



# Treasury Ethics Handbook



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# Treasury Ethics Handbook

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## **MEMORANDUM FOR ALL TREASURY EMPLOYEES**

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**SUBJECT:** **Treasury Ethics Handbook**

Treasury's ethics program strives to foster an atmosphere in which truth, objectivity, fairness and good judgment drive the Department's decision-making process at all times. The ethics statutes, regulations, and directives summarized in this newly updated Treasury Ethics Handbook codify the modern versions of ideas about civil government upon which our country was founded.

We view these ethics rules as setting a baseline of ethical behavior, but we aim to go beyond this benchmark and strive to embody the ethical spirit and virtues that these rules are intended to capture. We ask that all Treasury employees consider at all times whether their decision-making processes will encourage or erode the public's confidence and faith in civil service.

The Treasury Ethics Handbook will serve as an excellent resource for Treasury personnel. The Handbook includes, among other things, summaries of the Executive Branch Standards of Conduct, Treasury's supplemental ethics regulations, and the criminal conflict of interest statutes. But, because these ethics provisions are complex, and they are constantly evolving, we urge you to visit the ethics program website at <http://intranet.treas.gov/ethics>, and to contact an ethics official, for further guidance.

Following this memorandum is a [list](#) of Treasury ethics officials for Departmental Offices and for each Bureau. As always, the Treasury ethics officials are prepared to assist you with any and all ethics questions. You can reach the DO ethics program by email at [ethics@do.treas.gov](mailto:ethics@do.treas.gov) or by telephone at 202-622-0450.



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# TABLE OF CONTENTS

<b>Chapter 1: Financial Conflicts of Interest</b>	
A. General Rule .....	3
B. Remedies .....	5
<b>Chapter 2: Impartiality</b>	
A. General Rule .....	11
B. Remedies .....	12
<b>Chapter 3: Special Government Employees and Conflicts of Interest</b>	
A. Definition of Special Government Employee .....	17
B. Representing Persons Before Federal Agencies As an Outside Activity .....	17
C. Supplementation of Government Salary .....	18
D. Other Statutes and Regulations.....	18
<b>Chapter 4: Invitations and Gifts from Outside Sources</b>	
A. General Rule.....	21
B. Exceptions.....	22
C. Limitations on the Use of the Gift Exceptions.....	24
D. Tangible Gifts and the Gift Unit.....	24
E. Financial Disclosure Reporting Requirements.....	26
<b>Chapter 5: Invitations to Speak at Certain Events</b>	
.....	29
<b>Chapter 6: Gifts between Employees</b>	
A. General Rule.....	33
B. Exceptions.....	33
C. Group Gifts.....	35

<b>Chapter 7: Outside Employment and Activities</b>	
A. General Rule.....	39
B. Outside Earned Income Limitations Applicable to Certain Political Appointees and Non-Career Employees.....	39
C. Earning Compensation for Teaching, Speaking, or Writing .....	40
D. Serving as an Expert Witness .....	41
E. Representing Another before a Federal Agency as an Outside Activity .....	41
<b>Chapter 8: Seeking and Negotiating for Future Employment</b>	
A. General Rule.....	45
B. Notification of Recusal.....	46
C. Limited Exception for Matters of General Applicability .....	46
D. Use of Headhunters or Other Intermediaries.....	47
E. Acceptance of Employment.....	47
F. Travel Reimbursements for Employment Interviews .....	47
<b>Chapter 9: Accepting Gifts from and Seeking Employment with Federal Contractors</b>	
A. Gifts from Contractors .....	51
B. Restrictions on Seeking Employment with an Agency Contractor .....	53
<b>Chapter 10: Post-Employment Restrictions</b>	
A. Section 207 Restrictions Applying to All Former Employees.....	57
B. Section 207 Restrictions Applying Only to Senior Employees .....	58
C. Additional Restrictions Affecting Post-Employment Activity .....	59
<b>Chapter 11: Financial Disclosure and Annual Ethics Training Requirements</b>	
A. Public Financial Disclosure Filing .....	63
B. Confidential Financial Disclosure Filing .....	63
C. Electronic Report Versions .....	64
D. Ethics Training .....	64

<b>Chapter 12: Reimbursement of Official Travel Expenses by Outside Sources</b>	
A. Payments from Non-Federal Sources Generally .....	69
B. Payments from Tax-Exempt and Governmental Organizations .....	69
C. Payments from Foreign Governments .....	70
<b>Chapter 13: Political Activities and the Hatch Act</b>	
.....	75
<b>Appendix A: Executive Order 12731</b>	
.....	79
<b>Appendix B: Synopsis of the Standards of Ethical Conduct</b>	
.....	81
<b>Appendix C: Summary of Treasury Supplemental Regulations</b>	
.....	100



# CHAPTER 1: Financial Conflicts of Interest



# CHAPTER 1: Financial Conflicts of Interest

Federal employees are subject to a criminal statute governing financial conflicts of interest, 18 U.S.C. § 208. Regulations issued by the Office of Government Ethics (OGE), at Subpart D of the Government-wide Standards of Conduct, 5 C.F.R. Part 2635, and at 5 C.F.R. Part 2640, explain and implement this statute.

Section 208 provides criminal penalties and substantial civil fines for violations. Therefore, it is advisable to consult with an ethics official whenever you have a question regarding the application of this statute. The following discussion is only a summary of these complicated provisions. For additional information, please visit the ethics website at <http://intranet.treas.gov/ethics> or contact your ethics official.

## A. General Rule

18 U.S.C. § 208(a) bars you from:

- Participating personally and substantially in an official capacity
- In any particular matter
- In which, to your knowledge, you, or anyone whose interests are imputed to you
- Has a financial interest,
- If the particular matter will have a direct and predictable effect on that interest,
- Unless a regulatory waiver applies or you receive an individual waiver.

## Imputed Interests

The following persons' financial interests are imputed to you for purposes of § 208:

- Your spouse and minor child;
- An organization or entity for which you serve as officer, director, trustee, general partner, or employee; and
- A person with whom you are negotiating for or have an arrangement

concerning prospective employment. See Chapter 8 of this Handbook for a discussion of the rules governing seeking and negotiating for employment.

Throughout this chapter, the reference to “your” financial interests should be read to include these imputed interests.

## **Personal and Substantial Participation**

Personal and substantial participation means involvement in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action. “Personal” means direct participation, and it includes the participation of a subordinate in a matter when actually directed by the employee. “Substantial” means that an employee’s involvement is or appears to be of significance to the matter. It requires more than official responsibility, mere knowledge, perfunctory involvement, or involvement in an administrative or peripheral issue. However, participation often is substantial even if it does not determine the matter’s outcome.

## **Particular Matter**

The term “particular matter” includes matters that involve deliberation, decision or action that is focused upon the interests of either specific persons or a discrete and identifiable class of persons. Particular matters include judicial or other proceedings, applications or requests for rulings, contracts, claims, controversies, charges, accusations, or arrests, but do not necessarily require formal parties. The term also may include matters of general applicability including legislation, or rulemaking that is narrowly focused on the interests of a discrete and identifiable class of persons, such as a particular industry or geographic sector. The consideration or adoption of broad policy options affecting the interests of a large and diverse group of persons is not a particular matter. For example, a proposed regulation modifying the disclosure requirements for national banks would be sufficiently focused on the interests of banks to constitute a particular matter. However, deliberations on the general merits of an omnibus bill, such as the Tax Reform Act of 1986, are not sufficiently focused on the interests of specific persons or on a discrete and identifiable group of persons to constitute participation in a particular matter.

## **Financial Interest**

Financial interests arise from ownership of stock, bonds, mutual funds, and real estate, as well as from receiving salary, a loan, or a job offer. Financial conflicts of interest can occur whenever there is the potential for gain or loss to you, or to other

persons whose interests are imputed to you, as a result of governmental action on a particular matter. The magnitude of any gain or loss that can result from the Government's action in the matter is irrelevant. Some holdings, such as stock in a company, result in attribution of all the company's financial interests to the stock holder. Thus, the financial interest of a stockholder is not limited to changes in the stock's price.

## **Direct and Predictable Effect**

Interpretations of § 208 provide that a matter will be deemed to affect a financial interest only if the matter's effect on that interest is "direct and predictable." A particular matter will have a "direct" effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest. A particular matter will have a "predictable" effect if there is a real, as opposed to a speculative, possibility that the matter will affect the financial interest. It is not necessary that your individual work on the matter affect the financial interest in order to violate § 208. Rather, the analysis focuses on the Government's potential actions in the particular matter and whether those actions will affect the financial interest. As noted above, for employees who are stockholders of a company, any matter that affects the issuing company's prosperity is presumed to directly and predictably affect the financial interest, even if the stock's trading price is not affected.

## **B. Remedies**

There are several ways to resolve a financial conflict of interest. These remedies are summarized below. However, this is only a summary. To determine the proper remedy, please contact your ethics official.

### **1. Recusal**

"Recusal" as it relates to ethics matters means nonparticipation, and it is used synonymously with the word "disqualification." Unless you are authorized to participate in a particular matter by an exemption or a waiver, or you have divested the asset, you are required to disqualify yourself. Recusal or disqualification is accomplished simply by not participating in the particular matter. "Participate" for this purpose includes providing advice, opinions, or recommendations.

If you become aware of the need to disqualify yourself from participating in a particular matter to which you have been assigned, you should notify the person responsible for your assignments. You are not required to file a written

disqualification. However, you may elect to create a written record of your actions by providing written notice to your supervisor or other appropriate official. A written recusal serves as clear evidence of your intent if questions are raised subsequently concerning your participation in any particular matter.

## **2. Divestiture**

In some cases, you may be required to sell or otherwise divest of the disqualifying financial interest if your ethics official determines that a substantial conflict exists between your financial interest and your duties. Upon sale or other divestiture of a financial interest that causes your disqualification from participation in a particular matter, you are no longer prohibited from participating.

If you are directed to divest a financial interest, you may be eligible to defer the tax consequences of the sale pursuant to a certificate of divestiture (CD). A CD is a document issued by the Director of OGE that allows you to defer paying tax on the capital gains that result from the sale of property. The purpose of the CD program is to minimize the burden that may result from asset sales that are required by the conflict of interest laws. However, if you divest before OGE issues the CD, you will not be eligible for this tax treatment. The procedural requirements for seeking a CD are extensive and require that the Designated Agency Ethics Official submit a request to OGE on behalf of the eligible employee. For these reasons, please consult with an ethics official if you believe you are eligible for a CD.

## **3. Individual Waiver - 18 U.S.C. § 208(b)(1)**

Pursuant to 18 U.S.C. § 208(b)(1), the Treasury official responsible for appointing you to your position, in consultation with the Designated Agency Ethics Official, may issue you a written waiver to permit you to participate in a particular matter that would affect your financial interests. The waiver must be based on the determination that the disqualifying financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of your services to the Government. Factors to be considered in making this determination include the nature of the interest, the dollar value of the interest (as a percentage of your overall investment portfolio), the nature and importance of your role in the matter, and the sensitivity of the matter. Your ethics official is required to consult with OGE before you receive a waiver, and a copy of the waiver must be provided to OGE and made publicly available by the agency upon request.

