

## FAQS

Note: The following are frequently asked questions (FAQs) relating to the Standards of Ethical Conduct for Employees of the Executive Branch ([5 CFR Part 2635](#)) and relevant SBA regulations. These questions are examples only and are intended to suggest answers to common situations. You should not assume they address your individual situation. Please feel free to ask your agency ethics official questions after you have reviewed this material or at any time you are confronted with an ethical problem. When in doubt, it's always best to ask.

### Topics --

- **Conflicting Financial Interest**
- **Gifts From Outside Sources**
- **Gifts Between Employees**
- **Impartiality When Performing Official Duties**
- **Misuse of Position & Equipment**
- **Political Activities**
- **Seeking Other Employment**
- **Outside Activities and Employment**
- **Restrictions on Former Employees**

### **Conflicting Financial Interests** (See [Subpart D of 5 C.F.R. Part 2635](#) and [13 C.F.R. Part 105](#))

**Question:** Suppose I don't own any shares of stock. Do I have to be concerned about financial conflicts of interest?

**Answer:** Yes you should. Owning stock in a company that would be affected by your job is only one example of something that would be a financial conflict of interest. A federal criminal law says that you may not take official action in your job on matters that will have an effect on your personal financial interests. The effect does not have to be a financial gain; it can be a loss. Examples of conflicting financial interests for you may include participating in matters related to any outside organizations in which you serve as an officer, director, general partner or employee, matters related to your spouse's employer, or any financial interests of your spouse or minor children.

**Question:** I am a loan processing assistant but I don't file a financial disclosure report. May I purchase bank stock?

**Answer:** It depends on whether the bank is an SBA participant lender and whether your job requires you to participate in matters that would have a direct and predictable effect on your financial interest (or the financial interest of anyone in your immediate family). A particular matter will have a predictable effect if there is a real, as opposed to a speculative, possibility that the matter will affect your financial interest. If so, you must immediately notify your supervisor and consult with your local agency ethics official.

**Note:** This answer may change if SBA decides to adopt supplemental regulations concerning the ownership of bank stock.

**Question:** My husband owns a company and wants to apply for SBA assistance, such as a 7(a) loan. I am an SBA employee that does not work on the 7(a) loan program. Is there a conflict of interest here?

**Answer:** Maybe not. SBA would need to consider your exact duties to make this determination, in addition to information concerning your relationship with the company. For example, if you don't work in the district office that would process the loan application, you don't have any official duties or responsibilities related to SBA loans or participant banks, and you are not involved in the management or operation of your husband's company, then there does not appear to be a conflict. Other factors to consider are what type of ownership interest you have in the company and whether you live in a community property state. However, before a 7(a) loan could be issued to the company, the SBA Standards of Conduct Committee would have to issue written approval. See [13 C.F.R. § 105.204](#).

**Question:** I recently resigned my position as a vice president of a small electronics company in order to join SBA as a computer specialist. My new boss at SBA has asked me to participate in the administration of a computer-consulting contract for which my old company is a first-tier subcontractor. May I do what my boss has asked me to do? What concerns should I have about this?

**Answer:** Under OGE regulations you have a covered relationship with the subcontractor since the company employed you within the last year. Since you know that your former employer is a party to the contract's administration, it has to be determined whether a reasonable person would question your impartiality if you were to participate. If a reasonable person would question your impartiality, then you should not participate in the administration of the contract unless authorized to do so by SBA's Designated Agency Ethics Official (DAEO). In these types of matters, you should always consult your agency ethics official first.

**Gifts From Outside Sources** (See [Subpart B of 5 C.F.R. Part 2635](#))

**Question:** What is a gift?

**Answer:** A gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.

**Question:** How do I know when I may not accept a gift?

**Answer:** With certain exceptions, you may not ask for or accept a gift from anyone who is giving the gift to you because of your SBA employment. Ask yourself if the gift would have been offered if you were not working for SBA. If the answer is no, then the gift is being offered because of your SBA position and you normally cannot accept it. A major exception to this rule is the gift valued at \$20 or less (see below under the next question).

