



DEPARTMENT OF TRADE AND INDUSTRY

Policy on Conflict of Interest

'This policy repeals the policy on remunerative work outside public service'

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the dti Policy on Conflict of Interest

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Aiming for ISO 9001 compliance

This document aims to comply with the South African Standard (ISO 9001) for Document / Quality Management. It is primarily intended for dti managers who are required to compile operational policies. As the dti is not accredited with and this document was not reviewed by SABS, such compliance is merely assumed.

Document History

Version	Date	Revision description
0.9		Draft document circulated for review to members of OPSCOM on 20 June 2007
1.0	2007-07-03	Draft for approval by OPSCOM after which it will be known as version 1.0
	2007-09-26	Approved by OPSCOM on 26 September 2007
	2007-09-26	Items to be excluded for implementation (strickthrough 18.1.3, 18.1.4 and 18.1.5) refer OPSCOM decision 26/09/2007, pending EXBO approval. Annexure attached: a) Appendix A: Statement of applicability b) Appendix B: Some examples c) Appendix C: Financial disclosure form d) Appendix D: Application for outside remunerative work

Outstanding Issues and Omissions

None

Issue Control

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1. Related Documents

None.

2. Reference Documents

- Managing conflicts of interest in the public service: PSC report, 2006
- Code of conduct as per the public service regulation

3. Abbreviations

GSSSD	Group Systems and Support Service Division
the dti	The Department of Trade and Industry

4. Glossary of Terms

Financial Interest	Financial benefits will be derived. Can be in the form of shares (equity), ownership of property, benefits or services (free). It refers to any interest that would result in a financial benefit that would otherwise have to be acquired.
Non-financial Interest	Non-financial is tacit – it may benefit friends, relatives or reputation.
Conflict of interest	A conflict between the public duties and private interest of any public official, in which the public official has private capacity interest which could improperly influence the performance of his / her official duties and responsibilities
Remunerated work	For the purpose of this policy, an employee performs remunerated work if s/he renders services for which s/he is compensated or benefits in any way, whether in cash, in kind, or as hospitality and receives this from another source other than the dti as employer.
the dti	The Department of Trade and Industry
Business associate	A partner in a business venture joined in with the employee, or a person performing certain functions or activities that involve creation, use or disclosure of information on behalf of, or as provider of these services to the employee.
Immediate family member	Mother, father, sibling, child, spouse, grandparent, grandchild, including step and foster relationships but excludes aunt, uncle, cousin, in-laws or other relative.
Ethical point of view	From both in their individual conduct and in their relationship with others.

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Ethical decision	<p>A decision that has considered whether such would be in line with:</p> <ul style="list-style-type: none"> a) Internationally accepted standards / norms (eg. UN Global Compact), for the greater good with least damage to those that will be affected. b) Consistent with the laws of a country c) Social norms / customs of a country d) Company policy e) Own value system <p>In this above order of priority</p>
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5. Introduction

The policy combines and demonstrates relationships as well as the practical implications regarding the Code of Conduct, financial disclosures and applications for approval of paid work outside the public service.

It also draws on the 2006 Public Service Commission Report on managing conflicts of interest and assists with the dti's drive to implement its values of delivery, trust and integrity. In this regard it is regarded as one of the key instruments to guide behaviour underpinning the dti's Fraud Prevention Strategy in promoting compliance and imparting value based approach..

6. Purpose of Policy

The policy provides guidance on the expected ethical conduct of (Level 1 upwards) on conflict of interest. It notably deals with the disclosure of potential conflict of interest (ie before it becomes a conflict), as well as financial interests, and governs paid work outside the public service.

In this regard it emphasises the requirements and consequences for non-disclosure of conflict of interests (including financial) and / or not obtaining due approval to perform paid work outside the public service.

7. Scope of Policy

The policy deals with the requirements for disclosure of financial interest and paid work outside the public service for all dti employees.

8. Who is affected by the Policy

The policy applies to all dti employees irrespective of rank or appointment type, including temporary workers, contract appointees and interns.

9. Ownership

The Corporate Governance unit within the Group Systems and Support Services Division (GSSSD) will administer this policy.

