

LLS:SL:rsn

cc: Files Sudol/
Lindenbaum Bennett
Retrieval

17 FEB 1981

MEMORANDUM FOR JOHN W. FOSSUM
Director of Personnel
Department of Agriculture

Re: Ownership of agricultural or ranching
interests by Department of Agriculture
employees.

This responds to your request of February 6, 1981, for confirmation of your Department's view that it is not precluded from employing individuals who own agricultural or ranching interests.

The statute pertinent to your request is 18 U.S.C. 208(a), which precludes an employee of the Government from participating as such in a "particular matter in which, to his knowledge, he ... has a financial interest." This provision does not disqualify anyone from holding a federal position because of possible conflicts of interest. It applies to an individual only after appointment and then on a case-by-case basis. Moreover, under authority granted by 18 U.S.C. 208(b), a designated superior of the employee may waive the prohibition of § 208(a) in a particular matter upon his determination that the disqualifying financial interest is insubstantial.

It should be noted that the nature of property or interests in property owned by a qualified candidate for a position might foreshadow his withdrawal from so many matters expected to come before him that conceivably he would not meet his responsibilities. In the rare situation of that kind, the appointing official, while not compelled by § 208(a) to forego the appointment, may find it advisable to do so.

In sum, we agree that a person's ownership of agricultural or ranching interests is not in itself a bar to service in the Department of Agriculture and that conflict-of-interest questions stemming from such ownership are to be resolved as they arise.

Larry L. Simms
Acting Assistant Attorney General
Office of Legal Counsel