With certain exceptions you also may not ask for or accept a gift from a person or organization: (1) who does business with or seeks to do business with the SBA; (2) who seeks some official action by SBA; (3) who is an applicant or recipient of SBA assistance; or (4) who is a resource partner of SBA. Gifts from these people or groups are generally prohibited whether or not you deal with them when doing your job. You must also decline a gift from someone who has interests that may be significantly affected by you when you are doing your SBA job.

The best course to follow to avoid a potential problem is to ask your agency ethics official about it. He or she can also tell you how to properly dispose of a gift that you've received, but may not keep.

**Question:** May I accept a lunch?

**Answer:** It depends. Meals can be gifts. If the person who wants to pay for your lunch is an applicant or recipient of "SBA Assistance" (see [13 CFR § 105.201\(e\)](#)), a SBA resource partner or conducts activities regulated by SBA, seeks official action by SBA, is affected by the job you do, or if the meal is offered because of your position, then the rule on gifts applies. Nevertheless, you may be able to accept a lunch or other meal under an exception for gifts valued at \$20 or less. But, there is a \$50 per year limit on gifts from any one source. For purposes of applying the \$50 limitation on gifts from any one source, you need to aggregate all gifts from the company as well as its officers and employees. As always, check with your agency ethics official when you aren't sure.

**Question:** What about accepting a cup of coffee?

**Answer:** You may accept a cup of coffee, and it does not count toward the annual \$50 limitation from any one source, because it is a modest refreshment that is not considered a gift at all unless offered as part of a meal. Other inexpensive food and refreshment items that are not considered gifts include doughnuts or soda. There are some other items that are also not considered gifts, such as greeting cards, plaques, certificates and trophies. Nonetheless, remember that the definition of a gift is generally very broad. Anything that has monetary value is usually considered a gift. So, if you have a question about a gift, ask your agency ethics official.

**Question:** May I use the \$20 exception for anything other than a lunch?

**Answer:** Yes. The \$20 exception may be used to accept any gift that is not worth more than \$20, but you may never accept cash! A pocket calculator, for example, could cost from \$5 to \$100, or more. So, you have to be sure that the retail value of the gift is not greater than \$20.

There are some other things you should keep in mind before you accept a gift under \$20. This exception to the general rule allows you to accept a gift worth \$20 or less on a single occasion. That means if several gifts from the same source are given at the same time, their total value cannot exceed \$20.

There are other exceptions that would allow you to accept a gift that would otherwise be prohibited, such as the "friends and family" exception based on personal relationships. Other examples are special discounts available through the SBA credit union and gifts that result from an outside job (when they are not given because of your SBA position). All of the exceptions are subject to limitations and some have conditions that must be met. The best course to follow to avoid a potential problem is to ask your agency ethics official about it. He or she can also tell you how to properly dispose of a gift that you've received, but may not keep.

**Question:** When may attorneys accept invitations to functions offered by law firms that serve as outside counsel, including functions that are not merely social but at which a guest speaker will address topical legal issues of interest to SBA attorneys?

**Answer:** All employees are prohibited from soliciting or accepting a gift from a prohibited source or given because of the employee's official position unless a specific exception to the rule applies. This prohibition extends to invitations to social events from outside law firms. One specific exception to this prohibition permits employees under certain conditions to accept an unsolicited gift of free attendance at all or part of a widely attended gathering or other event. This exception is premised on SBA determining that the participation of the employee, and the acceptance of free attendance, is in the best interest of SBA.

However, employees may not accept a gift of free attendance from non-governmental sources in their official capacity unless the employee's ethics official has made a determination of SBA interest. For example, the ethics official will need to consider factors such as the purpose of the event; the importance of the event to SBA; the nature and sensitivity of any pending matters affecting the interests of the person who has extended the invitation; the significance of the employee's role in any such matter; the other expected participants; and the market value of the gift of free attendance.

