

extend the collection of information for a period not to exceed 3 years.

(ii) Assure that approved collections of information are reviewed not less frequently than once every 3 years and that such reviews are conducted before the expiration date of the prior approval. When the review is not completed prior to the expiration date, the Managing Director will submit the lapsed information collection to OMB for review and reauthorization.

(iii) Assure that each reauthorized collection of information displays an OMB control number and, except for those contained in regulations or specifically designated by OMB, displays the expiration date of the approval.

(iv) Transmit to OMB for incorporation into OMB's public docket files, a report of delegated approval certifying that the Managing Director has reauthorized each collection of information in accordance with the provisions of this delegation. Such transmittal shall be made no later than 15 days after the Managing Director has taken final action reauthorizing the extension of an information collection.

(v) Ensure that the personnel in the Commission's functional bureaus and offices responsible for managing information collections receive periodic training on procedures related to meeting the requirements of this rule and the Act.

(b) OMB will:

(1) Provide notice to the Commission acknowledging receipt of the report of delegated approval and its incorporation into OMB's public docket files and inventory of currently approved collections of information.

(2) Act upon any request by the Commission to review a collection of information referred by the Commission in accordance with the provisions of section 2(a)(2) of this Appendix.

(3) Periodically assess, at its discretion, the Commission's paperwork review process as administered under the delegation. The Managing Director will cooperate in carrying out such an assessment. The Managing Director will respond to any recommendations resulting from such a review and, if it finds the recommendations to be appropriate, will either accept the recommendation or propose an alternative approach to achieve the intended purpose.

(c) This delegation may, as provided by 5 CFR 1320.9(c), be limited, conditioned, or rescinded, in whole or in part at any time. OMB will exercise this authority only in unusual circumstances.

[FRDoc. 94-24677 Filed 10-5-94; 8:45 am]

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1633

5 CFR Chapter LXXVI

RIN 3209-AA15

Supplemental Standards of Ethical Conduct for Employees of the Federal Retirement Thrift Investment Board

AGENCY: Federal Retirement Thrift Investment Board (Board).

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board, with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the Board that supplement the Standards of Ethical Conduct for Employees of the Executive Branch, as issued by OGE, with a requirement to obtain prior approval for outside employment. The Board also is repealing its remaining old conduct standards which were retained on an interim basis pending issuance of the Board's supplemental regulations and is inserting in their place a cross-reference to the new provisions.

EFFECTIVE DATE: These regulations are effective October 6, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas L. Gray, Deputy Assistant General Counsel for Administration, (202) 942-1662, FAX (202) 942-1676.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, OGE published new 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, with an additional grace period extension at 59 FR 4779-4780. Codified at 5 CFR part 2635, the new standards became effective on February 3, 1993. On June 2, 1993, the Board issued a final rule (58 FR 31332) which replaced all of the provisions of its prior standards of conduct regulations at 5 CFR part 1633 that had been superseded by part 2635, or by OGE's executive branch financial disclosure regulations at 5 CFR part 2634. The Board preserved only those provisions that were specifically grandfathered under the notes following 5 CFR 2635.403(a) and 2635.803.

With the concurrence of OGE, 5 CFR 2635.105 authorizes agencies to publish agency-specific supplemental regulations that are necessary to implement their respective ethics programs. The Board, with OGE's

concurrence, has determined that the following supplemental rules, being codified in new chapter LXXVI of 5 CFR, are necessary to the success of its ethics program. The Board is simultaneously repealing the remaining provisions of 5 CFR part 1633, which are superseded upon issuance of the Board's supplemental regulations, and is replacing those provisions with a single section that provides cross-references to 5 CFR parts 2634 and 2635, as well as to the Board's new supplemental regulations.

II. Analysis of the Regulations

Section 8601.101 General

Section 8601.101 explains that these regulations supplement the executive branch-wide standards of ethical conduct and reminds Board employees, including Board members, that they are subject to these regulations and the executive branch-wide financial disclosure regulations. However, because Board members are special Government employees, the requirement for prior approval of outside employment in section 8601.102 does not apply to them.

