

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER _____
05-12

FOR: ESTABLISHING ETHICAL RULES OF CONDUCT FOR STATE OFFICERS, EMPLOYEES,
AND SPECIAL APPOINTEES

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, Hoosiers deserve to know that state government is being conducted in an open and honest fashion and in the public interest;

WHEREAS, currently the functions of state government are often performed with a lack of openness and adequate disclosure;

WHEREAS, Indiana continues to trail other states and the federal government in the ethical expectations demanded of its officers, employees, and special appointees; and

NOW, THEREFORE, I, Mitchell E. Daniels, Jr., by virtue of the authority vested in me as Governor of the State of Indiana, do hereby order that:

1. No agency officer, employee, or special state appointee, as defined by IC 4-2-6-1, shall solicit or accept gifts, favors, services, entertainment, food, or drink in any amount from a person who has a business relationship with the employee's agency, except as permitted under 40 IAC 2-1-6(a) or 40 Indiana IAC 2-1-6(b)(1)-(6). Upon enactment of legislation codifying the position of Inspector General, the Inspector General shall promulgate rules, in consultation with the Indiana State Ethics Commission, to effectuate this prohibition. Executive Order 04-08, which continues in effect, is hereby amended to be consistent herewith.
2. The Commissioner of Administration shall consult with the Inspector General and State Ethics Commission prior to promulgating rules requiring registration for individuals who lobby the Executive Branch. Executive Order 04-11, which continues in effect, is hereby amended to be consistent herewith.
3. The heads of all state agencies and instrumentalities of the executive department, including all bodies corporate and politic, and all employees or special state appointees with purchasing or procurement authority on behalf of the State, shall not solicit political contributions on behalf of any candidate for public office, unless that individual is a candidate for public office himself or herself.
4. No state officer, employee, or special state appointee shall accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired. The Inspector General is directed to create procedures for the issuance of an advisory opinion granting approval to outside employment, which advisory opinion would serve as conclusive proof that such employment is not in violation of this section and is consistent with the State's desire to attract quality individuals who are successful in the community and/or private sector and are willing to serve the State in some capacity.
5. A state officer, employee, or special state appointee may not participate in any decision or vote if that individual has knowledge that any of the following has a financial interest in the outcome of the matter:
 - a. The state officer, employee, or special state appointee.
 - b. A member of the immediate family of the state officer, employee, or special state appointee.
 - c. A business organization in which the state officer, employee, or special state appointee is serving as an officer, director, trustee, partner, or employee; or
 - d. Any person or organization with whom the state officer, employee, or special state appointee is negotiating, or has an arrangement concerning, prospective employment.The Inspector General is directed to create procedures to allow an individual who identifies a potential financial conflict of interest to make full disclosure, establish screening procedures, and obtain an advisory opinion that would serve as conclusive proof that it is not a violation of this section for a state officer, employee, or special state appointee to participate in a particular matter.
6. A state officer, employee, or special state appointee may not knowingly have a direct or indirect financial interest in a contract made by any agency. This prohibition does not apply if:

- a. the contract is made after public notice or, where applicable, through competitive bidding;
- b. the state officer, employee, or special state appointee files with the State Ethics Commission a statement making full disclosure of all related financial interests in the contract;
- c. the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee; and
- d. in the case of a contract for professional services, the appointing authority of the contracting agency makes and files a written certification with the State Ethics Commission that no other state officer, employee, or special state appointee of the agency is available to perform those services as a part of their regular duties.

The Inspector General is directed to create procedures for the issuance of an advisory opinion that would serve as conclusive proof that it is not a violation of this section if a state officer, employee, or special state appointee who, acting in good faith, learns of an actual or prospective violation of this section no later than thirty (30) days after the agency makes the contract, makes full disclosure of any financial interest, and terminates or disposes of the financial interest.

7. The revolving door prohibitions created by Executive Order 04-10, which continues in effect, shall continue to apply to any state officer, employee, or special state appointee who left state government prior to January 10, 2005, or to any individual who served as a state officer, employee or special state appointee prior to and after January 10, 2005 and who seeks and receives a waiver from the State Ethics Commission of the requirements of this Executive Order that are in addition to those imposed by Executive Order 04-10.

8. No state officer, employee, or special state appointee who leaves state government after January 10, 2005 shall accept employment or receive compensation for one year:

- a. as a lobbyist engaged in lobbying the executive or legislative branches of state government in Indiana;
- b. from an employer if the former officer, employee, or special state appointee was engaged in the negotiation or administration of one or more contracts with that employer or in a position to make a discretionary decision affecting the outcome of the negotiation or administration of such a contract; or
- c. from an employer if the former officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a company that controls, is controlled by, or is under common control with, the employer.

9. No state officer, employee, or special state appointee who leaves state government after January 10, 2005 shall represent or assist a person in a particular matter involving the State if such former officer, employee, or appointee personally and substantially participated in the matter while serving in the capacity of a state officer, employee, or special state appointee, even if such former officer, employee, or appointee receives no compensation for such representation.

10. A registered lobbyist may not serve as a member of a board, commission, committee, authority, or task force of the executive department, unless that body is an advisory body only. This provision shall not apply to any person who was appointed to a board, commission, committee, authority, or task force of the executive department prior to January 10, 2005.

11. All instrumentalities of the executive, including the administrative, department of state government, as well as all bodies corporate and politic set up as instrumentalities of the State, are directed to notify the State Ethics Commission within thirty (30) days of this executive order that they are under the jurisdiction of the State Ethics Commission.



Todd Rokita

ATTEST: Todd Rokita
Secretary of State

IN TESTIMONY WHEREOF, I, Mitchell E. Daniels, Jr., have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 10th day of January, 2005.

M. Daniels, Jr.
Mitchell E. Daniels, Jr.
Governor of Indiana