10. Regulatory Framework

The policy is informed by the following:

Public Service Act, 1994 as amended

Public Service Regulations, 2003 (code of conduct)

the dti Fraud Prevention Plan

The Prevention of Corrupt Activities Act, 2004 (Act 12 of 2004)

11. General requirements for disclosures of conflict of interest

- 11.1. All dti shall as soon as they become aware of any, or a potential conflict of interest emanating from any aspect of his/her employment, disclose that potential conflict of interest. If there is a conflict of interest, the employee shall immediately cease all participation in the process where the potential conflict of interest exists. The interest may be financial or non-financial.
- 11.2. In principle, employees of the dti are expected to employ their energy and commitment at the disposal of the state.
- 11.2.1. If an employee or his or her spouse, immediate family member, life partner or business associate, has any direct or indirect financial or other interest in any matter to be dealt with at any meeting that employee –
- 11.2.1.1. Must disclose that interest and its extent f at the beginning of the meeting by signing the prescribed form for conflict of interest declaration at the meeting, and thereafter verbally excuse him/herself from the consideration of the matter in which he has an interest;
- 11.2.1.2. May participate in the consideration of that matter;
- 11.2.1.3. May not in any way endeavour to influence the opinion or vote of any other member on the relevant matter.
- 11.3. The Chairperson of all dti committees and subcommittees must request that all members present in the meetings declare conflict/potential conflict of interest (in the manner contemplated in paragraph 11.2 above)
- 11.4. Signatories to all dti submissions that would require decision, or influence decision one way or the other, to must indicate if they do have potential conflict of interest.

12. Non-financial conflicts of interest

- 12.1. Non-SMS officials must disclosure non – financial conflict of interest to their Deputy Director Generals/ Chief Directors if and when these occur.
- 12.2. SMS officials must disclose to their Deputy Director Generals, Deputy Director Generals to their Director General and the Director General must disclose to the Minister.
- 12.3. Internal Audit and Corporate Governance units should ensure that all employees of the dti comply by engaging in regular reviews and monitoring exercises, and reporting on these to the Risk Management Committee

13. Financial Conflicts of interest

- 13.1. All SMS employees must disclose their financial interests on the prescribed form (**Annexure A**) by 30 April in a year for the period 1 April of the previous year to 31 March of the relevant. (e.g. by 30 April 2007 officials have to disclose their financial interests regarding the previous year). This will be captured on a safe database and submitted to the PSC annually via the Minister's Office.
- 13.2. All other employees must disclose to their line managers any financial interests that may conflict with their day-to-day operations.
- 13.3. Should the circumstances change after their initial financial disclosure in 13.1 above and new facts become available, the official must immediately disclose the additional information by completing an additional financial disclosure form (**Annexure A**) and submitting it directly to Corporate Governance unit.

14. Financial disclosures

- 14.1. All newly appointed senior managers (Director upwards) must obtain and complete the prescribed financial disclosure forms (**Annexure A**). These are available from the Chief Directorate: Human resources or can be accessed on the dti intranet and should be returned within 30 days after commencement of duty with the dti. The signed disclosure forms should be sent to the Corporate Governance unit within two days of receipt.
- 14.2. Existing senior managers must disclose all their financial interests in the prescribed form by 30 April in a year for the period 1 April for the previous year to 31 March of the year in question.
- 14.3. The disclosure form referred to in 14.1 above, must reflect the financial interest during the 12 -month period prior to his/her employment with the dti and should include remuneration for paid outside work. Disclosure of the remuneration received should not be confused with approval to perform the work and receiving the remuneration. The former is after the fact, whereas the latter precedes the actual action.

15. Paid work outside the public service

- 15.1. Employees may not undertake or perform any work outside the scope of their employment with the dti for which they receive remuneration of any kind, whether in cash, kind or as hospitality, without prior approval as per dti delegations.
- 15.2. There may be exceptional circumstances where approval may be granted for an employee to undertake remunerated work in addition to his / her work, provided this will not negatively impact on the dti's service delivery capacity
- 15.3. Consequently the employee may not without prior approval, whether during or outside of working time, or on or / off the premises, :
 - 15.3.1. Undertake any other employment for remuneration outside his/ her employment with the public service,
 - 15.3.2. Be a director or officer or member of any company or corporation
 - 15.3.3. Carry on, or be directly associated with, or interested in, any other business, and/or

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15.3.4. Hold any other office or position, whether competing with the business of the public service or not.