Section 8601.102 Prior Approval for Outside Employment

5 CFR 2635.803 authorizes individual agencies to issue supplemental regulations to require agency employees to obtain prior approval before engaging in outside employment, with or without compensation. The Board has long had a prior approval requirement to ensure that any problems relating to an employee's outside employment are resolved before an employee begins such an undertaking. Section 8601.102 continues that prior approval requirement, but differs from the old Board requirement because it contains a definition of employment that clarifies the circumstances under which prior approval must be obtained. The outside employment must be approved by the employee's office director. In the written request, the employee is required to describe the organizations, duties, hours of work, and remuneration pertaining to the outside employment. An employee must submit the written request through his or her immediate supervisor, unless the immediate supervisor is the employee's office director.

In addition to approval by the employee's office director, if the outside employment involves teaching, speaking, or writing that relates to the employee's official duties, the employee must also obtain the advance written approval of the Executive Director of the

Board. The Executive Director may approve or disapprove such outside employment, or may permit the performance of the teaching, speaking, or writing as an official duty (for which no compensation may be received). This requirement does not apply to teaching, speaking, or writing that relates to the purely private interests of the employee that are nonwork-related.

III. Repeal of Board Standards of Conduct Regulations

Because the Board's retained Standards of Conduct at 5 CFR part 1633 are superseded by the supplemental regulations contained in new 5 CFR part 8601, the Board is repealing all of existing 5 CFR part 1633. To ensure that employees are on notice of the ethical standards to which they are subject, the Board is replacing its old standards at 5 CFR part 1633 with a provision that cross-references 5 CFR parts 2634 and 2635 and the Board's new supplemental regulations at 5 CFR part 8601.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

The Board has found that good cause exists under 5 U.S.C. 553(b) and (d)(3) 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 these rules and repeals. The supplemental regulations are essentially a restatement of rules previously contained in the standards of conduct, and the Board believes that it is important to a smooth transition from the Board's standards of conduct to the executive branch standards that these rules become effective as soon as possible. Furthermore, this rulemaking is related to the Board's organization, procedure and practice.

Regulatory Flexibility Act

The Board has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that these regulations will not have a significant impact on small business entities because they affect only Board employees.

Paperwork Reduction Act

The Board 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.

Environmental Impact

This decision will not have a significant impact upon the quality of

the human environment or the conservation of energy resources.

List of Subjects

5 CFR Part 1633

Conflict of interests, Government employees.

5 CFR Part 8601

Conflict of interests, Government employees.

Dated: September 21, 1994.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

Approved: September 30, 1994.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Federal Retirement Thrift Investment Board, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

5 CFR CHAPTER VI—FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

1. Part 1633 of 5 CFR Chapter VI is revised to read as follows:

PART 1633—STANDARDS OF CONDUCT

§ 1633.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Retirement Thrift Investment Board (Board) are subject to the executive branch-wide Standards of Ethical conduct at 5 CFR part 2635, the Board regulations at 5 CFR part 8601 which supplement the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

Authority: 5 U.S.C. 7301.

2. A new chapter LXXVI, consisting of part 8601, is added to title 5 of the Code of Federal Regulations to read as follows:

5 CFR CHAPTER LXXVI—FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

PART 8601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sec.

8601.101 General.

8601.102 Prior approval for outside employment.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 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.

§ 8601.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Federal Retirement Thrift Investment Board (Board) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition, Board employees are subject to the executive branch financial disclosure regulations at 5 CFR part 2634.

§ 8601.102 Prior approval for outside employment.

(a) Before engaging in outside employment, with or without compensation, an employee, other than a special Government employee, must obtain written approval from his or her office director. The written request shall be submitted through the employee's immediate supervisor, unless the supervisor is the employee's office director, and shall identify the employer or other person for whom the services are to be provided, as well as the duties, hours of work, and compensation involved in the proposed outside employment.

(b) Approval under paragraph (a) of this section shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(c) In addition to the approval required by paragraph (a) of this section, an employee whose outside employment involves teaching, speaking, or writing that relates to his or her official duties within the meaning of 5 CFR 2635.807(a)(2) shall obtain approval from the Executive Director of the Board to engage in the activity as an outside activity, rather than as part of the employee's official duties.