## **4. Regulatory Exemptions - 5 C.F.R. Part 2640**

The Office of Government Ethics has exempted by regulation certain categories

of financial interests from the application of 18 U.S.C. § 208. A regulatory exemption applies only if its specific criteria are met. The most commonly applicable regulatory exemptions are summarized below. Because 18 U.S.C. § 208 is a criminal statute, however, please consult with an ethics official whenever you have a question regarding the application of the statute or the regulatory exemptions. Also, please visit the ethics website at <http://intranet.treas.gov/ethics>.

### **a. Publicly Traded and Municipal Securities**

The dollar amount of the regulatory exemptions applicable to publicly traded and municipal securities differ depending on whether the particular matter is a specific party matter or a matter of general applicability (“nonparty matter”) and, for party matters, whether your financial interest is in a party or a nonparty.

For example, in the case of a specific party matter, there is a \$15,000 de minimis exemption that permits you to participate if your financial interest is in the publicly traded (or municipal) securities of a *party* to the matter. But the threshold is \$25,000 if your financial interest is in the publicly traded (or municipal) securities of a *nonparty*. For nonparty matters, the exemption amount is \$25,000 in any one entity affected by the matter and \$50,000 in all affected entities. A particular matter of general applicability includes legislation or rulemaking that is narrowly focused on the interests of a discrete and identifiable class of persons, such as matters focusing on a particular industry or geographic sector.

### **b. Mutual Funds**

**Diversified Mutual Funds** – You may participate in any particular matter affecting one or more holdings, in any amount, of a diversified mutual fund or a diversified unit investment trust if the disqualifying financial interest in the matter arises because of your ownership of an interest in the fund or trust. A mutual fund or unit investment trust is considered diversified if it has no stated policy of concentrating its investments in any industry, business, single country other than the United States, or bonds of a single state within the United States.

**Sector Mutual Funds** – You may participate in any particular matter affecting one or more holdings, in any amount, of a sector mutual fund where the holding that would be affected by the matter is not in the sector in which the fund concentrates, and where the potential disqualifying financial interest in the matter arises because of your ownership of an

interest in the fund. A sector fund is a mutual fund that has a stated policy of concentrating its investments in an industry, business, single country other than the United States, or bonds of a single state within the United States.

For example, if you own shares in XYZ Health Care Fund and are assigned to work on a computer contract, you may participate in a decision to award a computer contract to IAM Computer Company, notwithstanding the fact that XYZ Health Care Fund owns shares of common stock in IAM Computer Company, since the computer company is not invested in the health care sector.

Where the holding that would be affected by the matter is in the sector in which the fund concentrates, you may participate in a particular matter affecting that holding if the aggregate market value of the interest in the sector fund(s) does not exceed \$50,000. For example, if you own \$35,000 worth of shares in Virtual Energy Fund, you may rely on this exemption to participate in deliberations involving proposed energy legislation that would affect the tax treatment of certain energy interests, since your holding in the Virtual Energy Fund does not exceed the \$50,000 threshold.

### **c. Other Regulatory Exemptions**

A number of other regulatory exemptions apply to, for example, your investments in an employee benefit plan, in long-term and short-term Federal Government securities, and in tax-exempt organizations. There also is an exemption that applies where the disqualifying financial interest arises from your general partner's ownership of publicly traded, municipal, or long-term Federal Government securities, provided that: (1) the value of the securities does not exceed \$200,000 (and ownership of the securities is unrelated to the partnership); or (2) your only relationship to the general partner is as a limited partner in a partnership that has at least 100 limited partners.

# CHAPTER 2: Impartiality



## CHAPTER 2: Impartiality

The Government-wide Standards of Conduct, 5 C.F.R. Part 2635, establish procedures for you to use when your participation in a matter does not raise a financial conflict of interest, but it may raise concerns about your impartiality because of certain other kinds of interests or relationships. The following discussion is only a summary of these provisions. For additional information, please visit the ethics website at <http://intranet.treas.gov/ethics> or contact your ethics official.

### A. General Rule

The Standards provide that you cannot participate:

- In a “particular matter involving specific parties;”
- If you know that a person with whom you have a “covered relationship” is or represents a party to the matter, or if the matter will have a direct and predictable effect on a financial interest of a member of your household; and
- If the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality in the matter;
- Unless a Treasury ethics official issues you an authorization to participate.

### Particular Matter Involving Specific Parties

A particular matter involving a specific party or parties typically is a proceeding affecting the legal rights of identifiable parties, or an isolated transaction, or related set of transactions, between identifiable parties. Generally, rulemaking, legislation, and the formulation of general policy standards or objectives **are not** particular matters involving specific parties.

### Covered Relationship

You have a “covered relationship” with a(n):

- Person with whom you have or seek a business or other financial relationship, other than a routine consumer transaction;

- Member of your household or a relative with whom you have a close personal relationship (“member of your household” includes all those persons who live with you, e.g., adult children, significant others, housemates);
- Person or organization who your spouse, parent, or dependent child serves or seeks to serve as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee, whether or not for compensation;
- Person or organization you have, in the past year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee, whether or not for compensation; or
- Organization in which you are an active participant. (“Active participation” includes, for example, serving as an organization’s committee or subcommittee spokesperson or chairperson. Mere membership in an organization does not, in itself, constitute active participation.)

## **B. Remedies**

### **1. Recusal**

“Recusal” as it relates to ethics matters means nonparticipation, and it is used synonymously with the word “disqualification.” Unless you are authorized to participate, you are required to disqualify yourself. Recusal or disqualification is accomplished simply by not participating in the matter. “Participate” for this purpose includes providing advice, opinions, or recommendations.

If you become aware of the need to disqualify yourself from participating in a matter to which you have been assigned, you should notify the person responsible for your assignments. You are not required to file a written disqualification. However, you may elect to create a written record of your actions by providing written notice to your supervisor or other appropriate official. A written recusal serves as clear evidence of your intent if questions are raised subsequently concerning your participation in a matter.

### **2. Termination of the Conflicting Relationship**

Some covered relationships can be terminated. For example, if you have a covered relationship with an organization that you serve as an “active participant,” you can

resign the conflicting position. If your covered relationship is based on having a business or financial relationship with a party to the matter, you may be able to terminate that relationship as well.

### **3. Authorization to Participate**

You may request that a Treasury ethics official authorize you to participate in the matter notwithstanding the conflict of interest. A Treasury ethics official may grant such authorization based on a determination that the Government's interest in your participation outweighs the concern that your participation may cause a reasonable person to question the integrity of the agency's programs and operations. To make such a determination, a Treasury ethics official will consider all relevant facts and circumstances, including the nature of the covered relationship involved, the sensitivity of the matter and the importance of your role in it, and the difficulty of reassigning the matter to another employee.

A written authorization must be obtained before you begin to participate.



CHAPTER 3:  
Special  
Government  
Employees and  
Conflicts of Interest



# CHAPTER 3: Special Government Employees and Conflicts of Interest

Most of the ethics provisions discussed in this Handbook apply equally to both “Special Government Employees” (SGEs) and to other employees. A few of them, however, have slightly different applications to SGEs. This is a brief summary of the most notable differences. For more information please visit the ethics website at <http://intranet.treas.gov/ethics> or contact your ethics official.

## **A. Definition of Special Government Employee**

An SGE is defined in 18 U.S.C. § 202(a) as “an officer or employee ... who is retained, designated, appointed, or employed” by the Government to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days. The determination whether an employee is an SGE is made prospectively, at the time the individual is appointed or retained.<sup>1</sup>

Although any day on which work is performed generally should be counted toward the statutory limit on days of service, certain kinds of activities are considered sufficiently insubstantial or de minimis that the days on which such activities are performed need not be counted.

## **B. Representing Persons Before Federal Agencies As an Outside Activity**

The criminal conflict of interest statutes regarding representing, or accepting compensation for the representation of, another before a Federal agency apply differently to SGEs. Most Federal employees may not, other than in the proper discharge of their official duties, represent anyone before a Federal agency or court regarding any matter in which the United States is a party or has a direct and substantial interest. Federal employees also may not receive compensation for such representational services, regardless of who performs the representation.

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1 If the agency designates an employee as an SGE, based on a good faith estimate, but the employee unexpectedly serves more than 130 days during the ensuing 365-day period, the individual will still be deemed an SGE for the remainder of that period. However, upon the commencement of the next 365-day period, the agency will need to reevaluate whether the employee is correctly designated as an SGE, based on the expected number of days he or she will serve.

See discussion in Chapter 7 of this Handbook.<sup>2</sup> Both of these statutes, however, are limited in their application to SGEs. First, SGEs are restricted by these laws only with respect to participating in a “particular matter involving specific parties.” Furthermore, for an SGE serving for 60 days or fewer, the restriction only includes matters in which the SGE actually has participated for the Government. For an SGE serving more than 60 days, it also covers a matter pending in the agency in which the SGE is serving, even if the SGE did not participate in the matter personally.

### **C. Supplementation of Government Salary**

Another criminal conflict of interest statute, 18 U.S.C. § 209, prohibits most Federal employees from receiving “any salary, or any contribution to or supplementation of salary,” from an outside source as compensation for their Government services. SGEs are exempt from this prohibition.

### **D. Other Statutes and Regulations**

There also are minor differences in the application of the post-employment conflict of interest statute, 18 U.S.C. § 207; the financial conflicts of interest statute, 18 U.S.C. § 208; the Standards of Conduct, 5 C.F.R. Part 2635; and the financial disclosure regulations at 5 C.F.R. Part 2634.

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<sup>2</sup> 18 U.S.C. § 203 prescribes criminal penalties for anyone who directly or indirectly “demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another,” before the Executive Branch or a court in connection with any particular matter in which the United States is a party or has a direct and substantial interest, if any part of the representation occurs while that person is a Government employee. A similar criminal statute 18 U.S.C. § 205 prohibits a Federal employee from acting as agent or attorney for anyone other than the United States before the Executive Branch or a court, concerning any particular matter in which the United States is a party or has a direct and substantial interest. An employee also cannot act as agent or attorney for prosecuting any claim against the United States or receive compensation for behind the scenes assistance with regard to such a claim.

# CHAPTER 4: Invitations and Gifts from Outside Sources



# CHAPTER 4: Invitations and Gifts from Outside Sources

The Government-wide Standards of Conduct, 5 C.F.R. Part 2635, define “gift” very broadly. A gift may be a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. Although this chapter focuses on the gift of free attendance at an event, Section D of this chapter also summarizes your responsibilities, and those of the Gift Unit, with regard to processing and accepting tangible gifts. For additional information on the rules regarding gifts, please visit the ethics website at <http://intranet.treas.gov/ethics> or contact your ethics official.

