

**STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH**

**NOTE: The following are summaries of the government-wide standards of ethical conduct. They are for guidance purposes only. Specific details of requirements have been omitted. If you have any questions about these standards, please review the pertinent statute sections and/or regulations cited, and the examples provided in the regulations. In addition, please visit the [Frequently Asked Questions](#) section of this website for examples of how and when these ethics standards apply.**

It's important that you understand these standards of conduct. 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.

**Ethics Program Topics**

- Gifts From Outside Sources
- Gifts Between Employees
- Conflicting Financial Interests
- Impartiality in Performing Official Duties
- Seeking Other Employment
- Misuse of Position
- Outside Activities
- Honoraria
- Post-Employment
- Representation Before Government Agencies and Courts
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**Gifts From Outside Sources**

As an Executive Branch employee you are subject to restrictions on the gifts that you may accept from sources outside the Government. Generally you may not accept a gift that is given to you because of your official position or that comes from certain "prohibited sources." These sources include persons (or an organization made up of such persons) who --

- are seeking official action by SBA;  
**That means you may not ...**
- are regulated by SBA; or
- have interests that may be substantially affected by the performance or nonperformance of your official duties.

There are a number of exceptions to this ban on gifts from outside sources. These exceptions would allow your acceptance of gifts in the following circumstances --

- where the value of the gift is \$20 or less;
- where the gift is based solely on a family relationship or personal friendship;
- where the gift is based on an outside business or employment relationship; or
- where the gift is in connection with certain political activities.

You may also accept gifts of free attendance at certain widely attended gatherings when you have been asked to participate as a speaker or panel participant provided that there has been a determination by an appropriate management official that your attendance is in the interest of the agency. Gifts of free attendance from non-sponsors of the event may also be accepted provided that certain additional conditions are met.

There are also exceptions for discounts, awards and honorary degrees, certain social events, and meals, refreshments and entertainment in foreign countries. These exceptions are subject to some limitations on their use. For example, you can never solicit or coerce the offering of a gift from a prohibited source. Nor can you use exceptions to accept gifts on such a frequent basis that a reasonable person would believe that you are using your public office for private gain. Some other things are not treated as gifts and may be accepted without any limitations. Modest refreshments (such as coffee and doughnuts), greeting cards, plaques and other items of little intrinsic value, rewards and prizes open to the general public, and pension benefits from a former employer are just a few examples.

If you receive a gift that cannot be accepted, you may return the gift or pay its market value. If the gift is perishable and it is not practical to return it, the gift may, with approval by the appropriate Agency ethics official, be given to charity or shared in your office.

Reference: [5 C.F.R. §2635.201-205](#)

### **Gifts Between Employees**

As an Executive Branch employee you may not make a gift to one of your official superiors nor can you accept a gift from another employee who receives less pay than you except in certain circumstances or on certain occasions. On an occasional basis, including occasions when gifts are traditionally given or exchanged, the following individual gifts to a supervisor are permitted --

- gifts other than cash that are valued at no more than \$10;
- food and refreshments shared in the office among employees;
- personal hospitality in your home that is the same as you customarily provided to your personal friends;
- gifts given in connection with the receipt of personal hospitality that is customary to the occasion; and
- transferred leave provided that it is not to an immediate supervisor.

On certain special, infrequent occasions, a gift may be given that is appropriate to that occasion. These occasions include --

- events of personal significance such as marriage, illness or the birth or adoption of a child; or
- occasions that terminate the subordinate-official superior relationship such as retirement, resignation or transfer.

Finally, you may solicit or contribute, on a strictly voluntary basis, nominal amounts for a group gift to an official superior on special infrequent occasions and occasionally for items such as food and refreshments to be shared among employees at the office.

Reference: [5 C.F.R. §2635.301-304](#).

### **Conflicting Financial Interests**

As an Executive Branch employee you are prohibited by a Federal criminal statute from participating personally and substantially in a particular Agency matter that will affect certain financial interests. These include the financial interests of --

- you;
- your spouse or minor child;
- your general partner;
- an organization in which you serve as an officer, director, trustee, general partner or employee; and
- a person with whom you are negotiating for or have an arrangement concerning prospective employment.

