

2. **SECTION 8-13-760.** Employment by government contractor of former public official, member, or employee who was engaged in procurement.

Except as is permitted by regulations of the State Ethics Commission, it is a breach of ethical standards for a public official, public member, or public employee who is participating directly in procurement, as defined in Section 11-35-310(22), to resign and accept employment with a person contracting with the governmental body if the contract falls or would fall under the public official's, public member's, or public employee's official responsibilities.

## **IT Security**

All Agency Employees are responsible for:

1. Being aware of and complying with agency procedures and their responsibilities for protecting information assets of the Agency. This policy can be found on the intranet under Computer and Network Security and Usage.
2. Using information resources only for intended purposes of the Agency.
3. Being accountable for their actions relating to their use of all Agency information systems.

## **Use of State Resources**

State resources are limited, and the public must trust state officials and employees to be good stewards of these resources. The public should have confidence that state resources are being used for the benefit of all citizens, the owners of the property, and not as personal property of state employees.

Employees may only use state resources and/or property for conducting official business, except for incidental use which should be infrequent and minimal.

Employees may never use state resources for private business and/or financial gain.

Employees shall not permit others to use any assigned equipment, including state cars, laptops, cell phones, or other electronic devices, except as authorized by the Agency.

Employees may never use state personnel, equipment, materials, or facilities for political campaigns.

Unless specifically required by the Agency to perform a job function, Employees may not use social media while on duty or through the use of state resources.

## **Nondiscriminatory Work Environment**

Employees must conduct themselves in a manner to promote a nondiscriminatory work environment to all Employees and visitors without regard to race, color, religion, sexual orientation, gender, genetic information, national origin, age, veteran status, disability, or any other status protected by federal or state law.

## **Reporting Requirements and Whistleblower Protections**

Citizens must be able to trust that state employees are doing all they can to prevent wrongdoing and at all times are protecting the interests and property of the State.

Employees have a duty to report an intentional violation of this Code or any federal or state law or regulation by any Agency Employee, whether temporary or full-time, including a co-worker, subordinate, supervisor, senior manager, or any other employee.

Employees have a duty to report any action by the Agency, that results in substantial abuse, misuse, destruction, or loss of substantial public funds ' or resources.

These reports must be made in writing as soon as possible after the Employee first learns of the wrongdoing but no later than 180 days after the date the reporting Employee first learns of the wrongdoing. This report must include the date of disclosure, the name of the Employee making the report, the nature of the wrongdoing, and the date or date range of when the conduct occurred. Depending on the facts of each case, the appropriate authority may be the Chief Legal Counsel, Human Resources Director, Secretary of Commerce, the Deputy Secretary of Commerce, or the Chief Financial Officer. If appropriate, the Agency will forward the report with the State Ethics Commission or Inspector General.

An Employee who files a report within the specified time frame, to the appropriate authority, and in good faith is considered a whistleblower. Whistleblowers may not be demoted, lose compensation, or be dismissed or suspended from employment as a result of filing a report of wrongdoing.

**Additionally, Employees of the Agency are expected to:**

- Report to work as scheduled and seek approval from their supervisors in advance for any changes to the established work schedule, including the use of leave and late or early arrivals and departures.
- Perform assigned duties and responsibilities with the highest degree of public trust.
- Devote full effort to job responsibilities during work hours.
- Maintain the qualifications, certification, licensure, and/or training requirements identified for their positions.
- Demonstrate respect for the Agency and toward Agency co-workers, supervisors, managers, subordinates, clients, students, and customers.
- Support efforts that ensure a safe and healthy work environment including adherence to security requirements.
- Utilize leave and related employee benefits in the manner for which they were intended.
- Resolve work-related issues and disputes in a professional manner and through established business processes.
- Meet or exceed established job performance expectations.
- Make work-related decisions and/or take actions that are in the best interest of the agency.
- If required by the Agency, Employee must annually file a Statement of Economic Interest with the State Ethics Commission.
- Work cooperatively to achieve the goals and objectives of the Agency
- Conduct themselves at all times in a manner that supports the mission of this Agency and the performance of your duties.

**Acknowledgement / Compliance Certificate Confidential Information & Business Ethics and Conduct**

I have read and understand the preceding policy. I accept and agree to the restrictions stated in such Policies. I hereby certify that I will comply with such Policies.

Signature \_\_\_\_\_

Date \_\_\_\_\_