## **A. General Rule**

As noted above, free attendance at a dinner, reception, conference, or other event normally is considered a gift. Generally, you may not accept an invitation from a prohibited source, or an invitation that is offered because of your official position. However, there are several exceptions to this rule. These exceptions are summarized in Section B of this chapter.

### **A prohibited source is any person or entity:**

- Who has or seeks business with Treasury;
- Who has interests that may be affected by the performance or non-performance of your official duties;
- Who seeks official action by Treasury;
- Who is regulated by Treasury; or
- That is an organization, a majority of whose members are described above.

## **B. Exceptions**

### **1. Speaking Engagements**

When you are assigned to participate as a speaker or panel participant, or otherwise to present information on behalf of the agency at a conference or other event, you may accept free attendance at the event, provided by the sponsor, on the day of your presentation. Free attendance includes waiver of all or part of a conference or other fee, and the provision of food, refreshments, entertainment, instruction, and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

### **2. Gifts Worth \$20 or Less**

If the cost of a gift of attendance is \$20 or less (including tax and tip for gifts of restaurant meals), you may accept the gift provided that the aggregate market value of gifts received from any one source under this exception does not exceed \$50 in any calendar year. If the value of any gift offered on a single occasion exceeds \$20, you cannot pay the difference between \$20 and the gift's value to accept it.

### **3. Gifts from Friends and Relatives**

You may accept an invitation from a long-time friend or from a relative, irrespective of the cost, when the circumstances make it clear that the invitation is motivated by the personal relationship. Factors in determining the donor's motivation should include the history of your relationship and whether the friend or relative personally pays for the gift.

### **4. Gifts Based on Outside Business or Employment Relationships**

You may accept an invitation to an event, such as a holiday party, resulting from outside employment or a recent business or employment relationship, when it is clear that the benefits have not been offered or enhanced because of your official position. Similarly, you may accept an invitation that is based on your spouse's business or employment activities where it is clear that the invitation has not been offered or enhanced because of your official position.

### **5. Gifts from Representatives of Foreign Governments**

The Foreign Gifts and Decorations Act generally permits you to accept a tangible

or intangible gift of “minimal value” from a foreign Government representative. Minimal value currently is defined as \$305 or less, but this amount is adjusted periodically. You should seek the advice of an ethics official, and consult the ethics website at <http://intranet.treas.gov/ethics>, before accepting a gift from a foreign Government.

## **6. Attendance at Widely-Attended Gatherings**

This exception applies to your attendance at large events, such as dinners, receptions, and conferences. For this exception to apply, your ethics official must approve your attendance at the event after determining that your attendance is in the agency’s interest because it will further agency programs and operations. DO employees must complete the invitation questionnaire at the following link to request such approval:

[http://intranet.treas.gov/ethics/forms/invitation\\_questionnaire.pdf](http://intranet.treas.gov/ethics/forms/invitation_questionnaire.pdf).

An ethics official will determine that an event is a “widely-attended gathering” if it is expected that a large number of persons will attend and that the attendees will be persons with a diversity of views or interests. If the invitation is extended by someone other than the sponsor of the event, an ethics official can approve your attendance, under this exception, only if more than 100 persons are expected to attend the event and if the gift of free attendance has a market value of \$305 or less.

## **7. Social Invitations from Persons Other Than Prohibited Sources**

You may accept food, refreshments, and entertainment, but not travel or lodging expenses, at a social event attended by several persons where: (1) the invitation is from a person who is not a “prohibited source” and (2) no fee is charged to any person in attendance.

## **8. Invitations to Political Events**

You may accept meals, lodging, transportation and other benefits, including free attendance at events, from political organizations described in 26 U.S.C. § 527(e), when these gifts are provided in connection with your active participation in political management or in political campaigns as permitted by the Hatch Act. For additional guidance on the Hatch Act and Political Activity, see Chapter 13 of this Handbook.

## 9. Honorary Degrees

You may accept an honorary degree from an institution of higher education based on a written determination by an ethics official that the timing of the degree would not cause a reasonable person to question your impartiality in a matter affecting the institution. In any case where you properly may accept an honorary degree, you (and members of your family) also may accept meals and entertainment that are a part of the event at which the honorary degree is presented.

### C. Limitations on the Use of the Gift Exceptions

Even if an exception applies, it is never inappropriate, and frequently it is prudent, to decline a gift offered by a prohibited source or offered because of your official position if you believe that accepting it could create an adverse appearance.

In addition, even if an exception applies to your receipt of a gift, you may never:

- Accept a gift in return for being influenced in the performance of an official act;
- Solicit or coerce the offering of a gift;
- Accept a gift from the same or different sources on a basis so frequent that it creates a reasonable perception that you are using your public office for private gain; or
- Accept a gift in violation of any statute.

### D. Tangible Gifts and the Gift Unit

If you receive a tangible gift, either from a domestic or foreign source, you should submit it to the Gift Unit or to your bureau's designated official. (The DO Gift Unit handles gift items for bureaus that do not have designated officials.) The Gift Unit, or the designated official, will determine whether you may retain the gift under the applicable ethics regulations.

The following is a summary of the procedures for reporting and depositing gifts. For additional information about processing gifts, you should contact the Gift Unit, Office of the Curator, or your ethics official. You may also visit the ethics website at <http://intranet.treas.gov/ethics> for additional information.

## Procedures for Reporting Gifts

If you receive a gift, and you are either a DO employee or an employee of a bureau without a designated official, you should complete a Gift Register Form (DO Form 261.9) and submit it to the Gift Unit, Office of the Curator, along with the gift. The Gift Unit will determine its fair market value and will consult with an ethics official about whether you properly may accept it. The following information will assist the official in determining whether you may retain the gift:

- Your name and position;
- A brief description of the gift and the circumstances of its presentation;
- The name, position, and organization (where applicable) of the individual who presented it to you, and if it is from a foreign Government, the identity of the foreign country;
- The date on which you received the gift;
- The estimated value of the gift, in the United States, at the time of acceptance (if known);
- The disposition or current location of the gift; and
- Whether you wish to purchase the gift, if it is not otherwise acceptable.

**Note:** *If you receive a gift from a foreign Government that is not acceptable under the Foreign Gifts and Decorations Act, you may choose to purchase the gift if the Secretary of State determines that its sale will not adversely affect the foreign relations of the United States.*

If the ethics rules prohibit you from accepting the gift, and you do not wish to purchase it, the Gift Unit either will return it to the donor, or the gift will be retained by Treasury for appropriate disposition.

## Perishable Items

A perishable item that may not be accepted under the Standards may be given to an appropriate charity, shared within your office, or destroyed. However, if the donor has interests that may be substantially affected by the performance or

nonperformance of your official duties or is an organization or association the majority of whose members have such interests, disposition of the perishable item is at the discretion of your supervisor or ethics official.

## **E. Financial Disclosure Reporting Requirements**

If you are required to file a financial disclosure report (SF 278 or OGE Form 450), generally you must disclose any gifts that you have received from any single source, during the financial disclosure reporting period, if they aggregate \$305 or more in value. Consult an agency ethics official for possible exceptions to this reporting requirement. Also, for more information on the financial disclosure requirements, please visit the ethics website at: <http://intranet.treas.gov/ethics>.

# CHAPTER 5: Invitations to Speak at Certain Events



## CHAPTER 5: Invitations to Speak at Certain Events

Many of you receive invitations to participate as speakers or panelists to discuss official Treasury matters at conferences, meetings, or similar events hosted by private sector organizations. You may accept such an invitation if your supervisor determines that doing so serves the Department's interests. One example of such an interest is the need of the Department to advise those in attendance of Treasury views on an important subject when the attendees cannot practically be reached by other means.

However, under some circumstances, accepting the invitation could cause an adverse appearance. For example, accepting an invitation to speak at a small, closed meeting hosted by a firm or company solely for the benefit of its employees, clients, or customers may create the appearance that you are permitting the use of your public office for the gain of a private organization, or that you are giving preferential treatment to a private organization. In many instances, firms seek our senior officials as speakers at these so-called "client-centered events" in order to demonstrate to their customers, and often to their potential customers, the Washington influence which the firms ostensibly enjoy.

Your supervisor must determine whether a proposed speaking engagement would serve a significant Departmental interest. However, you should seek your ethics official's advice with respect to participating in "client-centered events" on a case-by-case basis.



# Chapter 6: Gifts between Employees



# Chapter 6: Gifts between Employees

The Government-wide Standards of Conduct, 5 C.F.R. Part 2635, in addition to providing rules governing the acceptance of gifts from outside sources, place certain restrictions on the exchange of gifts between employees. The following discussion is only a summary of these provisions. For additional information, please visit the ethics website at <http://intranet.treas.gov/ethics> or contact your ethics official.

## A. General Rule

You may not –

- Give a gift, or make a donation toward a gift, to an official superior;
- Solicit a contribution from another employee for a gift to an official superior of either the requesting employee or the individual who is asked to contribute; or
- Accept a gift from an employee receiving less pay than yourself.

An official superior is your immediate supervisor, anyone who has responsibility for your official performance evaluation, and anyone above your supervisor in the chain of command.

## Definition of Gift

The Standards of Conduct define “gift” very broadly. A gift may be a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodging, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

## B. Exceptions

### 1. Personal Relationships

Although you generally may not give a gift to an official superior or accept a gift from an employee who receives less pay, this prohibition does not apply if:

- you are not in a superior-subordinate relationship AND

- you have a personal relationship that justifies the gift.

**Note:** *A personal relationship generally implies that you spend time together outside of the office.*

## **2. Gifts Worth \$10 or Less**

On an occasional basis or in connection with annually recurring occasions on which gifts are traditionally given or exchanged – such as birthdays, Secretary’s Day, Christmas, Hanukkah, Kwanzaa, or New Year’s – you may give to, or accept from, any other employee:

- An otherwise prohibited gift, other than cash, with a market value of \$10 or less.

## **3. Food and Refreshments Shared in the Office**

On an occasional basis, you may bring in items such as food and refreshments to be shared in the office among several employees, including your official superior. Similarly, you may accept such items from an employee receiving less pay if they are shared in the office among several employees.

## **4. Hospitality Gifts**

You may give to an official superior, and your official superior may accept:

- Hospitality at your home.
- An appropriate gift in connection with receiving hospitality at your official superior’s home (e.g., wine, flowers, candy) even if the gift is worth more than \$10.

You may accept from an employee receiving less pay than you:

- Hospitality at that individual’s home.
- An appropriate gift received in connection with providing hospitality at your home (e.g., wine, flowers, candy) even if the gift is worth more than \$10.

**Example:**

Your supervisor has invited you and your co-workers to a Hanukkah dinner at her house. You would like to show your appreciation by bringing a box of candy, a bouquet of flowers, or a basket of fruit worth about \$15. Can you do it? Can the supervisor accept?