15.4. In terms of section 31 of the Public Service Act, 1994, any remuneration for additional work for which approval has not been granted vests with the state and must be deposited into the National Revenue Fund (cashier's office). **the dti** may institute legal action to enforce these provisions.

16. Approval for undertaking Remunerated work

- 16.1. In terms of the existing delegations, the Deputy Director Generals and Chief Executive Officers are authorised to approve additional remunerated work outside of the public service. The Director General is authorised to approve applications from Deputy Director General and Chief Executive Officers, and an application from the Director General must be approved by the Minister. The employee will receive a written advice on the outcome of the application.
- 16.2. There is no right to approval for undertaking paid work in addition to public service employment, and the decision of the Director General is final in this regard. However, approval will not withheld unreasonably, provided such office or activity will not result in any conflict of interest or interference with the employee's duties and responsibilities as a state employee e. Such approval may be granted on any conditions necessary to protect the interests of the state as the primary employer, and may be withdrawn at any time.
- 16.3. if approval is granted, the requirements of the state, as the primary employer, should take precedence over any other demands or conflicts of interest.
- 16.4. Approvals will be for specific periods and, if not specified, limited to maximum periods of twelve (12) months. All approvals lapse after twelve (12) months and should be renewed annually. It is the employee's responsibility to seek timeous approval for renewal should if this is required An employee who fails to renew approval but continues with the relevant work may be charged with misconduct.
- 16.5. The Deputy Director Generals and Chief Executive Officers must report annually to the Director General on the applications for disclosure of conflict of interest, as well as the number for approvals granted and declined.
- 16.6. If an employee is granted permission to do additional work, and s/he wishes to continue with such work beyond the maximum twelve months period for approval, the employee must re apply at least two (2) months before expiry of the period to ensure timeous administration..

17. Criteria considered when granting approvals

- 17.1. The following criteria are considered, but is not exhaustive in the approval of remunerated work besides employment in the public service :
- o The demands of the position the employee holds in the public service;
 - o The impact such approval may have on the business unit 's capacity to deliver;
 - o The performance and attendance record of the employee and the extent to which s/he meets delivery requirements;
 - o The nature and the extent of the work for which approval is sought;
 - o The availability of other person(s) to undertake the work for which approval is sought;

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- Any conflicts of interest that may arise; and or
- The image of government.

17.2. Conditions for approval

Conditions pertaining to the approval granted to an employee to undertake additional remunerated work include:

- The responsibilities and commitments of public service employment over any employment;
- Non-impediment of the performance of his/ her official duties by the additional work;
- Additional work should be performed entirely outside of prescribed hours; and
- No property, equipment, premises or any resources of the state, including the dti's telephone and Internet facilities, may be used for such work. (Refer to the dti's policies on e-mail and Internet u.

17.3. Remuneration for additional duties within the scope of dti employment

17.3.1. Employees may be required, within the scope of their employment with the dti, to render service/s, which are paid for by other organisations (i.e. such service/s would be required by, and form part of the authorised functions of his / her position).

17.3.2. Any remuneration, allowance, fee of any kind of reward from such service/s must be paid into the National Revenue Fund administered by the Chief Financial Officer of the dti. Should any amount of this nature be paid directly to the employee in error, s/he must declare this immediately and hand it over directly to the office of the Chief Financial Officer to be paid into the Revenue Fund.

17.4. Acceptance of gifts

17.4.1. the dti actively discourages both the giving of gifts by suppliers and potential suppliers, and the receipt of such gifts by employees. Any gift (whether in cash, kind or as hospitality) which compromises, or may compromise, the independent judgement of an employee to fulfil his her duties and to act in the best interests of the state, should not be accepted and should be returned to the donor.

17.4.2. Subject to the provisions of 17.4.1 above, an employee may accept a gift (whether in cash, kind or as hospitality) that does not exceed R350 (three hundred and fifty rand) or which cumulatively does not exceed R350 (three hundred and fifty rand) from a single source in the annual reporting cycle.