**Question:** What do I need to do if I receive an invitation to speak at an event outside of the SBA?

**Answer:** You need to check with your supervisors or their designees. In accordance with OGE regulations, your supervisor(s), in consultation with the agency ethics official, should consider the following factors in assigning you to participate as a speaker, panel participant or otherwise to present information at a meeting or other event:

- (1) Whether you will be billed as Chairperson or be identified as a sponsor of the event. Generally, employees should not be assigned to events where there is an appearance of SBA sanction or endorsement of a particular organization or any of its products or services. An exception is permissible for an employee to serve as a co-chair of a conference that is conducted by an organization that has a primary educational or training mission.
- (2) Whether participation in an event sponsored by for-profit organizations will further SBA programs or operations. Generally, employees should not be assigned to events sponsored by for-profit organizations unless the event covers or addresses small business issues or otherwise furthers the mission of SBA.
- (3) The number of employees who are invited to speak at an event. The number of SBA speakers should not constitute a disproportionate percentage of those attending or speaking at an event.

**Question:** What are some examples of things that may be accepted?

**Answer:** The following are some examples:

- (1) You may accept a tennis racket from your brother on your birthday even though he works for an SBA participant lender or a recipient of SBA assistance, as long as he, not his company, paid for the gift.
- (2) You may accept a plaque from the American Banker's Association, commemorating your speech at their annual convention. You may not accept a \$50 gift certificate from them.

#### **Gifts Between Employees** (See [Subpart C of 5 C.F.R. Part 2635](#))

**Question:** Next week is my co-worker's birthday. May we collect money to buy cake, ice cream and cookies for a small party?

**Answer:** Yes, you may collect small voluntary contributions from other persons in the co-worker's office to buy a cake and other food to celebrate her birthday.

**Question:** May I give my co-worker a birthday gift?

**Answer:** That depends. Generally an employee may not accept a gift from another employee who earns less pay, unless the person giving the gift is not a subordinate and the gift is based on a strictly personal relationship.

**Question:** May I give my supervisor a birthday gift?

**Answer:** With a few exceptions, the general rule is that you may not give, make a donation to, or ask for contributions for a gift to your official supervisor. An official supervisor includes your immediate supervisor and anyone above your supervisor in his or her chain of command. There are, however, certain specific exceptions to this rule -- when giving a gift is okay. For example, you may give your supervisor a gift on an occasion when gifts are traditionally given or exchanged such as a birthday. At those times gifts are permitted but they must be \$10 or less and cash is not permitted. In addition, you may contribute a nominal amount for or bring food that will be shared in the office among several employees including your supervisor. You can also invite your supervisor to your home for dinner or a party. If your supervisor invites you to his or her home, you can take a hospitality gift,

such as wine or flowers. You may also give your supervisor a gift on a special, infrequent occasion of personal significance such as marriage, illness, birth or adoption of a child. And, it's okay to give your supervisor a gift on an occasion that ends your employee-supervisor relationship, such as when you or your supervisor retires, resigns or transfers to another division or office.

It is always important to remember that gift giving is strictly up to you. A supervisor may never pressure you to give a gift or contribute to a group gift.

**Question:** What are some specific examples of when it is okay to give a gift to someone in my office?

**Answer:** The following are some examples:

- (1) You may participate in the exchange of gifts in the office holiday grab bag by buying and contributing a CD worth \$10.
- (2) You may collect contributions to purchase a fishing rod and tackle box for your supervisor when he retires and may suggest a specific, but nominal amount, provided that you tell your co-workers that they are free to contribute less or nothing at all.
- (3) You may bring a jar of macadamia nuts to your supervisor when you return from your Hawaiian vacation.

### **Impartiality When Performing Official Duties** (See [Subpart E of 5 C.F.R. Part 2635](#))

**Question:** People talk about "improper appearances" and "a lack of impartiality." What exactly do they mean?

**Answer:** Think of it as a question of fairness. Suppose you went to a football game and you discovered that the referee was the uncle of a player on one of the teams. Most people would say that the referee should not work that game because there would be a strong appearance that he might not make the calls fairly and impartially.