**Yes.** Candy, flowers, and fruit of such value are examples of permissible gifts given in connection with the receipt of personal hospitality. Gifts in this category may exceed the \$10 maximum, provided that they are of a type and value customarily given on such occasions.

## 5. Special, Infrequent Occasions

Certain gifts of higher value are permitted to commemorate special, infrequent events, such as weddings, the birth or adoption of children, serious illnesses, or retirement (or other occasions that terminate the superior-subordinate relationship). In addition, appropriate gifts of cash are permitted on these occasions.

**Example:**

The Deputy Director of your office recently had a baby. You would like to give her an appropriate gift – perhaps a nice baby outfit. Although this gift is worth more than \$10, you may give it to your supervisor because the gift will be given on a special, infrequent occasion of personal significance.

## C. Group Gifts

Generally, you may not pool your money with other employees to give group gifts to your official superiors. There are, however, two exceptions to this rule. You may solicit voluntary contributions of nominal amounts from fellow employees for an appropriate gift to an official superior, and you may make a voluntary contribution of a nominal amount to an appropriate gift to an official superior:

- On a special, infrequent occasion of personal significance, such as a wedding, the birth or adoption of a child, or a serious illness; and
- On an occasional basis, for items such as food or refreshments to be shared in the office among several employees.

**Example:**

The Assistant Secretary of your division is getting married. The staff would like to buy her several settings of the china that she has chosen. They plan to contribute \$25 each, and one employee has volunteered to make the purchase using the pooled funds. You properly may pool your money to purchase this because the occasion on which the gift will be given is a special, infrequent occasion of personal significance. If the occasion had been the Assistant Secretary's birthday, however, you would be permitted to take up a collection only to buy food and refreshments to be consumed by everyone in the office.

# CHAPTER 7: Outside Employment and Activities



# CHAPTER 7: Outside Employment and Activities

## A. General Rule

The Government-wide Standards of Conduct, 5 C.F.R. Part 2635, prohibit you from engaging in outside employment or other outside activities that conflict with your official duties. Such a conflict exists if the proposed activity: (1) is prohibited by statute or Treasury regulation; or (2) would require your disqualification under the financial conflict of interest statute (see Chapter 1 of this Handbook) or the impartiality rules (see Chapter 2 of this Handbook) from matters so central or critical to the performance of your official duties that your ability to perform those duties would be materially impaired.

### Prior Approval Requirement for Departmental Offices Employees

DO employees must obtain prior written (DO Form 611.1) supervisory approval before engaging in most outside employment or business activities, regardless of whether compensation is received. If prior written approval is required, it shall be granted only upon a determination that the proposed outside employment or activity is not expected to involve conduct prohibited by statute, the Standards of Conduct, or the Supplemental Standards of Conduct for Treasury Department employees. For a copy of the form, please visit <http://intranet.treas.gov/ethics>.

### Bureau Rules on Outside Employment

**Note:** *Most Treasury bureaus have their own regulations and procedures governing outside employment. Please consult your bureau ethics counsel and/or your bureau's Supplemental Standards of Conduct for more information.*

## B. Outside Earned Income Limitations Applicable to Certain Political Appointees and Non-Career Employees

Presidential appointees to full-time non-career positions listed in the Executive Schedule, and certain other employees appointed by the President to positions paid at levels IV and V of the Executive Schedule, are prohibited from receiving any earned income for outside employment, or for any other outside activity.

Certain other non-career employees are prohibited from receiving outside earned income exceeding 15% of the annual rate of basic pay for level II of the Executive Schedule. These employees cannot receive any compensation related to the practice of a profession involving a fiduciary relationship, or for serving as an officer or board member of an association, corporation, or other entity.

The non-career employees subject to these latter restrictions are those occupying positions for which the rate of pay is at least 120% of the minimum rate of basic pay payable for a GS-15, and who are appointed to: positions that by statute or practice are filled by Presidential appointment; non-career positions in the Senior Executive Service; Schedule C positions; or non-career executive assignment positions.

### **C. Earning Compensation for Teaching, Speaking, or Writing**

You cannot accept compensation for teaching, speaking, or writing that relates to your official duties. Such an activity relates to your official duties if, among other criteria:

- the invitation appears to have been extended because of your official position rather than your expertise on the subject matter;
- the invitation was extended to you by a person who has interests that may be affected substantially by the performance or non-performance of your official duties;
- the information to be conveyed draws substantially on ideas or official data that are nonpublic information; or
- the subject of the activity deals in significant part with: any matter to which you are assigned or have been assigned within the past year; any ongoing or announced Treasury policy, program, or operation; or, if you are a non-career employee eligible to earn outside income, the general subject matter, industry, or economic sector primarily affected by Treasury's programs and operations.

There are limited exceptions to this rule. For example, certain compensated teaching activities at the college, secondary, or elementary school levels are permitted. However, you must receive prior written approval before teaching, speaking, or writing for compensation.

**Note:** *You should contact your ethics official **before** engaging in compensated teaching, speaking, or writing.*

## **D. Serving as an Expert Witness**

You cannot serve as an expert witness for anyone but the Government in any proceeding before a court or agency of the United States in which the United States is a party or has a direct and substantial interest, unless authorized to do so by Treasury's Designated Agency Ethics Official.

## **E. Representing Another before a Federal Agency as an Outside Activity**

As a general rule, a Federal employee may not, other than in the proper discharge of his or her official duties, represent anyone before a Federal agency or court regarding any matter in which the United States is a party or has a direct and substantial interest. He or she also may not receive compensation for such representational services, regardless of who performs them. Compliance with these statutes requires special care because they prohibit conduct that may not, at first, seem improper.

**1. 18 U.S.C. § 205** prohibits a Federal employee from acting as agent or attorney for anyone other than the United States before the Executive Branch or a court, concerning any particular matter in which the United States is a party or has a direct and substantial interest. An employee also cannot act as agent or attorney for prosecuting any claim against the United States, or receive compensation for behind the scenes assistance with regard to such a claim.

For example, under § 205, you cannot, at the request of your son-in-law, call an official at another department and request that payment for a contract between your son-in-law and the other department be made promptly.

Section 205 does not prohibit self-representation before an agency or court. However, this exception does not extend to representing a distinct legal entity such as a corporation, even if you are its sole owner.

There are several exceptions for representing certain family members and others in particular kinds of matters. You should consult with your ethics official before engaging in compensated or uncompensated representational activities before the Government.

**2.18 U.S.C. § 203** prescribes criminal penalties for anyone who directly or indirectly “demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another,” before the Executive Branch or a court in connection with any particular matter in which the United States is a party or has a direct and substantial interest, if any part of the representation occurs while that person is a Government employee. The statutory bar applies to any employee who provides compensated representational services, such as an attorney, a consultant, or an expert in engineering, accounting, and similar professional fields.

# CHAPTER 8: Seeking and Negotiating for Future Employment



# CHAPTER 8: Seeking and Negotiating for Future Employment

## A. General Rule

You may seek and negotiate for employment outside the Government. You must, however, disqualify yourself from participating in any particular matter in which a prospective employer has a financial interest. 18 U.S.C. § 208(a); 5 C.F.R. § 2635.601. This requirement applies even to the early stages of a matter, such as making a recommendation or participating in an investigation. Once you are seeking or negotiating for employment, you must refrain from participating both in a specific party matter (e.g., enforcement actions or contracts) and in a general matter that focuses on a discrete and identifiable class of persons (e.g., the review of a regulation affecting national banks) if the matter will directly and predictably affect a prospective employer's financial interests.

If you are involved in certain procurement matters, you also may be subject to other statutes which impose requirements on employment contact or discussions, such as the Procurement Integrity Act, 41 U.S.C. § 423(c). See Chapter 9 of this Handbook for more information.

The following discussion is only a summary of these provisions. For additional information, please contact your ethics official.

### When Does an Employee Begin to Seek or Negotiate for Employment?

You have begun seeking employment with a prospective employer when you have:

- **Made an unsolicited communication** to the prospective employer regarding possible employment;
- **Made a response other than rejection to an unsolicited communication from the prospective employer** (A response that merely defers employment discussions until the foreseeable future does not constitute rejection. The distinction is subtle but important.); or
- **Engaged in negotiations for employment** with the prospective employer.

**Note:** “Negotiations” means discussion or communication with another person mutually conducted with a view toward reaching an agreement regarding possible employment with that person. Although many people think of “negotiating” as only the final phase of the employment discussions, under the statute, “negotiation” often occurs before discussion of specific terms or conditions of employment.

## **When Does an Employee Cease Seeking or Negotiating for Employment?**

You are no longer seeking or negotiating for employment if:

- You have done nothing more than send an unsolicited job application or resume and, after two months, you have not received an expression of interest from the prospective employer.

**Note:** A letter from a prospective employer merely acknowledging the receipt of a resume or job application is not an indication of interest that would extend the two-month period.

- Either you or the prospective employer has rejected the possibility of employment and all discussions of possible employment have terminated.

When you are no longer seeking or negotiating for employment with a particular prospective employer, the requirement to recuse yourself from matters affecting that prospective employer ends.

## **B. Notification of Recusal**

It is advisable for you to notify your supervisor of the employment discussions when recusal is required. This will help your supervisor establish or alter assignments to minimize potential disruption. Giving notice also helps protect you in the event of future allegations of impropriety, by documenting the date of your recusal.

## **C. Limited Exception for Matters of General Applicability**

You do not need to disqualify yourself from working on a matter of general applicability (such as a regulation) that would affect a prospective employer only as

part of an industry or other discrete class of persons, if you have done nothing more than send your resume to that prospective employer. Under these circumstances, you will only be considered to have begun seeking employment upon receiving a response indicating interest in employment discussions.

## **D. Use of Headhunters or Other Intermediaries**

If you engage an agent to seek future employment on your behalf, you have not begun seeking employment with any person for the purpose of the statutory restrictions until the agent identifies a prospective employer to you. Where employment contacts or inquiries are made on your behalf by a headhunter, or by any other intermediary, such as a friend or associate, you would be viewed as seeking employment when your identity is made known to the prospective employer and the identity of the prospective employer is made known to you.

## **E. Acceptance of Employment**

If you reach an arrangement concerning prospective employment, you must continue to recuse yourself from matters affecting the financial interests of that prospective employer.

## **F. Travel Reimbursements for Employment Interviews**

Generally, you may accept from a prospective employer meals, lodgings, transportation, and other benefits customarily provided in connection with bona fide employment discussions. Such reimbursements may not exceed the actual expenses incurred. If the prospective employer has financial interests that may be affected by the performance or nonperformance of your official duties, accepting these benefits is permitted only if you have first disqualified yourself from personal and substantial participation in any particular matter that, to your knowledge, has a direct and predictable effect on the interests of the prospective employer.

If you are required to file a financial disclosure report, and you have received payment or reimbursement of \$305 or more from a single source, you will have to report the receipt of such payment on your report.

