

RESOLUTION TRUST CORPORATION

Interim Statement of
Principles of Ethical Conduct for Independent Contractors
to the Resolution Trust Corporation

AGENCY: Resolution Trust Corporation (RTC).

ACTION: Adoption of interim statement and request for comments.

SUMMARY: The RTC hereby adopts an interim statement prescribing the minimum standards of ethical conduct to which it expects persons or entities with which it contracts for services to adhere and, since the minimum standards are likely to be incorporated into any final conflict-of-interest rules and regulations applicable to independent contractors which the RTC promulgates, invites comments on the appropriateness of these standards to the activities of independent contractors.

DATE: The standards set forth in the interim statement are effective immediately. Comments on the standards should be submitted no later than October 31, 1989.

ADDRESS: All comments should be submitted to John M. Buckley, Jr., Executive Secretary, Resolution Trust Corporation, 550 - 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to Room 6097 between 8:30 a.m. and 5:00 p.m. on business days. Comments may also be inspected in Room 6097 between 8:30 a.m. and 5:00 p.m. on business days. (Fax number: (202) 347-2773 or 2775).

FOR FURTHER INFORMATION CONTACT: Katherine A. Corigliano, Ethics Program Manager, Federal Deposit Insurance Corporation, 550 - 17th Street, N.W., Washington, D.C. 20429, telephone (202) 898-7272.

SUPPLEMENTARY INFORMATION: The RTC was established by section 21A(b) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and its purposes are (1) to manage and resolve all cases involving depository institutions (a) the accounts of which were previously insured by the Federal Savings and Loan Insurance Corporation and (b) for which a conservator or receiver was or is appointed during the period beginning on January 1, 1989 and ending on August 9, 1992; and, in so doing, (2) to sell or otherwise dispose of such institutions or the assets of such institutions with due consideration to the objectives, among others, of maximizing the net present value return from the sale or other disposition of such institutions or assets, making efficient use of funds provided by the Federal Government (i.e., the American taxpayer) for the resolution of cases, and minimizing any loss to the Federal Government in the resolution of cases.

Section 21A(b)(11)(A)(ii) of the Federal Home Loan Bank Act directs the RTC, in carrying out its duties, to use the services of private persons (including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services) if such services are available in the private sector and the RTC determines use of such services is practicable and efficient.

Section 21A(p)(6) of the Federal Home Loan Bank Act prohibits the RTC from engaging independent contractors to perform services on its behalf, and contractors in turn may not retain subcontractors or assign any of their employees to perform services on behalf of the RTC, who--

(1) do not meet the minimum standards of competence, experience, integrity, and fitness to be established by the RTC Oversight Board; and

(2) have (A) been convicted of a felony; (B) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any Federal banking agency; (C) demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or (D) caused a substantial loss to the Federal deposit insurance funds.

Other relevant provisions of the Federal Home Loan Bank Act require persons seeking contracts with the RTC--

-- to include in their offers, in addition to such other information as the RTC Oversight Board may prescribe by regulation, a list and description of any instance during the preceding five years in which the person or company under such person's control defaulted on a material obligation to any insured depository institution; and

-- to agree that no person will be employed, directly or indirectly, under any contract with the RTC unless a list and description of any instance during the preceding five years in which the person defaulted on a material obligation to any insured depository institution, and such other information as the RTC Oversight Board may prescribe by regulation, is submitted to the RTC and the RTC does not disapprove of the direct or indirect employment of such person.

Further, section 21A(p)(3) of the Federal Home Loan Bank Act requires the RTC, not later than 180 days from the date of enactment of that section, to promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41 of the United States Code.

Recognizing that the important work of the RTC must commence immediately and that the prior notice, public participation, and delayed effective date provisions of the Administrative Procedure Act will delay the promulgation of final rules and regulations for several months, the Board of Directors (the "Board") of the RTC considers it imperative that individuals or entities with whom the RTC contracts for services understand immediately and acknowledge that the Board will not tolerate or condone behavior or actions on their part or on the part of their employees assigned to perform functions on behalf of the RTC (hereinafter collectively referred to as "RTC contractors") which evidence self-dealing or political or other favoritism.

Further, the Board expects RTC contractors to perform their duties and responsibilities to the RTC with the highest degree of honesty and integrity, so as to maintain public confidence in the RTC. Actions on the part of RTC contractors which result in or create the appearance of a conflict of interest or which suggest political or other favoritism may result in the termination of contracts. In any case where any such action indicates a possible violation of Federal criminal conflict-of-interest or other applicable criminal statutes, such as making false or fraudulent statements in a Government matter, the matter will be referred immediately to the Department of Justice for investigation and prosecution.

Pending the promulgation of final rules and regulations implementing the provisions of section 21A(p)(3) of the Federal Home Loan Bank Act, RTC contractors are expected by the Board to conduct their activities in an exemplary manner and to adhere, at a minimum, to the following:

**INTERIM STATEMENT OF PRINCIPLES OF ETHICAL CONDUCT FOR INDEPENDENT
CONTRACTORS TO THE RESOLUTION TRUST CORPORATION**

1. RTC contractors will NOT hold financial interests that conflict with the conscientious performance of duty. Before being engaged by the RTC, contractors will be required, under appropriate circumstances, to make disclosures relative to their employment and financial interests and those of their spouses, their minor children, and others with whom they may have business or financial ties. The information required to be disclosed in any given case shall be limited to that which is reasonably necessary to allow the RTC to determine that no conflicts or potential conflicts of interest exist with respect to the services proposed to be performed for the RTC and shall also include certifications to the effect that the contractor meets minimum standards of competence, experience, integrity, and fitness and is not otherwise ineligible to be engaged by the RTC.