A similar principle applies to all of us when we are doing our job at SBA. As SBA employees, we should not act on a matter if a reasonable person who knows the circumstances of the situation could legitimately question our fairness. For example, your fairness might reasonably be questioned if you were to work on a project that could directly benefit a relative. The rule lists a number of "covered relationships" with people and organizations that could create an "improper appearance." Your agency ethics official can explain this in more detail, so remember if you have a question, check this Home Page for the name and telephone number of your agency ethics official. Any time you have a situation you think might raise such a concern, talk to the agency ethics official. He or she will be able to tell you whether or not there is an appearance problem and, if there is, give you advice on how to deal with it.

**Question:** May I purchase property being sold by SBA or one of our participant lenders?

**Answer:** Generally not. To avoid the appearance of a conflict of interest and a public perception of self-dealing, all employees, their spouses and minor children are prohibited from purchasing assets held by SBA or one of its participant lenders. Questions regarding purchase of SBA property should be addressed to your agency ethics official.

**Question:** During my participation in liquidation of a loan made by Mosquito State Bank, I learned of a property that the bank had foreclosed on and learned that it would soon be sold at public auction. May I participate in the auction and bid on the property?

**Answer:** No. Unfortunately, even though information on the property will be made public before the auction, you can't purchase the property at the auction because you learned about the property while performing your official duties.

**Question:** Is there anything that I need to do if I previously worked for a company that sometimes does business with the SBA?

**Answer:** Yes. To avoid even the appearance of showing favoritism to a former employer, associate, or client, you are prohibited for one year from when you joined SBA from participating in any matter related to your former employer, associates or clients.

**Question:** Does that mean that after one year, I can work on anything related to my former employer?

**Answer:** Generally, yes. However, your disqualification may be extended if your agency ethics official determines that, under current circumstances, your participation in the particular matter would cause a reasonable person to question your impartiality.

**Question:** Do I need to do anything if my sister is employed by a participant lender or by a company that does business with SBA?

**Answer:** Yes. You may not participate in any matter that would affect your sister's employer unless authorized by your agency ethics official. If you are required to file a financial disclosure report, you need to notify your agency ethics official in writing within thirty days of your sister's employment.

**Question:** May I supervise a family member?

**Answer:** You may not appoint, employ, promote, or advance one your relatives. Thus, although the regulation does not preclude a person from supervising a family member, it does preclude that person from promoting or advancing the family member's career. In addition, you can't advocate one of your relatives for appointment, employment, promotion, or advancement to a position in his agency.

**Question:** Can you give some examples of when my fairness might be questioned?

**Answer:** The following are some examples:

- (1) You handle an 8(a) application submitted to SBA by your brother-in-law.
  
- (2) After 20 years with Small Business, Inc., you accept a job with SBA. You are asked by your supervisor to handle an official matter that involves Small Business, Inc.
  
- (3) You are investigating a company for which your sister acts as legal counsel.

#### **Misuse of Position & Equipment** (See [Subpart G of 5 C.F.R. Part 2635](#))

**Question:** May I use the copier at work to make a hundred copies of a flyer for a bake sale at my child's school?

**Answer:** The general rule is that you are required to conserve and protect SBA property and, therefore, you may not use SBA property or allow its use for other than authorized purposes. It makes no difference whether you gain personally or whether the group you are helping is non-profit or a charity. However, occasional personal use of Government office equipment and telephones, while you are not on official time, is permitted by internal SBA policy subject to certain limitations. You may, for example, make a local call home on your office phone during your lunch hour, or make one or two copies of personal correspondence during your break. Anything involving illegal activities, sexually explicit material, outside commercial or employment activities, activities that would cause embarrassment to SBA, or activities that would interfere with the performance of official business is prohibited. Making a hundred copies of a flyer for a bake sale is not permitted under current SBA policy.

**Question:** Suppose my supervisor asks me to help him do some work connected with an outside group he belongs to. If I have free time during the day, can I do it?