**Note:** *This reporting threshold is adjusted periodically. You should seek an ethics official's advice before accepting benefits in connection with employment discussions.*



CHAPTER 9:  
Accepting Gifts  
from, and Seeking  
Employment  
with, Federal  
Contractors



# CHAPTER 9: Accepting Gifts from, and Seeking Employment with, Federal Contractors

In the Federal workplace today, it is common for Federal employees to work side by side with contractor employees. Because of the nature of independent contractor relationships to persons or entities for whom they are doing work, contractor employees are not “supervised” by Government employees. However, Federal employees often make decisions that affect the financial interests of these contractors.

In many cases, the ethics rules governing Federal employee relations with contractor personnel are different from the rules governing a Federal employee’s relations with fellow Government employees. For example, while Government employees *are covered* by the Standards of Conduct, contractor employees *are not covered* by them. Thus, a gift from a contractor is considered to be from an outside source rather than from a co-worker.

Specific provisions of law also affect the ability of Federal employees to seek future employment with certain agency contractors. This chapter summarizes some of the issues related to accepting gifts from and/or seeking employment with agency contractors. For more information, please contact your ethics official.

## **A. Gifts from Contractors**

### **1. General Rule**

You generally may not accept a gift from a “prohibited source.” A prohibited source is any person or entity:

- Who has or seeks business with Treasury;
- Who has interests that may be affected by the performance of your official duties;
- Who seeks official action by Treasury;
- Who is regulated by Treasury; or

- That is an organization, a majority of whose members are described above.

Thus, a Treasury contractor clearly meets the definition of a “prohibited source.”

There are a number of exceptions to the general gift prohibition. Even if an exception applies, however, it is often prudent to decline a gift from a contractor if you believe that the circumstances would raise an adverse appearance. Moreover, accepting a gift, even under an applicable exception, may require you to recuse yourself from matters involving that contractor. If you accept a gift from a contractor with whom you work on the same contract, you should consult a Treasury ethics official to determine whether recusal from your work on the contract may be warranted.

## 2. Gift Exceptions

- \$20 De Minimis Exception –You may accept from a contractor, at any one time, a gift (other than cash) that does not exceed \$20 in value, provided that the total of gifts accepted from that person does not exceed \$50 in a calendar year. (Note: For purposes of the ethics rules, all of the employees of a particular organization, such as a corporate contractor, are considered the same person.)
- Personal Relationship Exception –You may accept a gift from a contractor if the gift is motivated by a bona fide personal relationship. Relevant factors in determining whether a gift is motivated by a personal relationship include the history of the relationship and whether the contractor/friend personally paid for the gift, without being reimbursed by his employer.
- Widely-Attended Gathering Exception – This exception applies to your attendance at large events, such as dinners, receptions, and conferences. For this exception to apply, your ethics official must approve your attendance at the event after determining that your attendance is in the agency’s interest because it will further agency programs and operations. In order to request such approval, you must complete the invitation questionnaire at the following link:

[http://intranet.treas.gov/ethics/forms/invitation\\_questionnaire.pdf](http://intranet.treas.gov/ethics/forms/invitation_questionnaire.pdf).

- Events Open to All Government Employees –You may accept invitations (including from contractors) to events that are open to the public or to all Government employees. Because it is often unclear at the outset as

to whether this exception applies to a particular situation, please consult with a Treasury ethics official to ascertain whether additional information is required.

## **B. Restrictions on Seeking Employment with an Agency Contractor**

All Federal employees are subject to ethics restrictions that govern their seeking and post-employment activities. See Chapters 8 and 10 of this Handbook. Additional restrictions discussed below apply to Federal procurement officials. This is a summary of some of these provisions. For further information, please contact your ethics official.

### **1. Seeking and Negotiating for Future Employment with an Offeror**

If you participate personally and substantially in a Federal agency procurement for a contract in excess of the simplified acquisition threshold (currently \$100,000), and a person who is an offeror in that Federal agency procurement contacts you regarding possible non-Federal employment, you must promptly:

- report the contactor in writing to his or her supervisor and to your ethics official; and
- either reject the possibility of non-Federal employment or disqualify yourself from participating further in that agency procurement. A disqualification must be submitted in writing to the contracting officer, to the source selection authority if other than the contracting officer, and to your immediate supervisor.

This notice must:

- identify the procurement;
- describe the nature of your participation in the procurement and specify the approximate dates or time period of your participation; and
- identify the offeror and describe its interest in the procurement.

## 2. Resuming Participation in a Procurement after Having Sought Employment with an Offeror or a Contractor

If you have recused yourself from participating in a procurement, and either:

- Your employment discussions with the offeror have terminated without an agreement for future employment; or
- The potential employer is no longer an offeror in the procurement,

the head of the contracting activity (HCA) can authorize you, after consultation with a Treasury ethics official, to resume participation in the procurement.

Participation may only be resumed in accordance with the requirements of 18 U.S.C. § 208 and applicable agency regulations, such as impartiality/appearance concerns under Subpart F of the Standards of Conduct. The reinstatement decision should be issued in writing. See Chapter 8 of this Handbook for more complete advice on seeking or negotiating for employment.

**Note:** *The Procurement Integrity Act also places limitations on the post-employment activities of former procurement officials. See Chapter 10 of this Handbook.*

# Chapter 10: Post-Employment Restrictions



# Chapter 10: Post-Employment Restrictions

As a Federal employee, you are subject to certain criminal restrictions regarding the matters that you can work on after leaving Government employment. Most of them are found at 18 U.S.C. § 207. Since these restrictions are complex and technical, and this is intended only as a summary, anyone who needs specific advice about their applicability should contact an ethics official.

## **A. Section 207 Restrictions Applying to All Former Employees**

### **1. Permanent Representational Bar**

If you have participated personally and substantially in a particular matter involving a specific party or parties at any time during your Federal employment, you generally may not communicate with or appear before any Executive or Judicial Branch employee on behalf of any other person concerning that same matter after leaving the Government. 18 U.S.C. § 207(a)(1).

### **2. Two-Year Representational Bar**

For two years after leaving the Government, you generally may not communicate with or appear before any Executive or Judicial Branch employee on behalf of any other person concerning a particular matter involving a specific party or parties that you know or reasonably should know was actually pending under your official responsibility during the last year of your Federal employment. 18 U.S.C. § 207(a)(2).

### **3. One-Year Trade/Treaty Negotiation Bar**

If you participated personally and substantially in any ongoing trade or treaty negotiation within the last year of employment *and* you gained access to information that is exempt from disclosure under the Freedom of Information Act, you may not represent, aid, or advise anyone concerning the same ongoing trade or treaty negotiation on the basis of such information for one year after your employment terminates. 18 U.S.C. § 207(b).

### **Personal and Substantial Participation**

Personal and substantial participation means involvement in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice,

investigation, or other action. “Personal” means direct participation, and it includes the participation of a subordinate in a matter when actually directed by the employee. “Substantial” means that an employee’s involvement is of significance to the matter, or forms the basis for a reasonable appearance of such significance. It requires more than official responsibility, mere knowledge, perfunctory involvement, or involvement in an administrative or peripheral issue. However, participation often is substantial even if it does not determine the matter’s outcome.

### **Particular Matter Involving Specific Parties**

A particular matter involving a specific party or parties typically involves a proceeding involving the legal rights of identifiable parties or an isolatable transaction, or related set of transactions, between identifiable parties. For purposes of the restrictions in §§ 207(a)(1) and (a)(2), rulemaking, legislation, and the formulation of general policy standards or objectives generally are not particular matters involving specific parties. Therefore, you may represent another person in connection with a rulemaking or legislative policy proposal, even if you worked on that matter while employed by the Government.

## **B. Section 207 Restrictions Applying Only to Senior Employees**

A senior employee is any employee in a position for which the basic rate of pay is equal to or greater than 86.5% of the rate of pay for level II of the Executive Schedule (Generally, this includes Presidential appointees, and employees paid on either the SES or SL pay system).

### **1. One-Year Cooling-Off Period**

For one year following service in a senior employee position, you may not communicate with or appear before any Treasury employee on behalf of any other person in connection with any matter about which you seek official action. 18 U.S.C. § 207(c). For Presidential appointees, this restriction applies to the entire Department. For other employees, it generally is limited to their former employing bureaus.

### **2. One-Year Foreign Entity Representation Bar**

For one year following service in a senior employee position, you may not represent a foreign entity (meaning a foreign Government or political party) before any officer or employee of any department or agency of the United States, including Members of Congress, or aid or advise a foreign entity with the intent to influence a decision of such officers or employees. 18 U.S.C. § 207(f).

## **C. Additional Restrictions Affecting Post-Employment Activity**

### **1. 18 U.S.C. § 203**

This statute may affect employees who anticipate joining partnerships after leaving Government service. It prohibits you from receiving, agreeing to receive, soliciting, or sharing in any compensation earned for services rendered by another before any Federal department or agency during the time that you worked for the Government.

If, for example, you leave Treasury and accept a partner position in a law firm which has regularly represented clients before Federal agencies, you must make suitable arrangements to ensure that you do not receive any compensation attributable to such representation provided by the firm while you were a Federal employee. In light of this particular prohibition, you should consider receiving a fixed salary, instead of the usual partnership compensation arrangement, during the first year following your departure from Federal service.

### **2. The “Procurement Integrity” Bar**

If you have participated in any of a number of roles in relation to the award or the administration of Treasury contracts, or contract amendments, in excess of \$10,000,000, you are barred, for one year, from accepting compensation from the contractors awarded a competitive or sole source contract. If you have been involved in Treasury contracting activities, you should seek specific advice about the application of this provision before leaving Treasury. 41 U.S.C. § 423(d).

### **3. Rules of Practice before the IRS and TTB**

Former Government employees practicing before the IRS and the Alcohol and Tobacco Tax and Trade Bureau (TTB) are subject to rules issued by the Treasury Department and published at Title 31, Code of Federal Regulations, Part 10 (IRS) and Part 8 (TTB). We recommend consulting these rules before practicing before the IRS and/or TTB.

### **4. Attorneys**

Government employees who are attorneys may be subject to additional post-employment restrictions under their applicable bar rules.



# CHAPTER 11: Financial Disclosure and Annual Ethics Training Requirements



# CHAPTER 11: Financial Disclosure and Annual Ethics Training Requirements

You may be required to file either a public or a confidential financial disclosure report. Reviewing your completed report enables agency officials to identify whether your financial interests, outside activities, or other affiliations create any real or apparent conflict of interest with your official Treasury duties.

Each incoming employee who is required to file either a public or a confidential financial disclosure report, as discussed below, will receive the appropriate form, and/or the website link to complete the report electronically, from the Office of Human Resources as part of the new employee orientation. If you enter a financial disclosure filing position while already employed at Treasury, your ethics official will notify you of the filing requirement.

