



## CONFLICTS OF INTEREST

Date:  
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By Direction Of:

  
Lucas M. Miller, State Inspector General

### A. Purpose & Scope.

To define the Office of State Inspector General's (OSIG) policy and procedures regarding both general conflicts of interest as well as those concerning gifts, gratuities, and contracts. This policy applies to all OSIG employees and officials.

### B. Definition(s).

The terms used in this policy shall have the meanings provided under the [Public Employees and Employee Ethics Act](#) (Ethics Act), 65 P.S. § 1101 et seq., unless the context clearly indicates otherwise.

OSIG positions classified as "public officials" are the State Inspector General and Chief Counsel; OSIG positions classified as "public employees" are as follows: First Deputy State Inspector General; Deputy State Inspector General of External Affairs; Legal Staff; Deputy State Inspector General of the Bureau of Special Investigations, Investigations Managers, and all Special Investigators within the Bureau of Special Investigations; Deputy State Inspector General, Assistant Director, Regional Managers, Supervisors, and Special Agents in the Bureau of Fraud Prevention and Prosecution; Deputy State Inspector General of the Bureau of Administration, Policy and Training; and Budget Chief; Deputy State Inspector General and all Special Investigators within the Bureau of Law Enforcement Oversight.

### C. Policy.

OSIG investigates a wide variety of individuals and groups, including public assistance recipients, other Commonwealth employees and officials, and Commonwealth contractors. Thus, it is imperative that all OSIG employees and officials refrain from any activity with investigated individuals and/or entities that:

- Causes or could cause a conflict of interest for the employee or official, or

- Could otherwise affect the employee's or official's professional and objective judgment, and investigation of a subject.

Avoiding conflicts of interest maintains an OSIG employee's or official's professional objectivity and ensures that OSIG conducts fair and objective investigations.

- **All OSIG employees and officials** must abide by Part I, Section 2, of the Governor's Code of Conduct, [Executive Order 1980-18 Amended, Including Revision No. 1](#) and [Revision No. 3](#), regarding conflicts of interest. Failure of an OSIG employee or official to abide by the provisions of the Governor's Code of Conduct may subject the employee or official to disciplinary action, including but not limited to reprimands, suspensions, and termination.
- All OSIG employees and officials who are defined as "public officials" or "public employees" under the Ethics Act must abide by the conflict of interest provisions of that act. A violation of the provisions of the Ethics Act may subject the employee or official to criminal and civil penalties under the act and may be grounds for dismissal.

## D. Procedures.

In those cases in which a conflict of interest arises in OSIG investigations, the OSIG employee for whom the conflict arises must report the conflict to his/her supervisor immediately and recuse himself/herself from taking any action with respect to that investigation as soon as the conflict becomes known to them.

In the event of a conflict of interest, the OSIG employee for whom the conflict arises must not be personally involved in any aspect of the work process/work product. This includes: any OSIG investigation; any negotiation process or decision-making processes with respect to contracts, grant applications, licenses, regulatory matters, auditing; the settlement of any claims or changes in any contracts, grant applications, licenses, regulatory matters, or audit issues; to the supervision, implementation, or administration of contracts or grants; or other things of value to the entity or person for whom the conflict arises.

In those cases in which a conflict of interest arises in matters involving multiple persons and/or entities competing for the same limited benefit (*e.g.*, grants, contracts, licenses), the OSIG employee for whom the conflict arises must recuse himself/herself from taking any action with respect to the matter as soon as the conflict becomes known to them and thereafter must not be personally involved in any aspect of the negotiation process or decision-making processes with respect to *any* of the persons or entities who are competing for the same benefit.

In the event of a conflict of interest, the conflicted person shall have no access to confidential and non-public information concerning the participation by the competing persons or entities in the OSIG's processes.

The individual to whom responsibility has been designated to perform the powers and duties of the State Inspector General in a matter will have the full authority to act in place of the State Inspector General and to perform in his/her place all official duties and responsibilities that are affected by the conflict of interest. The designee shall carry out those powers and duties without sharing any information with the State Inspector General and without the State Inspector General's involvement.

### Conflicts of Interest Involving Gifts and Gratuities

No employee, appointee, or official in the Executive Branch of the Commonwealth may solicit or accept for the personal use of the employee or another, a gift, gratuity, favor, entertainment, hospitality, loan, or any other thing of monetary value, including in-kind gifts, from a person who:

- Is seeking to obtain business from or has financial relations with the Commonwealth,
- Conducts operations or activities that are regulated by the Commonwealth,
- Is engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party, or
- Has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee.