**Answer:** No. Official time at work is to be used for the performance of official duties.

**Question:** At lunch some of my co-workers were talking about developing some specifications for a project that my division will put out for bids. A friend of mine works for a company that is in the business and it might help him if he knew about what's coming. Is it all right to tell him about the project without discussing the specifications?

**Answer:** That depends on whether the project itself is public information. You may not use (or allow someone else to use) non-public information to benefit yourself or some other person. If information about the project has not been made known to the public and is not authorized for release upon request, then it is non-public information and may not be disclosed. It makes no difference that you heard about it at the lunch table and not as a result of your official duties. If the fact that SBA is going to pursue the project is public, you can certainly make sure your friend knows when SBA publishes or makes available information about the project.

**Question:** In my official capacity, may I endorse a book or product for a friend if that book or product is helpful to small businesses?

**Answer:** Government-wide ethics regulations prohibit you from endorsing a book or product for anyone, including a friend. These regulations provide that, with limited exceptions not applicable in this instance, Federal employees shall not use or permit the use of their Government position or title or any authority associated with their public office to endorse any product, service, or enterprise.

**Question:** If I am using a personally owned vehicle (POV) to conduct official business, can my spouse ride along?

**Answer:** Yes. There is no legal prohibition against this and SBA has no policy restriction that is applicable. Of course, you can get reimbursed for the use of the POV only to the extent it is actually used for official business. If the POV is used to drive you and your spouse to a conference 200 miles away, and you both take a side trip for another 100 miles, your travel voucher can only claim the 200 miles.

**Question:** What are some examples of things I can't do at work?

**Answer:** The following are some examples:

(1) You are prohibited from advising a friend to sell his stock in a company which you know is under investigation by SBA. There are criminal statutes that prohibit the release of confidential information by employees.

(2) You may not make or take calls at your SBA office for work that you perform outside of the agency. For example, if you are a real estate agent in the evenings and on weekends, you may not make or take calls from your clients while at work at SBA.

(3) You may not use SBA letterhead for a letter of recommendation for your brother-in-law for a job with a company or government agency, unless you have personal knowledge of his ability or character based upon dealing with him in the course of his Federal employment.

**Political Activities** (See [5 C.F.R. Part 734](#); also see the section on "Political/Activity" on the Ethics home page for a discussion of the Hatch Act and its provisions)

**Question:** May I make a contribution to the campaign of a partisan political candidate, or to a political party or organization?

**Answer:** Yes. You may contribute in your private capacity to the campaign of a partisan political candidate, a political party or other partisan political organizations.

**Question:** I use my personal car to conduct SBA official business from time to time. May I have a political bumper sticker on my car?

**Answer:** Yes. You may use your private vehicle to conduct official SBA business or while you are on official travel, even though it has a partisan political bumper sticker on the vehicle. However, you should cover the sticker up while you are using your car for official duty.

**Question:** If I have a political bumper sticker on my personal car, am I allowed to park the car in a government lot or garage, or in a private lot/garage if the government subsidizes my parking fees?

**Answer:** Yes. You are allowed to park your privately owned vehicle with a political bumper sticker in a government lot or garage. You may also park the car with a bumper sticker in a private lot or garage for which the employee receives a subsidy from SBA.

**Question:** May I help organize a political fundraiser?

**Answer:** You are allowed to organize a fundraiser, including supplying names for the invitation list, as long as you do not personally solicit, accept, or receive contributions or allow his or her name to be used to do so.

**Question:** May my name appear on invitations to a political fundraiser as a sponsor or point of contact?

**Answer:** No. Your name may not be shown on an invitation to such a fundraiser as a sponsor or as a point of contact.

**Question:** May I speak at a political fundraiser?

**Answer:** Yes. You are allowed to give a speech or keynote address at a political fundraiser, as long as you are not on duty, do not solicit political contributions and your official government title or position is not mentioned.