2. RTC contractors will NOT participate in any matter in which they, their spouses, their minor children, persons or organizations with whom they have business or financial ties, or persons or organizations with whom they are negotiating or have an arrangement for future employment have a financial interest, unless the Contractor Conflicts Committee, to be formed for the purpose of reviewing such conflicts-of-interest issues, determines that the relationship or financial interest is not so significant as to warrant disqualification from participation in the matter.

3. RTC contractors will protect and conserve RTC property and will not use it or allow its use for other than authorized activities. They will not, for example, use or allow the use of property or assets of a savings association in conservatorship or receivership or of property otherwise held by the RTC (e.g., automobiles, furniture and equipment, or objets d'art) for their personal use or for the use of other firm members, family members, personal friends, or persons with whom they have business or financial ties.

4. RTC contractors will NOT directly or indirectly acquire or assist another person or organization in acquiring an interest in any institution or the assets or property of any institution in conservatorship or receivership with respect to which they are rendering or have rendered services to the RTC.

5. RTC contractors will NOT allow the unauthorized use of non-public information obtained as a result of rendering services to the RTC and shall take all reasonable measures to avoid unintentional or inadvertent disclosure of such information both within and outside the contracting organization. All information obtained by a contractor as a result of rendering services to the RTC will be treated as non-public information unless its disclosure is specifically authorized in writing by the RTC or unless it becomes part of the body of public information from a source other than the contractor.

6. RTC contractors will NOT engage in financial transactions using non-public information from RTC or allow the improper use of such information to further any private interest.

7. During the term of their engagement, RTC contractors will NOT offer to any RTC employee any gifts or other items of monetary value (e.g., food, refreshments, and entertainment; "green" fees; boating excursions; and tickets to theatrical, sporting, social, or charitable events).

8. During the term of their engagement, RTC contractors will NOT solicit or accept for themselves or for others gifts or other items of monetary value from any person or entity who, to the knowledge of each contractor, is seeking official action from the RTC in connection with the contract under which services are being rendered to the RTC or has interests which may be substantially affected by the performance or nonperformance of the contractors' duties to the RTC. They will not, for example, solicit or accept gifts or other items of monetary value from--

(a) directors, trustees, officers, or employees of, or suppliers of goods and services to, any savings association in conservatorship or receivership with respect to which they are rendering services to the RTC;

(b) debtors to or creditors of any savings association in conservatorship or receivership with respect to which they are rendering services to the RTC;

(c) potential acquirers of failing or failed savings associations or of the assets of such associations with respect to which they are rendering services to the RTC;

(d) persons or entities, and their representatives, in litigation with the RTC in connection with matters with respect to which they are rendering services to the RTC;

(e) contractors or subcontractors to, or persons or entities seeking contracts with, the RTC.

9. RTC contractors will make no unauthorized commitments or promises of any kind purporting to bind the RTC.

10. RTC contractors will act impartially and not give preferential treatment to any private organization or individual in the performance of their duties and responsibilities under their terms of their contracts.

11. Firms or individuals with an interest in obtaining an RTC contract or who are negotiating the terms of an RTC contract will NOT make an offer of employment to any RTC employee who is personally and substantially involved in the negotiation of the contract.

12. RTC contractors will endeavor to avoid any actions which could create the appearance that they are violating the ethical principles and standards stated herein or any laws related thereto and will agree to monitor compliance with such standards and laws by any subcontractors they retain or any of their employees they assign to perform services on behalf of the RTC.

13. RTC contractors will NOT subcontract with anyone who would not otherwise be eligible to contract with the RTC directly.

14. RTC contractors will certify that they are in compliance with these principles.

Other Considerations for RTC Contractors

Persons or entities seeking contractual relationships with the RTC are reminded that, pursuant to section 21A(p)(1)(B) of the Federal Home Loan Bank Act, ". . . [a]ny individual who, pursuant to a contract or any other agreement, acts for or on behalf of the [RTC] shall be deemed to be a public official for the purposes of section 201 of title 18, United States Code." That statute imposes criminal sanctions against public officials (and, consequently, against contractors to the RTC) who accept bribes in connection with the performance of their official duties.

STATE
ALABAMA
ARIZONA
ARKANSAS
CALIFORNIA
COLORADO
FLORIDA
GEORGIA
ILLINOIS
KANSAS
LOUISIANA
MISSISSIPPI
MISSOURI
NEBRASKA
NEW MEXICO
TENNESSEE
TEXAS
OTHER STATES

TOTALS
CONSERVATION
2-01-89
4-01-89
AFTER 6

TOTALS
RTC REVENUE
EASTERN
CENTRAL
SOUTH
WESTERN

TOTALS
ASSET
<= 500
> 500

TOTAL
INCOME
ORIGINAL
CUMULATIVE