## **A. Public Financial Disclosure Filing**

Under the Ethics in Government Act, senior officials (e.g., SES, SL, and PAS) and certain employees in confidential positions (e.g., Schedule C) must file new entrant, annual, and termination public financial disclosure reports (SF 278).

- New entrant reports are due within 30 days of your appointment to a covered position.
- Annual reports are due by May 15 of each year.
- Termination reports are due within 30 days after you leave your covered position. If you are transferring to another covered position at an Executive Branch agency within 30 days, no termination report is required.

All reports must be received by the due date in order to be considered filed. A statutory \$200 late filing fee will be assessed if you file your report more than 30 days late. Check with your ethics official to determine where to file your report.

## **B. Confidential Financial Disclosure Filing**

Even if you are not required to file a public report, you may be required to file a confidential financial disclosure report (OGE Form 450), based on your position's duties and responsibilities.

- New entrant reports are due within 30 days of your appointment to a covered position.
- Annual reports are due by February 15 of each year.
- Confidential filers do not need to file termination reports.

## **C. Electronic Report Versions**

If you are a DO employee and you wish to complete either report online, visit the ethics website at <http://intranet.treas.gov/ethics>. Bureau employees should check with their ethics officials. Completing the report online allows you to save your data and update it each year; however, you still must print out and sign your report, and send it to your reviewing official. It is important that you retain a copy of your completed report for your records, not only to aid you in preparing future reports, but also to help you answer any questions that may arise regarding your current and future assignments.

Administrative action can be taken against employees who do not comply with the confidential filing requirements.

## **D. Ethics Training**

### **1. New Entrant Training**

Every new Treasury employee receives an ethics briefing as part of the new employee orientation process. At that orientation, he or she receives a copy of this Handbook. New employees are permitted one hour of official duty time to review this Handbook, the Standards of Conduct, and related ethics materials, including the Treasury Ethics website at: <http://intranet.treas.gov/ethics>.

Each Presidentially appointed, Senate-confirmed official will receive an in-person ethics briefing with the Designated Agency Ethics Official and/or the Alternate Designated Agency Ethics Official shortly after entering his or her position.

## **2. Annual Training**

All public and confidential financial disclosure form filers must receive annual ethics training. Public filers are required to receive in-person training annually, while confidential filers receive in-person training every three years. For the other two years, confidential filers receive training in the form of written materials.

You will be notified by your ethics official if and when you are required to participate in ethics training.



# CHAPTER 12: Reimbursement of Official Travel Expenses by Outside Sources



# CHAPTER 12: Reimbursement of Official Travel Expenses by Outside Sources

Three distinct legal authorities allow for the acceptance of reimbursements from non-Federal sources for the official travel of Federal employees. The procedure for using each of these authorities is summarized below. For more detailed instructions, please contact your ethics official.

## **A. Payments from Non-Federal Sources Generally**

Treasury may accept payments for employees' official travel and subsistence expenses from a broad range of non-Federal sources under a statute located at 31 U.S.C. § 1353. This reimbursement authority applies only to an employee's attendance at a meeting, conference, or similar event that he or she has been authorized to attend in an official capacity. Treasury's procedures for accepting travel and subsistence payments under this authority are set forth in Treasury Directive 12-24.

Under this authority, all requests by employees for Treasury to accept travel and subsistence payments from non-Federal sources must be made and approved **in advance** of the travel. Requests must be submitted by completing and submitting the "Questionnaire for Non-Federal Source Travel Payment Offers." This electronically fillable document is available on the ethics website at <http://intranet.treas.gov/ethics>.

Payment from a non-Federal source may only be approved under this authority if it is determined that accepting such payment, under the circumstances, would not cause a reasonable person with knowledge of all of the relevant facts to question the integrity of agency programs or operations. Several factors are considered when making this determination, including whether the non-Federal source is involved in a pending Treasury matter. Because payments accepted under this authority are received by the Department, rather than by the employee, you do not need to report them on your financial disclosure report.

## **B. Payments from Tax-Exempt and Governmental Organizations**

The Government Training Act, 5 U.S.C. § 4111, provides authority for an employee to personally accept travel payments from organizations that are tax exempt under

§ 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), or from a state, local, or municipal governmental organization.

In order to use this authority, an employee must seek and receive advance approval by submitting the following materials to the Travel Office:

- A properly completed Travel Authorization (TA), including the official name of the 501(c)(3) organization or the identity of the state, local, or municipal organization involved;
- A copy of the sponsoring organization's tax-exempt letter from the IRS (if it claims § 501(c)(3) status); and
- A copy of the invitation (or if the invitation is not available, a brief description of the invitation and the purpose of the trip in section 5 of the TA).

Travel under this authority may be approved if:

- The payment or contribution is not a reward for services rendered by the employee to the sponsoring organization prior to the meeting; and
- Accepting the payment, under the circumstances, would not raise a real or apparent conflict of interest between the employee's performance of official duties and the objectives and programs of the sponsoring organization.

Because payments accepted under this authority are deemed to be received directly by the employee, any employee who is required to submit a financial disclosure report may need to report the gift.

### **C. Payments from Foreign Governments**

Under the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342, an employee, with the approval of the Department, may accept gifts of travel and subsistence expenses for travel (including transportation, food, and lodging) from a foreign governmental authority, including any foreign national, state, local, and municipal Government, if such acceptance is consistent with the interests of the United States. This authority may only be used, however, when the travel takes place entirely outside of the United States. For purposes of this statute, a foreign Government also includes an international or multinational organization the membership of

which is comprised of foreign Governments, or any unit of a foreign Government. For details about how to obtain approval to accept such a travel gift from a foreign Government, please visit the ethics website at <http://intranet.treas.gov/ethics> or contact an ethics official.

Because payments accepted under this authority are deemed to be received directly by the employee, any employee who is required to submit a financial disclosure report may need to report the gift.



# CHAPTER 13: Political Activity and the Hatch Act



# CHAPTER 13: Political Activity and the Hatch Act

Most Federal employees are prohibited from:

- Campaigning in the work place or conducting partisan political activity while on duty or in a Government building (including displaying posters or other paraphernalia in your work space);
- Running for office in a partisan political election; and
- Engaging in partisan political fundraising. (In simple terms, “partisan” political activity is any activity that is directed toward the success or failure of a political party or group in an election or campaign.) You will note, however, that certain types of employees are subject to significant additional restrictions.

The Hatch Act provides different standards for each of three different classes of employees:

- Members of the career civil service, Non-Career SES officials, and Schedule C appointees;
- Career SES officials and Inspectors General; and
- Presidential appointees confirmed by the Senate.

On the next page is a chart that summarizes the Hatch Act limitations on the partisan political activities of Federal employees. However, this is only a summary of these provisions. For additional information, visit the Office of Special Counsel’s website at <http://osc.gov/> or contact your ethics official.

## **Application to Special Government Employees**

The Hatch Act applies to “Special Government Employees” only during the actual time that they are engaged in official agency business. An SGE is defined in 18 U.S.C. § 202(a) as “an officer or employee ... who is retained, designated, appointed, or employed” by the Government to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days.

## POLITICAL ACTIVITIES (HATCH ACT)

Activity	Permitted?		
	GS and Non-Career SES employees	Career SES employees	PAS officials
Engage in Non-Partisan Political Activities	Yes	Yes	Yes
Run as a Candidate in a Partisan Election	No	No	No
Engage in Partisan Political Activity in a Gov't Building or While on Official Duty	No	No	Yes
Expend Gov't funds in furtherance of a Partisan Political Activity	No	No	No
Solicit or Receive Contributions from Others	No	No	No
Contribute Money to a Campaign or Party	Yes	Yes	Yes
Register and Vote	Yes	Yes	Yes
Assist in Voter Registration Drives	Yes	Yes	Yes
Assist in Registering Voters for Particular Party	Yes	No	Yes
Attend Political Functions (including fundraisers)	Yes	Yes	Yes
Help Organize a Fundraising Event	Yes	No	Yes
Speak at a Fundraising Event	Yes	No	Yes
Sign Nominating Petitions	Yes	Yes	Yes
Circulate Nominating Petitions	Yes	No	Yes
Engage in Partisan Political Activity Outside the Workplace on Own Time	Yes	No	Yes
Make Campaign Speeches for Candidates	Yes	No	Yes
Organize or Manage Political Rallies/Meetings	Yes	No	Yes
Join Political Clubs or Parties	Yes	Yes	Yes
Hold Office in Political Clubs or Parties	Yes	No	Yes

# Appendix



# Appendix A

## **Executive Order 12731 October 17, 1990 (in part)**

### **“PRINCIPLES OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES”**

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish fair and exacting standards of ethical conduct for all executive branch employees, it is hereby ordered that Executive Order 12674 of April 12, 1989, is henceforth modified to read as follows:

#### **Section 101. Principles of Ethical Conduct.**

To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

- (a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.
- (b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- (c) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- (d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee’s agency, or whose interests may be substantially affected by the performance or nonperformance of the employee’s duties.
- (e) Employees shall put forth honest effort in the performance of their duties.

(f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

(g) Employees shall not use public office for private gain.

(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(i) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those – such as Federal, State, or local taxes – that are imposed by law.

(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

## **Sec. 102. Limitations on Outside Earned Income.**

(a) No employee who is appointed by the President to a full-time noncareer position in the executive branch (including full-time noncareer employees in the White House Office, the Office of Policy Development, and the Office of Cabinet Affairs), shall receive any earned income for any outside employment or activity performed during that Presidential appointment.

(b) The prohibition set forth in subsection (a) shall not apply to any full-time noncareer employees employed pursuant to 3 U.S.C. 105 and 3 U.S.C. 107(a) at salaries below the minimum rate of basic pay then paid for GS-9 of the General Schedule. Any outside employment must comply with relevant agency standards of conduct, including any requirements for approval of outside employment.

# Appendix B

## **SYNOPSIS OF THE STANDARDS OF ETHICAL CONDUCT**

### **5 C.F.R. Part 2635**

This synopsis has been prepared to give you enough familiarity with the contents of the regulations to recognize ethical issues when they arise and to assist you in looking up the relevant provisions in the regulation. Because the synopsis provides only shorthand references to much lengthier provisions, you should refer to the regulations themselves in resolving ethical issues. You also should seek the advice of your Treasury Ethics Official.

## **SYNOPSIS OF SUBPART A — GENERAL PROVISIONS**

### **THE PRINCIPLES OF ETHICAL CONDUCT**

The following principles of ethical conduct apply to all officers and employees of the executive branch and many form the basis for specific standards set forth in the regulation.

- (1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
- (2) Employees shall not hold financial interests that conflict with the conscientious performance of official duties.
- (3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- (4) An employee shall not, except as pursuant to the exceptions in Subpart B, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

- (5) Employees shall put forth honest effort in the performance of their duties.
- (6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
- (7) Employees shall not use public office for private gain.
- (8) Employees shall act impartially and not give preferential treatment to any private organization or individual.
- (9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- (10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- (11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- (12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those – such as Federal, State, or local taxes – that are imposed by law.
- (13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- (14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

## **BASIC CONCEPTS**

Employees shall apply the principles stated above in weighing the propriety of conduct not otherwise addressed in the regulations.