Conflicts can arise in situations in which a subject of any OSIG investigation offers an OSIG employee or official gifts or other items. OSIG employees and officials must not accept gifts or other items from subjects for which there is an active investigation and there is knowledge of the investigation by said OSIG employee or official and from other related parties during the course of their duties. Such actions erode the professional objectivity of the employee or official, create at least the appearance of impropriety, and prevent the OSIG from conducting fair and objective investigations. No OSIG employee or official shall ever use or attempt to use his/her position as an OSIG employee or official for his/her private gain in any other forum.

- **ALL OSIG employees and officials** must abide by the restrictions on gifts contained in Part I, Section 3, of [Executive Order 1980-18 Amended, Including Revision No. 1](#) and [Revision No. 3](#), Code of Conduct, and [Executive Order 2015-01](#) “Executive Branch Employee Gift Ban” in determining whether it is proper to accept a gift or gratuity. Failure of an OSIG employee or official to abide by the provisions of the Governor’s Code of Conduct may subject the employee or official to disciplinary action, including but not limited to reprimands, suspensions, and termination.
- **ALL OSIG employees and their families** are also prohibited by Section 13.23 of the Commonwealth of Pennsylvania Personnel Rules found in [Management Directive 505.7 Amended](#) from directly or indirectly soliciting, accepting, or agreeing to accept any gift of money or goods, loans, or services for personal benefit under any circumstances which would influence the manner in which the OSIG employee or

official performs his/her work, makes his/her decisions, or otherwise performs his/her duties.

- **ALL OSIG employees and officials** who are defined as “public officials” or “public employees” under the Ethics Act must abide by the provisions of that act in determining whether it is inappropriate to accept a gift or gratuity. A violation of the provision of the Ethics Act may subject the employee or official to criminal and civil penalties and may be grounds for dismissal.

### Conflicts of Interest involving Contracting

No OSIG employee or official shall either directly or indirectly enter into any contract with OSIG or other Commonwealth agencies, and no OSIG employee or official shall have an interest in any OSIG contract. This is because conflicts of interest will inevitably arise in cases where OSIG employees or officials either contract with OSIG or other Commonwealth agencies or obtain interest in contracts that OSIG or other Commonwealth agencies enter into with other parties.

- **ALL OSIG employees and officials** must abide by the provisions of the [Pennsylvania Adverse Interest Act](#). 71 P.S. § 776.1 *et seq.* A violation of the Adverse Interest Act may subject the employee or official to criminal and civil penalties and automatic forfeiture of their state employment position.
- **ALL OSIG employees and officials** who are defined as “public officials” or “public employees” under the Ethics Act must abide by the provisions of that Act. A violation of the provisions of the Ethics Act may subject the employee or official to criminal and civil penalties and may be grounds for dismissal.

### Personal Inventory Lists

OSIG employees who are classified as “public officials” and “public employees” and who complete a financial disclosure and ethics statement on a yearly basis, must complete and maintain a Personal Inventory of Potential Sources of Conflicts of Interest (OSIG 14). The OSIG 14 is kept and maintained by the employee, should be updated as necessary, and include the following information:

- All businesses, including non-profit entities, with which they are associated.
- All members of their immediate family and all businesses, including non-profit entities, with which each member of their immediate family is associated of which the OSIG public employee is aware.
- All their private business clients and customers, the business clients and customers of members of their immediate family, and the clients and customers of all businesses with which they or a member of their immediate family are associated of which the OSIG public employee is aware.

- All persons or entities with which they, a member of their immediate family, or a business with which they or their family member are associated and have a reasonable and legitimate expectation of forming a business relationship of which the OSIG public employee is aware.

OSIG “public officials” and “public employees” must identify, on a continuing basis, all official or public powers, duties, and responsibilities that they have or in which they engage and compare their official powers and public duties and responsibilities with the following:

- Their personal private interests.
- The interests of the members of their immediate family.
- The businesses with which they or members of their immediate family are associated, which includes clients and customers and potential future clients and customers that can be reasonably anticipated.

OSIG “public officials” and “public employees” must also identify those powers, duties, and public activities they may have which may enable them to be in a position to use the authority of their public office or public employment in a manner that could result in private pecuniary benefit to them, a member of their immediate family, or a business with which they or a member of their immediate family is associated. This also includes their clients and customers; the clients and customers of a member of their immediate family; the clients and customers of any business with which they or a member of their immediate family is associated; and any person or entity with which they, a member of their immediate family, or a business with which they or their family member is associated and have a reasonable and legitimate expectation of forming a business relationship.