17.4.3. Any gift exceeding this amount (or the amount as revised by the DPSA from time to time) should be disclosed using the prescribed procedures.

17.4.4. Employees are to adhere to the policy on gifts, sponsorships and donations in this regard for further details.

17.5. Declaring acceptance of gifts

17.5.1. SMS and non-SMS members must declare any gift in excess of the prescribed limit (currently R350 per annum cumulatively from a single source in accordance with the prescripts of the chapter 3.C.1 of the Public Service Regulations), using the disclosure of conflicts of interest form.

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- 17.5.2. Gifts must be declared within 30 days after receiving it using financial disclosure form and instances where the purpose thereof is doubtful, obtain approval to keep it.

18. Other Conflicts of interest measures (as derived from PSC report)**Public servants may not:**

- 18.1.1. Enter into any kind of private financial relationship with a superior or subordinate.
- 18.1.2. Ask a subordinate to work on a political campaign or make a political contribution.

19. Disciplinary action

- 19.1.1. Failure by any employee of the dti, irrespective of rank, to comply with any provision of this policy constitutes misconduct and disciplinary action will be taken against him/ her.
- 19.1.2. Any employee who fails to make the required disclosures or who wilfully provides incorrect or misleading information must / will be charged with misconduct.
- 19.1.3. Employees are further more reminded of the content of the Prevention of Corrupt Activities Act and may be liable for criminal proceedings too.

20. Appendices and References

The following appendices are attached to, and form part of this policy

- a) Appendix A: Statement of applicability
- b) Appendix B: Some examples
- c) Appendix C: Financial disclosure form
- d) Appendix D: Application for outside remunerative work

21. Maintenance and review of this policy

- a) In compiling this policy, the promotion of cost-effectiveness was duly considered and consequently there is no need for divisions to submit copies of individual approvals granted for paid outside work to the Corporate Governance unit. Each division must maintain a register of such approvals for their own records.
- b) Similarly each committee secretariat must retain copies of disclosures pertaining to the particular meeting and each line manager as the case may be.
- c) Only SMS financial disclosures will be submitted annually to the corporate governance unit.
- d) The policy will be reviewed as and when required in line with the requirements of the dti Fraud Prevention Strategy and Risk Assessment Cycles. This will be aligned to any changes in legislation such as the PSA or Prevention of Corrupt Activities Act.

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22. The following Table outlines the assignment of posts with both general and specific management responsibilities

Role	Name
<i>Director: Corporate Governance - owner of policy, ensure recentness and alignment with Fraud Prevention Plan</i>	Vacant (Risk Management officer – P Mpolaise)
<i>Chief Operating Officer: GSSSD – policy review and GSSSD implementation</i>	A Jooste
<i>Divisional managers and staff - adherence to policy</i>	All
<i>DDG: GSSSD - sponsor</i>	S N O Choane
OPSCOM	As per ToR for membership of OPSCOM

23. Compliance Audit and Enforcement

- This dti policy is subject to internal / external audits as part of the corporate governance strategy and fraud prevention plan.
- The Corporate Governance Directorate shall monitor the effective implementation of this policy as instituted by various divisions.
- All breaches of policies will be reported to the accounting officer / relevant line manager upon discovery and dealt with in accordance with the provisions this. Breaches of the policy must also be monitored to assess the effectiveness and appropriateness of policies.
- General training and awareness will take place on this policy and will be implemented by the Corporate Governance Directorate.

APPENDIX A – STATEMENT OF APPLICABILITY (SoA)

The following is a matrix of the applicable standard controls, indicating their applicability to the policy, and cross-referencing those that are applicable to this policy.

Paragraph in PSR Code of Conduct	Part of this Policy	Applicable	Implemented	Policy Statements

Table 1 – Towards reaching ISO XX: 2000 Statement of Applicability

Appendix B – some Examples

Financial Conflicts of Interest: Investigators may have equity, patent and other commercial interests in the products they research and develop, thus creating a financial conflict of interest that could influence their communication with potential research participants and the conduct of the supported study.

Potential participants should be told who is sponsoring the research study, whether the researchers are receiving compensation from the sponsor to conduct the research, and whether there are any potential conflicts of interest. Researchers should be required to disclose possible financial conflicts of interest to their institutions and to potential participants.