**Question:** If I'm going to speak at a political fundraiser, what information about me can be printed on the invitations?

**Answer:** You may be listed as a guest speaker. However, the reference should not in any way suggest that you solicit or encourage contributions. Invitations to the fundraiser may not include your official title; although if you are ordinarily addressed with a general term of address such as "The Honorable" the invitation may use that term of address.

**Question:** May I attend a state or national party convention? If so, in what capacity?

**Answer:** Yes. You may serve as a delegate, alternate, or proxy to a state or national party convention, and serve as an officer of the convention, in your private capacity.

**Question:** If I run as a candidate for public office in a nonpartisan election, may I ask for and accept political contributions?

**Answer:** As a candidate for public office in a nonpartisan election you are not barred from soliciting, accepting, or receiving political contributions for your own campaign.

**Question:** May I distribute brochures for a political party to people arriving at a polling place on Election Day?

**Answer:** Yes. You may stand outside a polling place on Election Day and hand out brochures on behalf of a partisan political candidate or political party. You may also serve as an election judge or other election official on Election Day and on behalf of a partisan political party.

**Question:** Can you provide examples of some things that can and can't be done with regard to political activities?

**Answer:** The following are some examples of permitted and prohibited conduct by SBA employees, with regard to political activities:

1. SBA employees may register and vote as they choose.
2. SBA employees may assist in voter registration drives.
3. SBA employees, except career Senior Executive Service (career SESs) and Administrative Law Judges (ALJs), may campaign for or against candidates in partisan elections.
4. SBA employees, except career SESs and ALJs, may hold office in political clubs or parties.
5. SBA employees may campaign for or against referendum questions, constitutional amendments, and municipal ordinances.
6. SBA employees may not use official authority or influence to interfere with an election.
7. SBA employees may not knowingly solicit or discourage the political activity of any person who has business before SBA.
8. An SBA employee may not be a candidate in a partisan election.
9. An SBA employee may not engage in political activities while performing his or her official duties, and may not place campaign posters or distribute political literature on Government property.

### **Seeking Other Employment** (See [Subpart F of 5 C.F.R., Part 2635](#))

**Question:** Is there any problem with me seeking a part-time job while I am still employed with the Agency?

**Answer:** Not necessarily. However, there are rules that apply to you if you are looking for a job whether it's a part-time job or whether you are looking to leave SBA for a full-time position. Employees may accept part-time employment that does not conflict with their SBA duties.

Speak with your agency ethics official before you look for a job, whether full or part-time. He or she can advise you about the rules on seeking employment. If you are thinking of looking for a part-time job that would require you to be disqualified from any official duties, you are required to consult with your agency ethics official. You may be restricted from accepting the employment or may be restricted in the services you can provide to your other employer.

In negotiation for future employment, you need to know whether the person or company that you are thinking about working for could be affected by matters that you work on for SBA. If the prospective employer would not likely be affected, you wouldn't need to do anything. If the work would likely affect your prospective employer, you need to stop working on that matter and notify both your supervisor and agency ethics official.

Another thing to remember is that these rules may apply to you sooner than you think. Depending on the circumstances and who the prospective employer is, even sending out a letter and resume could trigger the requirement that you stop working on any matter that may affect that prospective employer.

**Question:** I am loan officer in one of SBA's field offices and have been assigned the task of processing a loan application from Bio Company. I am thinking about leaving the Government and several weeks ago I sent a letter to Bio Company requesting a job application. Have I begun seeking employment to the extent that I cannot participate in the processing of Bio Company's loan application?

**Answer:** No. "Seeking employment" does not include a communication for the sole purpose of requesting a job application.

**Question:** The Bio Company loan application is still pending and I just received the application form from the company. I plan on immediately applying for a position with Bio Company. If I receive an immediate response from Bio Company acknowledging receipt of my application, and within the week they call me to set up an interview, at what point must I disqualify myself from working on the loan application or any other matter relating to Bio Company?