Employees shall judge whether circumstances will violate the appearance principle (number 14 above), from the perspective of a reasonable person with knowledge of the relevant facts.

A violation of the regulatory standards may be cause for corrective action or for disciplinary action against an employee. There are criminal penalties for violations of the criminal statutes referred to in the regulations.

Employees are encouraged to seek the advice of agency ethics officials. Disciplinary action for violating regulatory standards will not be taken against an employee who relies on such advice.

## **DEFINITIONS**

Terms used throughout the Standards of Ethical Conduct (Standards), such as “agency designee” and “special Government employee,” are defined in Subpart A of the Standards. Terms of more limited applicability are defined in the subparts or sections to which they apply.

## **SYNOPSIS OF SUBPART B — GIFTS FROM OUTSIDE SOURCES**

### **BASIC PROHIBITION ON GIFTS FROM OUTSIDE SOURCES**

An employee shall not solicit or accept a gift given because of his official position or from a prohibited source. A prohibited source is defined as any person, including any organization more than half of whose members are persons:

- Seeking official action by Treasury;
- Doing or seeking to do business with Treasury;
- Regulated by Treasury; or
- Substantially affected by the performance or non-performance of his duties.

### **DEFINITION OF A GIFT**

The term “gift” includes almost anything of monetary value. However, it does not include:

- Coffee, donuts, and similar modest items of food and refreshments when offered other than as part of a meal;
- Greeting cards and most plaques, certificates, and trophies;
- Prizes in contests open to the public;
- Commercial discounts available to the general public or to all Government or military personnel;
- Commercial loans, pensions, and similar benefits;
- Anything paid for by the Government, secured by the Government under Government contract, or accepted by the Government in accordance with a statute;
- Anything for which an employee pays market value.

## EXCEPTIONS

Subject to the limitations noted below, exceptions will permit an employee to accept:

- Unsolicited gifts with a market value of \$20 or less per source per occasion (but aggregating to no more than \$50 in a calendar year from any one source. Gifts of cash or investment interests are not permitted.
- Gifts when clearly motivated by a family relationship or a personal friendship.
- Commercial discounts and similar benefits offered to groups in which membership is not related to Government employment or, if membership is related to Government employment, where the same offer is broadly available to the public through similar groups, and certain benefits offered by professional associations or by persons who are not prohibited sources.
- Certain awards and honorary degrees.
- Gifts resulting from the outside business activities of employees and their spouses.
- Travel and entertainment in connection with employment discussions.
- Certain gifts from political organizations.
- Free attendance provided by the sponsor of an event for the day on which an employee is speaking or presenting information on behalf of Treasury at the event.
- Free attendance provided by the sponsor of a widely-attended gathering of mutual interest to a number of parties where the necessary determination of Treasury interest has been made by a supervisor or an ethics official.
- Invitations to certain social events extended by persons who are not prohibited sources, provided no one is charged a fee to attend the event.
- Certain gifts of food and entertainment in foreign areas.

- Gifts accepted by an employee under a specific statute, such as 5 U.S.C. § 4111 and 7342, or pursuant to a supplemental agency regulation.

### **LIMITATION ON THE USE OF EXCEPTIONS**

An employee may not use any of the exceptions noted above to solicit or coerce the offering of a gift or to accept gifts:

- For being influenced in the performance of official duties;
- In violation of any statute;
- So frequently as to appear to be using public office for private gain; or
- In violation of applicable procurement policies regarding participation in vendor promotional training.

### **DISPOSITION OF GIFTS**

When an employee cannot properly accept a gift, the employee should return it to the donor or, if the employee wishes to keep the gift, pay the donor its market value. Subject to approval, perishable items may be shared within the office, donated to a charity, or destroyed.

## **SYNOPSIS OF SUBPART C — GIFTS BETWEEN EMPLOYEES**

### **BASIC PROHIBITION ON GIFTS BETWEEN EMPLOYEES**

An employee shall not:

- Give or solicit a gift to an official superior; or
- Accept a gift from a lower-paid employee, unless the donor and the recipient are personal friends who are not in a superior-subordinate relationship.

### **DEFINITION OF A GIFT**

The term gift has the same meaning as in Subpart B. However, carpooling and similar arrangements are excluded where there is a proportionate sharing of the cost and effort involved.

### **DEFINITION OF AN OFFICIAL SUPERIOR**

The term “official superior” includes anyone whose official responsibilities involve directing or evaluating the performance of the employee’s duties or those of any other official superior of the employee. The term is not limited to immediate supervisors but applies to officials up the supervisory chain.

### **EXCEPTIONS**

No exception may be used to coerce a gift from a subordinate.

On an occasional basis, including birthdays and other occasions when gifts are traditionally exchanged, exceptions permit giving and accepting:

- Items other than cash aggregating \$10 or less per occasion;
- Food and refreshments shared in the office;
- Personal hospitality at a residence;
- Appropriate hostess gifts; and
- Leave sharing under OPM regulations.

On special, infrequent occasions of personal significance, such as marriage, the birth or adoption of a child, serious illness, and on occasions that terminate the superior-subordinate relationship, such as retirement, an exception permits giving and accepting gifts appropriate to the occasion.

Voluntary contributions of nominal amounts may be made or solicited for gifts of food and refreshments to be shared in the office or for group gifts on occasions such as marriage, retirement, and others described in the preceding paragraph.

## **SYNOPSIS OF SUBPART D — CONFLICTING FINANCIAL INTERESTS**

### **DISQUALIFYING FINANCIAL INTERESTS**

Under the criminal conflict of interest statute, 18 U.S.C. § 208, an employee is prohibited from participating in an official capacity in any particular matter in which to his or her knowledge, he, she, or certain other persons have a financial interest, if the particular matter will have a direct and predictable effect on his or her own or the other person's financial interests.

### **APPLICABILITY**

In addition to matters that affect his own financial interests, this prohibition applies to particular matters that affect the financial interests of:

- The employee's spouse, minor child, or general partner; or
- Any person the employee serves as officer, director, trustee, general partner, or employee.

The prohibition also applies to particular matters that affect the financial interests of a person with whom the employee is negotiating for or has an arrangement concerning future employment. However this aspect of the statute is addressed more specifically in Subpart F.

### **DISQUALIFICATION**

Disqualification can be accomplished simply by not participating in the matter. Although an employee should notify the person responsible for his assignment of the need to disqualify, a written disqualification statement is necessary only if required by an ethics agreement or requested by a Treasury ethics official or the person responsible for the employee's assignment.

### **SOLUTIONS OTHER THAN DISQUALIFICATION**

Disqualification is not required if the financial interest is the subject of one of the statutory waivers described in Subpart D or if the financial interest is exempted pursuant to 18 U.S.C. § 208(b)(2). See 5 C.F.R. Part 2640.

## **PROHIBITED FINANCIAL INTERESTS**

In general, employees may acquire and hold financial interests subject only to the disqualification requirement imposed by 18 U.S.C. § 208. However, some agencies have statutes that prohibit employees from acquiring or holding particular interests. In addition, Subpart D gives agencies the authority, by supplemental regulation, to prohibit employees from acquiring or holding certain financial interests. An agency also may prohibit an individual employee from holding financial interests where disqualification would impair the employee's ability to perform the duties of his or her position or adversely affect the agency's mission. An employee directed to divest a financial interest may be eligible for special tax treatment of the transaction.

## **SYNOPSIS OF SUBPART E — IMPARTIALITY IN PERFORMING OFFICIAL DUTIES**

### **CONSIDERATION OF CERTAIN PERSONAL AND BUSINESS RELATIONSHIPS**

Even though his disqualification may not be required under Subpart D, an employee should not participate in an official capacity in certain matters without first obtaining specific authorization if, in his or her judgment, persons with knowledge of the relevant facts would question his or her impartiality in those matters.

### **MATTERS COVERED**

The matters covered include a particular matter involving specific parties if the employee knows that it is likely to affect the financial interests of a member of his or her household or that one of the following persons is a party or represents a party in the matter:

- A person with whom the employee has or seeks a business or other financial relationship;
- A member of the employee's household or relative with whom the employee has a close personal relationship;
- A person the employee's spouse, parent, or child serves or seeks to serve as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee;
- A person the employee has, in the past year, served as officer, director, trustee, general partner; agent, attorney, consultant, contractor, or employee; or
- An organization, other than a political party, in which an employee is an active participant.

### **DISQUALIFICATION**

Disqualification can be accomplished in the same manner as when required under Subpart D for disqualifying financial interests.

## **AUTHORIZATION TO PARTICIPATE**

Notwithstanding the employee's determination that his impartiality would be questioned, the agency designee can authorize the employee to participate in the matter based on a determination that the Government's interest in the employee's participation outweighs the concern that a reasonable person would question the integrity of agency programs and operations. The authorization permitted by Subpart E cannot be given, however, if the employee's disqualification is also required by Subpart D.

## **EXTRAORDINARY PAYMENTS FROM FORMER EMPLOYERS**

An employee is disqualified for two years from participating in any particular matter in which his or her former employer is a party or represents a party if, prior to entering Federal service, that employer gave him or her an extraordinary payment (i.e., a payment in excess of \$10,000.)

A routine severance and other payment made under an established employee benefits plan would not be an extraordinary payment.

There is authority to waive all or part of this disqualification requirement.

## **SYNOPSIS OF SUBPART F — SEEKING OTHER EMPLOYMENT**

### **DISQUALIFICATION WHILE SEEKING EMPLOYMENT**

An employee is prohibited from participating in an official capacity in any particular matter that, to his or her knowledge, has a direct and predictable effect on the financial interests of a person with whom he is seeking employment. For this purpose, “employment” means any form of non-Federal employment or business relationship involving the provision of personal services. Disqualification can be accomplished in the same manner as when required under Subpart D for disqualifying financial interests.

### **DEFINITION OF SEEKING EMPLOYMENT**

The term “seeking employment” includes bilateral negotiations with another, mutually conducted with a view to reaching an agreement regarding possible employment. It also includes conduct short of negotiations, such as sending an unsolicited resume or other employment proposal. It can include employment contacts by or through an agent or intermediary. However, it does not include simply:

- Rejecting an unsolicited employment overture;
- Requesting a job application; or
- Sending an unsolicited resume or other employment proposal to a person affected by the performance of the employee’s duties only as a member of an industry or other discrete class.

Having once begun, an employee generally continues to be seeking employment until he or the prospective employer rejects the possibility of employment and all discussions end. However, an employee is no longer seeking employment with the recipient of his unsolicited resume or other employment proposal after two months have passed with no indication of interest in employment discussions from the prospective employer.