(d) For purposes of this section, employment means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civil

organization, unless the participation involves the provision of professional services or advice for compensation other than reimbursement for actual expenses.

[FR Doc. 94-24791 Filed 10-5-94; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Food Funding Formula Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing funding and funds allocation procedures for the Special Supplemental Food Program for Women, Infants and Children (WIC) in order to simplify and update the funding process in anticipation of a fully funded program. The amendments provide a greater share of funds to State agencies receiving comparatively less than their fair share of funds based on their WIC income eligible population, provide all State agencies with stability funding, adjusted for inflation, to the extent funds are available, and simplify the food funding allocation process by eliminating obsolete features.

EFFECTIVE DATE: This rule is effective on October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Deborah McIntosh, Chief, Program Analysis and Monitoring Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2710.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to that review, the Administrator of the Food and Nutrition Service (FNS) has certified that this rule will not have a significant impact on a substantial number of small entities. The rule affects how the Department will calculate food grant allocations for WIC State agencies.

Paperwork Reduction Act

No new data collection or recordkeeping requiring Office of Management and Budget (OMB) approval under the Paper Reduction Act of 1980 (44 U.S.C. 3501 through 3502) are included in this final rule.

Executive Order 12372

The Special Supplemental Food Program for Women, Infants and Children (WIC) is listed in the Catalog of Federal Domestic Assistance Programs under 10.557 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any state or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the WIC Program, the administrative procedures are as follows: (1) local agencies and vendors—State agency hearing procedures issued pursuant to 7 CFR § 246.18; (2) applicants and participants—State agency hearing procedures issued pursuant to 7 CFR § 246.9; (3) sanctions against State agencies (but not claims for repayment assessed against a State agency) pursuant to 7 CFR § 246.19—administrative appeal in accordance with 7 CFR § 246.22; and (4) procurement by State or local agencies—administrative appeal to the extent required by 7 CFR § 3016.36.

Background

The WIC Program has consistently demonstrated its effectiveness in promoting the health and nutritional well-being of low-income women, infants and children at nutritional or medical risk, and has experienced large increases in its appropriation for the last several years. Due to its success, the WIC Program is likely to soon achieve "full funding" whereby it is estimated that all eligible women, infants and children who apply could obtain program benefits. In moving toward the

full funding objective, the Department finds that its current food funding formula presents impediments to funding equity and is so complex it is difficult to execute and predict its results.

Historically, WIC has never had enough funds to serve all who are in need of, and eligible for, its benefits. Certain State agencies receive levels of funding that allow them to serve more of their eligible populations than others. The concept of full funding for WIC, as set forth by the Administration, does not guarantee unlimited funds nor does it establish the WIC Program as a federal entitlement program. As before, WIC must manage within a finite appropriation level. However, a fully funded WIC Program implies that the appropriation level will more adequately provide for all eligible persons who apply for benefits, and that each State agency should have an equal chance to serve their eligible population. Currently, many State agencies are serving lesser proportions of their WIC-eligible population than other State agencies. Therefore, the formula must support growth among State agencies which are now funded to serve a lesser proportion of their eligible population, as well as allocate funds fairly among all State agencies under a stable, fully funded program.

Therefore, to better prepare the WIC Program for full funding, the Department published a proposed rule on June 8, 1994 to revise the food funding formula in order to meet three major objectives: 1) to provide a greater share of funds to State agencies receiving comparatively less than their fair share of funds based on their WIC income eligible population; 2) to simplify the food funding formula and delete obsolete components; and 3) to maintain current services to eligible participants that State agencies are serving to the extent funds are available.

The proposed rule provided for a 60-day comment period, which ended on August 8, 1994. Thirty-six comment letters were received from a variety of sources, including State and local agencies, advocacy groups and other public interest groups. The Department has given all comments careful consideration in the development of this final rule and would like to thank all commenters who responded to the proposal.

Assumptions Under Full Funding

As explained in the preamble to the proposed rule, full funding is not intended to replace or discourage efficient and effective program management. Accordingly, mandatory