**Answer:** You must disqualify yourself once you have sent the resume. You have begun "seeking employment" when you submit the application or resume to Bio Company because you are working on its loan application. Thus, you must disqualify yourself from further participation, if the loan application is still pending, unless or until Bio Company clearly rejects your application or the agency authorizes your participation.

**Question:** Can you provide some examples of when an employee is deemed to be looking for a job and the effect this job search has on the employee while at SBA?

**Answer:** The following are some examples.

- (1) Juan has been approached by a company that receives SBA assistance, and is asked if he would consider talking about possible employment. Unless he promptly rejects the invitation, Juan is considered to be seeking employment with that company and may not continue to work on matters that would affect the institution.

(2) Susan told an SBA recipient of assistance that she needs more time to think about the company's job offer. As long as the offer is pending, Susan may not work on matters that will affect that company.

## **Outside Activities and Employment** (See [Subpart H of 5 C.F.R., Part 2635](#))

**Question:** May I participate in outside activities off the job, on my own time?

**Answer:** It depends on what you do and whom you do it for. The rule says that you may not engage in outside employment or any outside activity if it conflicts with the official duties of your SBA position. There could be a conflict because of a law or SBA regulation or because doing the outside activity would disqualify you from performing a significant amount of your SBA duties. You should check with your agency ethics official prior to beginning or continuing any outside activity.

**Question:** I am a career employee with SBA's Office of Inspector General. I work primarily on audits of the Agency's contracting programs. I am also a CPA, and in my spare time I would like to prepare Federal and state income tax returns for some of my friends during tax season. For these services, I would like to receive a small fee. Is it okay for me to do this?

**Answer:** Assuming the outside work does not conflict with your official duties at SBA (a call SBA has to make), you are not prohibited from preparing tax returns for your friends and collecting a fee for your services. However, because of two criminal statutes, 18 U.S.C. §§ 203 and 205, you cannot represent your friends before the IRS, other than to provide factual information, should the returns be audited.

**Question:** Suppose I teach how to apply for government business loans at a local community college. Is that all right?

**Answer:** There are restrictions that apply to outside teaching, speaking and writing. Generally, if the activity relates to your official duties, the rule is that you may not be paid for it. However, even if the course does relate to your work, there is an exception for teaching a course in the regular program of certain educational institutions that would allow you to teach the community college course. If your SBA position requires you to deal with the community college or in any way affects the college's financial interests, you should check with your agency ethics official first before you accept the teaching position.

**Question:** What about fundraising?

**Answer:** There are rules that apply to fundraising as a private individual. Basically you can engage in private fundraising outside the workplace as long as you do not ask for a contribution from a subordinate or from someone who is regulated by, does business with, or seeks official action of SBA, or has interests that may be substantially affected by you when you do your job. Also, you may not use your title, position or authority, or SBA time or equipment, to further the fundraising effort. You must avoid any action that would violate any of the other conduct rules. Fundraising in your official capacity is highly restricted by other laws and rules so you should always ask your agency ethics official first before engaging in such activity.

**Question:** I am a computer specialist in the Office of Communications Technology Services and saw an advertisement in the newspaper for part-time work at a recipient of SBA assistance. It's an administrative job and doesn't have anything to do with computers or my SBA job. Is it okay for me to work there on evenings and weekends?

**Answer:** Probably not. Generally, employees, regardless of their position, are prohibited from providing services in any capacity for compensation, whether monetary or otherwise, to any recipient of SBA assistance.

**Question:** Does that mean that as an attorney, I could not write a will for a close personal friend who is the branch manager of a participant lender?

**Answer:** Not necessarily. If you agree that no compensation in any form will be received, it would be okay since the service is based on a close personal relationship. Otherwise, you could not.

**Question:** May I use my real estate license to sell real estate on weekends and evenings?

**Answer:** Yes, but only if you have received prior clearance from your agency ethics official. This is required to avoid conflicts of interest and other ethics related problems. For example, if you file a confidential financial disclosure report (OGE Form 450) and hold a license relating to real estate, appraisals, securities or insurance, and your official duties with SBA require personal and substantial involvement in such matters, you may not use your license for the production of income (other than in the performance of your official duties). Your office or program supervisor, in consultation with your agency ethics official, may grant exceptions to this prohibition based on a finding that use of the license will not create an appearance of the use of public office for private gain.