### **SOLUTIONS OTHER THAN DISQUALIFICATION**

If the employee’s conduct in seeking employment amounts to negotiations, the employee can participate in the matter affecting his or her prospective employer only if granted a waiver described in Subpart D. If his or her conduct falls short of

negotiations, the employee may be authorized to participate using the procedures set forth in Subpart E.

### **DISQUALIFICATION BASED ON AN EMPLOYMENT ARRANGEMENT**

An employee may not participate in a particular matter that, to his or her knowledge, has a direct and predictable effect on the financial interests of anyone with whom he or she has an arrangement concerning future employment. In this case, an employee may be able to participate in a particular matter affecting a prospective employer only if he has received an individual waiver described in Subpart D.

## **SYNOPSIS OF SUBPART G — MISUSE OF POSITION**

### **USE OF PUBLIC OFFICE FOR PRIVATE GAIN**

An employee shall not use his public office for his own private gain or for the private gain of friends, relatives, or persons with whom he is affiliated in a non-governmental capacity, or for the endorsement of any product, service, or enterprise. In particular, an employee shall not use his or her Government position, title, or authority:

- In a manner intended to induce another to provide a benefit to himself or to friends, relatives, or affiliated persons;
- In a manner that could be construed to imply that his or her agency or the Government sanctions or endorses his or her personal activities or those of another; or
- To endorse any product, service, or enterprise except in furtherance of statutory authority to do so, in accordance with agency programs to give recognition for achievement or to document compliance with agency standards or requirements.

### **USE OF NONPUBLIC INFORMATION**

An employee shall not engage in a financial transaction using nonpublic information or allow the improper use of nonpublic information to further his or her own private interests or those of another. Information that is “nonpublic” includes information that the employee knows or reasonably should know:

- Is routinely exempt from disclosure under the Freedom of Information Act or protected from disclosure by statute;
- Is designated as confidential by Treasury; or
- Has not actually been disseminated to the general public and is not authorized to be made available to the public on request.

### **USE OF GOVERNMENT PROPERTY**

An employee has a duty to protect and conserve Government property and to use Government property only for authorized purposes. Authorized purposes are

those for which Government property is made available to the public or those purposes authorized in accordance with law or regulation.

### **USE OF OFFICIAL TIME**

Unless authorized in accordance with law or regulation to use such time for other purposes, an employee shall use official time only in an honest effort to perform official duties. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or those authorized in accordance with law or regulation.

## **SYNOPSIS OF SUBPART H — OUTSIDE ACTIVITIES**

### **GENERALLY**

In addition to the standards set forth in Subpart H, an employee's outside employment and other activities must comply with all ethical requirements set forth in Subparts A through G of the regulation, including the requirement to avoid even the appearance of using public office for private gain. For example, the prohibition against use of Government property for unauthorized purposes would prohibit an employee from using the agency photocopier to reproduce documents for his or her outside organization.

### **RESTRICTIONS IMPOSED BY OTHER LAWS**

An employee's outside employment and other activities must comply with applicable laws other than the Standards of Ethics Conduct. Several are listed in Subparts H and I. Outside activities frequently raise questions about the following:

- The restrictions in 18 U.S.C. §§ 203 and 205 on employees engaging in representational activities before the United States;
- The constitutional prohibition against accepting any office, title or compensation from a foreign government; and
- The Hatch Act, which prohibits most employees' participation in certain partisan political activities.

### **PRIOR APPROVAL FOR OUTSIDE ACTIVITIES**

When required by supplemental agency regulation, an employee shall obtain approval before engaging in outside employment or activities.

### **CONFLICTING OUTSIDE ACTIVITIES**

An employee shall not engage in outside employment or activities prohibited by statute or by supplemental agency regulation or that would materially impair the ability to perform his or her official duties by requiring his or her disqualification under Subpart D or E.

## **RESTRICTIONS ON RECEIPT OF COMPENSATION**

With certain exceptions, Presidential appointees to full-time non-career positions shall not receive any outside earned income for outside employment or other outside activities performed during that appointment. Higher-level non-career employees may not in any calendar year, receive outside earned income which exceeds 15 percent of the rate of pay for Level II of the Executive Schedule. These non-career employees also are prohibited from receiving any compensation for teaching without prior approval, serving as officers or board members of outside entities, practicing certain professions or being affiliated with firms or other entities that practice those professions.

## **SERVICES AS AN EXPERT WITNESS**

In the absence of specific authorization, an employee shall not represent anyone other than the United States as an expert witness in any proceeding before a court or agency of the United States if the United States is a party or has a direct and substantial interest. The restriction applies even though no compensation is received. A less restrictive standard applies to special Government employees.

## **TEACHING, SPEAKING AND WRITING**

An employee shall not receive compensation for teaching, speaking, or writing that is related to his or her official duties.

## **DEFINITION OF “RELATED TO” DUTIES**

Teaching, speaking or writing is “related to an employee’s official duties” if:

- The activity is undertaken as part of his or her official duties;
- The invitation to engage in the activity was extended primarily because of his or her official position;
- The invitation or the offer of compensation was extended by a person whose interests may be affected by the employee’s official duties;
- The information draws substantially on nonpublic information; or
- For most employees, the subject of the teaching, speaking or writing deals in significant part with any matter presently assigned to the employee, any matter to which the employee had been assigned in the previous

one-year period, or to any ongoing or announced policy, program or operation of Treasury.

Certain non-career employees are subject to additional restrictions and special Government employees are subject to less restrictive standards.

### **EXCEPTION FOR TEACHING CERTAIN COURSES**

An employee may receive compensation for teaching certain courses, notwithstanding that the subject matter is related to his or her official duties and notwithstanding that he or she may have been offered the opportunity because of his or her official position.

### **FUNDRAISING**

Provided that he or she does not otherwise violate the Standards of Ethical Conduct, an employee may engage in charitable fundraising activities in a personal capacity if he or she does not use his or her official title, position, or authority to further that effort or personally solicit funds or other support from subordinates or from anyone known to him or her to be prohibited source for purposes of the gift restrictions in Subpart B. A special Government employee, however, may solicit charitable contributions from a prohibited source as long as that person does not have interests affected by the performance of his official duties.

### **JUST FINANCIAL OBLIGATIONS**

Employees shall satisfy in good faith all just financial obligations.

# Appendix C

## **SUMMARY OF TREASURY SUPPLEMENTAL ETHICS REGULATIONS**

Many of the Treasury Supplemental Ethics Regulations at 5 C.F.R. Part 3101 are currently under revision. Although a brief summary is included here, you should contact your ethics official for guidance on your bureau's current supplemental regulations.

### **A. Bureaus with supplemental regulations**

- Bureau of Alcohol, Tobacco Tax and Trade (TTB)—5 C.F.R. § 3101.105
- Internal Revenue Service (IRS)—5 C.F.R. § 3101.106
- Office of the Comptroller of the Currency (OCC)—5 C.F.R. § 3101.108
- Office of Thrift Supervision (OTS)—5 C.F.R. § 3101.109

**Note:** *Consult with your bureau ethics official for more information.*

### **B. Separate Bureau Designations for Gifts from Outside Sources and Teaching, Speaking, and Writing**

These bureaus are considered as separate agencies for purposes of gifts from outside sources (i.e., determining whether the donor of a gift is a prohibited source under 5 C.F.R. 2635.203(d)) and for purposes of teaching, speaking, and writing (i.e., identifying an employee's "agency" under 5 C.F.R. 2635.807.) See 5 C.F.R. 3101.102.

- Bureau of Alcohol, Tobacco Tax and Trade (TTB);
- Bureau of Engraving and Printing (BEP);
- Bureau of the Public Debt (BPD);
- Financial Crimes Enforcement Network (FINCEN);
- Financial Management Service (FMS);
- Internal Revenue Service (IRS);

- Office of the Comptroller of the Currency (OCC);
- Office of the Inspector General (OIG);
- Office of Thrift Supervision (OTS); and
- United States Mint.

**Note:** *Employees in the Legal Division are considered to be part of the bureaus or offices in which they serve.*

## **C. Additional Rules for All Treasury Department Employees**

### **1. Prohibition on Purchase of Certain Assets**

Treasury employees may not purchase, directly or indirectly, property:

- (1) Owned by the Government and under the control of the employee's bureau (or a bureau over which the employee exercises supervision); or
- (2) Sold under the direction or incident to the functions of the employee's bureau.

**Exceptions:** Employees may purchase of Government securities or items sold generally to the public at fixed prices, such as numismatic items produced by the United States Mint. An employee may also purchase foreign gifts deposited with the Department pursuant to 5 U.S.C. 7342 and 41 C.F.R. § 102-42.5 *et seq.* See 5 C.F.R. § 3101.103.

**Waiver:** In certain circumstances, an employee may make a purchase otherwise prohibited by this section where a written waiver of the prohibition has been given to the employee by an agency designee with the advice and legal clearance of the DAEO, or the appropriate Office of Chief or Legal Counsel.

**Note:** *Employees of the OCC and OTS are subject to additional limitations on the purchase of assets that are set out in bureau-specific rules contained in §§ 3101.108 and 3101.109.*

## 2. Prior Approval for Outside Employment and Business Activities

All Department of the Treasury employees shall obtain prior written supervisory approval before engaging in any outside employment or business activities, with or without compensation unless an exception applies in a Treasury directive or other Treasury, bureau, or office issuance.

**Note:** *Employees of the TTB, IRS, Legal Division, and OCC are subject to additional limitations on outside employment and activities that are set out in bureau-specific rules contained in this part. See 5 C.F.R. § 3101.104.*

### D. Additional Rules for Legal Division Employees

Employees of the Legal Division are subject to any instructions which the General Counsel or appropriate Chief or Legal Counsel may issue in accordance with the Standards of Conduct and Treasury supplemental regulations.

An attorney in the Legal Division may not engage in the outside practice of law that might require the attorney to:

- (1) Take a position that is or appears to be in conflict with the interests of the Department of the Treasury which is the client to whom the attorney owes a professional responsibility; or
- (2) Interpret any statute, regulation or rule administered or issued by the Department. See 5 C.F.R. § 3101.107.

# 14 Principles of Ethical Conduct

Inspired by 5 C.F.R. 2635.101(b)

- Remember that public service is a public trust.
- Only hold financial interests that do not conflict with official duties.
- Use non-public information only for official business.
- Do not solicit gifts or accept gifts in return for being influenced in the performance of an official act.
- Put forth an honest effort at work.
- Use your official position only for public purposes, not private gain.
- Act impartially and without giving preferential treatment to any private organization or individual.
- Protect and conserve Federal property.
- Do not engage in outside activities, including looking for another job, that conflict with your official duties.
- Disclose waste, fraud and abuse.
- Satisfy in good faith all your obligations as a citizen, including financial obligations.
- Make promises that bind the Government only when you have authority to do so.
- Adhere to all equal employment opportunity (EEO) laws.
- Avoid any action that creates the appearance of violating an ethics rule.



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