For a sample of a Personal Inventory of Potential Sources of Conflicts of Interest, click [here](#).

## **E. Procedure for Designation.**

### Order of Designation

When the State Inspector General is unable to perform certain official duties and responsibilities due to a conflict of interest, the following order of designation shall apply:

- First Deputy State Inspector General
- Deputy State Inspector General of the Bureau of Administration, Policy and Training
- Deputy State Inspector General of the Bureau of Fraud Prevention and Prosecution
- Deputy State Inspector General of the Bureau of Special Investigations
- Deputy State Inspector General of the Bureau of Law Enforcement Oversight
- Deputy State Inspector General of External Affairs

If the First Deputy State Inspector General or one of the Deputy State Inspectors General listed above is precluded from performing his/her official duties and responsibilities as a result of a

conflict of interest, and the State Inspector General has no conflict of interest, the State Inspector General may perform those duties personally or may designate another individual listed or other person within the agency to perform those functions.

### Notification Procedures for Conflict of Interest Situations

#### a. Conflicts of the State Inspector General

- The State Inspector General must provide written notice of a conflict of interest to the appropriate Deputy Chief of Staff within the Governor's Office; the General Counsel; the First Deputy State Inspector General; the Deputy State Inspector General of the Bureau of Administration, Policy and Training; and the OSIG Chief Counsel.
- The State Inspector General shall consult the General Counsel or OSIG Chief Counsel with respect to the type of specific notification that is required based on the nature of the conflict.
- The First Deputy State Inspector General shall notify all principal subordinates and other staff that the State Inspector General has a conflict of interest with respect to a particular matter or matters and that all inquiries, comments, and actions relating to the conflicted matter or matters will be handled by the First Deputy State Inspector General as the final authority within the agency.
- The First Deputy State Inspector General performing duties under this conflict of interest protocol shall not report to the State Inspector General on matters related to the conflict or conflicts but instead shall report directly on such matters to the OSIG's liaison Deputy Chief of Staff in the Governor's Office.

#### b. Conflicts of the First Deputy State Inspector General

- The First Deputy State Inspector General shall provide written notice of a conflict of interest to the State Inspector General; the Deputy State Inspector General of the Bureau of Administration, Policy and Training; and the OSIG Chief Counsel.
- The State Inspector General shall provide written notice to the appropriate Deputy Chief of Staff within the Governor's Office and the General Counsel; consult the General Counsel or OSIG Chief Counsel on behalf of the First Deputy State Inspector General with respect to the type of specific notification that is required based on the nature of the conflict.
- The State Inspector General shall notify all principal subordinates and other staff that the First Deputy State Inspector General has a conflict of interest with respect to a particular matter or matters and that all inquiries, comments, and

actions relating to the conflicted matter or matters will be handled by the State Inspector General.

c. Conflicts of OSIG employees

- When an OSIG employee identifies a conflict of interest, the employee must immediately notify his/her direct supervisor in writing about the conflict of interest. The supervisor must then notify the remaining chain of command in his/her bureau.
- Next, the First Deputy State Inspector General and the OSIG Chief Counsel must be notified to ensure that all necessary and appropriate measures are taken to assess the validity of the conflict of interest concerns and, if validated, to ensure the necessary and appropriate action is taken to remedy or avoid the conflict of interest or potential for conflict of interest.
- The Deputy State Inspector General of the affected bureau, in consultation with the State Inspector General, the First Deputy State Inspector General, the OSIG Chief Counsel, and where appropriate, the Deputy Inspector General of the Bureau of Administration, Policy and Training, shall appoint a substitute to perform the conflicted employee's functions. If the conflicted employee is a Bureau Deputy State Inspector General, the State Inspector General shall decide whether he/she will perform that Bureau Deputy State Inspector General's role or designate another staff member to serve in the recused staff member's role.
- The State Inspector General or the designated staff member shall then notify all principal subordinates that the OSIG employee has a conflict on a particular matter or matters and that all inquiries, comments, and actions relating to the conflicted matter or matters will be handled by the State Inspector General or the designated staff member.
- The designated staff member performing duties for a conflicted employee under this Conflict of Interest Policy shall report through their chain of command. Any matters related to the conflict or conflicts should be reported to the State Inspector General or his/her designee.

**F. Additional Information.**

Any questions regarding this policy should be directed to your supervisor.

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