A public official having private business interests in the form of partnerships, shareholdings, and board membership, investments and government contracts

A public official leaving to work in a private company or a CEO taking up a key position in a government department with a commercial relationship with his / her former company

Areas where there is risk for such conflicts include but are not limited to:

Financial / economic interests (such as debts and assets)

Interacting regularly with the private sector

Family or private businesses

Involvement in secondary employment that potentially conflicts with an official's public duties

Contracting and procurement

Providing subsidies, financial assistance, concessions or other relief to those in need

Holding shares in companies

Non-Financial Conflicts of interest

Non-dti example: All researchers can be viewed as having non-financial conflicts of interest because they benefit from publications and grants, which are generally facilitated by positive research results. The resulting pressure to complete a study and publish impressive results could compromise the integrity of the research and the rights and safety of participants in various ways. Investigators need to be aware of the pervasive and subtle nature of such conflicts.

A public official having affiliations with other organizations (eg an official that sits on the board of a non-profit organization that receives funding from the official's department)

(This is very similar to a division / manager participating in a decision-making process when s/he / it stand to benefit one way or the other from a positive / favourable decision.)

A situation where an applicant to a position is a friend, brother or some other family member of a panel member involved in short-listing / interviewing for that position. If you are a panelist you don't stand to gain financially from this, but your friend, brother or whomever will benefit as your objectivity is compromised and you would be able to positively influence the panel for the particular appointment. In this case you must recuse completely as your inputs may bias the panel.

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APPENDIX C

AUTOMATED FINANCIAL DISCLOSURE FORM

The form is not attached because it is not yet approved by IT.

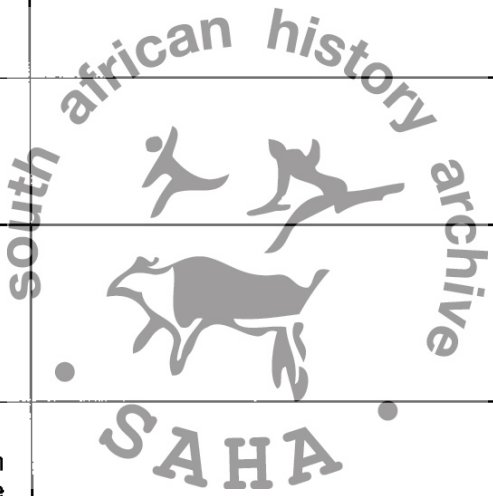


APPENDIX D**APPLICATION TO UNDERTAKE REMUNERATED WORK OUTSIDE
THE PUBLIC SERVICE**

1. Background information	
Name of applicant	
Directorate	
Position	
Annual package	
2. Details of intended additional work	
Please describe the nature of the work you are applying for permission to undertake	
Name and address of proposed employer	
Number of hours per week the proposed work will involve	
Remuneration to be earned	
3. Motivation by applicant	
Please give reasons why you wish to undertake the	

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proposed work	
When do you plan to do the work?	
What facilities/ equipment do you intend using?	
Do you see any potential conflict of interest between your duties within the Public Service, and the proposed additional work?	
4.Recommendation from supervisor	
Please comment on the performance record of the applicant	
Please comment on the attendance record of the applicant, including sick leave record	
Do you anticipate any conflict of interest between the proposed work and the applicant's duties? If yes, please elaborate.	
Do you support this application? (Yes/No). Please give reasons.	
Signatures	
• Director	
• Chief Director	
• DDG	
5. Declaration by applicant:	
I..... hereby apply for permission to undertake additional remunerated work outside the scope of my employment with the public service. I understand and acknowledge that:	



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- My responsibilities and commitments arising out of my employment with the Public Service take precedence over those of any other employment;
- The additional work must be performed outside of my prescribed hours with the Public Service;
- No property, equipment, premises or any resources of the State may be used for the additional work;
- The additional work should not hamper the performance of my official duties; and
- If granted, approval will be for twelve (12) months from the date of application, and may be withdrawn at any stage.

Signed.....Date.....

Approved/Not approved:.....

Signature:.....

Date:.....



