

§ 1506.8

upon request, except to the extent that disclosure is prohibited by law.

(Approved by the Office of Management and Budget under control number 3205-0001)

[55 FR 5350, 5356, Feb. 14, 1990; 55 FR 11720, Mar. 29, 1990]

§ 1506.8 General standards for independent contractor activities.

(a) In connection with the performance of any contract and during the term of such contract, a contractor, its key employees, subcontractors, and its related entities, shall not:

(1) Act for the RTC in any matter in which either the contractor, its key employees, subcontractors, or a related entity, has a conflict of interest unless the Contractors' Conflicts Committee or the Outside Counsels' Committee has determined that such participation is appropriate;

(2) Accept or solicit for itself or others favors, gifts, or other items of monetary value from any individual or entity whom the contractor, its key employee, or subcontractor, knows is seeking official action from the RTC in connection with the contract or has interests which may be substantially affected by the performance or non-performance of duties to the RTC;

(3) Improperly use or allow the improper use of RTC property, or property over which the contractor, its key employee, subcontractor, or related entity, has supervision or control by reason of the contract, for the personal benefit of any individual or entity other than the RTC; and

(4) Make any unauthorized promise or commitment on behalf of the RTC.

(b) Any individual who acts for or on behalf of the RTC pursuant to a contract or any other agreement shall be deemed a public official for purposes of 18 U.S.C. 201. That statute generally prohibits the direct or indirect acceptance by a public official of anything of value in return for being influenced in, or because of, an official act. Violators are subject to criminal penalties.

(c) Any individual or entity providing information or certification to the RTC

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is subject to 18 U.S.C. 1001.¹ Upon receipt of information indicating that any individual or entity has violated any provision of title 18 of the U.S. Code or other provision of criminal law, the RTC shall refer such information to the Department of Justice.

§ 1506.9 Limitations on concurrent and subsequent activities.

(a) *Avoiding undue advantage.* The Corporation has determined that contractors performing services for the RTC may have an undue advantage over competitors if they seek additional contracts with the RTC or with third parties which relate to work being performed or already performed for the RTC. To prevent such advantage, restrictions, dependent on the scope of contractual responsibilities, must be imposed on the concurrent and subsequent activities of contractors. Accordingly, the following restrictions shall apply unless waived pursuant to paragraph (b) of this section.

(1) A contractor engaged by the RTC to develop a plan of action concerning a specific insured institution cannot enter into any subsequent contract with the RTC to implement its recommendations or assist others in regard to such contract. This restriction does not bar the RTC, at its discretion, from determining to simultaneously engage a single contractor to both develop and implement a plan of action;

(2) A contractor engaged by the RTC to manage, lease, value, or establish a sales price for an asset or group of assets cannot enter into any subsequent contract with the RTC to purchase that asset or assets or assist someone other than the RTC or FDIC seeking to purchase that asset or those assets from the RTC; and

(3) A contractor cannot act for the RTC in the same particular matter in which it or a related entity has a business or financial interest.

(4) Additional limitations may be imposed on a contractor's concurrent or subsequent activities on a case-by-case basis in situations in which the RTC concludes that a contractor may gain

¹Section 1001 of title 18 generally prohibits the making of any false or fraudulent statement to a federal officer.