**Question:** Can you provide examples of some things that can and can't be done off the job?

**Answer:** The following are examples of some things that can and can't be done off the job:

- (1) You may work as a part-time salesperson with a clothing store in the local shopping center so long as your official duties at SBA do not affect the clothing store.
- (2) You may not
- (3) You may serve on the board of directors of the local Moose club, a social organization in your hometown.

**Restrictions for Former Employees** (See [5 C.F.R. Part 2641](#), and [13 C.F.R. Part 105](#))

**Question:** Suppose I take a job in the private sector. Am I subject to any rules after I leave the Government?

**Answer:** There is a Federal law that applies to all former employees after they leave SBA. This law does not prohibit you from working for any particular employer. It may, however, restrict the kinds of things that you do for that employer depending on what you worked on or were responsible for when you were with SBA. In addition, SBA regulations prohibit recipients of SBA assistance from hiring you after you leave SBA depending on what you worked on and what office you worked in.

SBA agency ethics officials are available to answer any specific questions that you might have concerning post employment restrictions and you should contact one of them in order to be sure that you perform the duties of your new employment in a lawful manner. It is a good idea to ask about these rules when you are seeking employment. You will want to know if you are permitted to work for your prospective employer, or perform specific tasks, before you accept the job.

Additionally, it is important that current employees be reminded that OGE regulations prohibit them from showing preferential treatment to firms employing former SBA employees. There are also SBA regulations that bar the granting of SBA Assistance, under certain circumstances, to small businesses that hire former SBA employees.

**Question:** I am a GS-14 district counsel at an SBA field office. My office has just received a tort claim filed by Great Widget Corporation against SBA stemming from an auto accident involving an SBA employee and one of Great Widget's delivery trucks. I am currently negotiating with Great Widget for a job on their legal staff. I have informed the district director of my conflict, recused myself from participation in the case, and informed my legal staff that they are not to discuss the case with me. If I am offered a job with Great Widget during the next month, accept it and leave SBA's employ, can I then represent Great Widget in pursuit of its claim against SBA?

**Answer:** No. Under [18 U.S.C. § 207\(a\)\(2\)](#), for two years after your Government service terminates, you may not make, with the intent to influence, any communication to or appearance before an employee of the United States on behalf of another person (except the United States) in connection with a particular matter involving a specific party or parties, in which the United States is a party or has a direct and substantial interest, and which you know or reasonably should know was pending under your official responsibility within a one-year period prior to the termination of your employment with the SBA.

In this case, the matter (the tort claim) is a particular matter involving specific parties in which the United States has a direct and substantial interest, and it was actually pending under your official responsibility during the last year prior to your termination from Government service. "Official responsibility" is defined in [18 U.S.C. § 202](#) as "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action." Your recusal from a matter does not remove it from your official responsibility. The matter was actually pending under your official responsibility if the matter was in fact referred to or under consideration by persons within the your area of responsibility. Your staff was responsible for handling the tort claim, and therefore, the matter was actually pending under your official responsibility.

**Question:** Can you provide examples of some things that can and can't be done after leaving SBA?

**Answer:** The following are some examples of things you can and can't do after leaving SBA:

- (1) As a former SBA loan officer, you may accept a job with a local participant lender because a participant lender is not a recipient of SBA assistance. Nevertheless, you may not come back to SBA and represent the bank on any matter that you were personally and substantially involved in while employed by SBA or which was pending under your official responsibility during your last year of SBA employment.
- (2) You may not represent your new private employer in a dispute with SBA over a service contract for which you served as the contracting officer while working for SBA.
- (3) For two years, you may not represent your new employer before SBA regarding investigations conducted by your subordinates during your last year of SBA service in the Inspector General's Office.

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