There are a number of ways in which you may deal with a potential conflict of interest. You may simply not participate in the Agency matter that would pose the conflict. This is referred to as a "recusal." You may also obtain a waiver from the DAEO, sell off or "divest" the conflicting interest, or resign from the conflicting position. The appropriate remedy will depend upon the facts of your particular circumstances.

Agencies, may, by supplemental regulation, prohibit or restrict the holding of certain financial interests by all agency employees or a group of employees, and may extend such restrictions to the employee's spouse and minor children. At this time, SBA does not have any supplemental regulations.

Reference: [18 U.S.C. §208](#); [5 C.F.R. §2635.401-403](#)

### **Impartiality in Performing Official Duties**

As an Executive Branch employee you are required to remain impartial when performing your official duties. You must therefore determine whether your impartiality would be questioned if you were to become involved in a particular Agency matter, concerning or dealing with specific parties, that might affect your personal and business relationships. Examples of particular Agency matters concerning or dealing with specific parties includes: a pending case, contract, grant, permit, license, or loan. In contrast, general rulemaking would NOT be considered a particular Agency matter concerning or dealing with specific parties.

If such a matter affects the financial interest of you, a member of your household, or a person with whom you have a "covered relationship," or who represents a party to such a matter, then you must consider whether a reasonable person would question your impartiality in the matter. If you, in consultation with your local ethics official, conclude that there would be an appearance problem, then you should not participate in the matter unless authorized by your local ethics official to do so.

You have a "covered relationship" with the following persons --

- a person with whom you have or seek to have a business, contractual or other financial relationship;
- a person who is a member of your household or with whom the you have a close personal relationship;
- a person for whom your spouse, parent or dependent child serves as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
- any person for whom you have, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or
- any organization in which you are an active participant.

If you have a concern that circumstances other than those expressly described in the regulation may raise a question regarding your impartiality, you should follow the procedures described in the regulation to determine whether or not participation in the particular matter would be appropriate.

Upon entering Government service you may receive a special severance payment or other benefit which your former employer does not make to other departing employees not entering Federal service. If such a payment is made prior to you entering Government service, it is in excess of \$10,000, and if certain other factors are present, then you are disqualified for two years from participating in any particular Agency matter in which the former employer is a party or represents a party. The DAEO may waive or shorten the disqualification period depending on the circumstances.

Reference: [5 C.F.R. §2635.501-503](#)

### **Seeking Other Employment**

As an Executive Branch employee you may not participate in any particular Government matter that will affect the financial interests of a person or entity with whom you are seeking employment. You are considered "seeking employment" if --

- you are engaged in actual negotiations for employment;
- a potential employer has contacted you about possible employment and you make a response other than a rejection; or
- you have contacted a prospective employer about possible employment (unless the sole purpose of the contact is to request a job application or if the person contacted is affected by the performance of the employee's duties only as part of an industry).

You are considered no longer seeking employment if --

- either you or the prospective employer rejects the possibility of your employment and all discussions of possible employment have ended; or
- two months have elapsed since your dispatch of an unsolicited resume and you have received no expression of interest from the prospective employer.

In some cases, you may be authorized by your ethics official to participate in particular matters from which you would otherwise have to be disqualified due to your job search. If a search firm or other intermediary is involved, you are not disqualified unless the intermediary identifies the prospective employer to you.

Reference: [18 U.S.C. §208](#); [5 C.F.R. §2635.601-606](#)

### **Misuse of Position**

As an Executive Branch employee you must not use your public office for your own or another's private gain. You are not to use your position, title or any authority associated with your office to coerce or induce a benefit for yourself or others. You also are not to use or allow the improper use of nonpublic information to further a private interest, either your own or another's.

You may not use Government property for other than authorized purposes. Government property includes office supplies, telephones, computers, copiers and any other property purchased with Government funds. You may not misuse official time. This includes your own official time as well as the official time of a subordinate.

Reference: [5 C.F.R. §2635.701-705](#)

### **Outside Activities**

As an Executive Branch employee you are subject to a number of limitations on the outside activities in which you may be involved. You may not have outside employment or be involved in an outside activity that conflicts with the official duties of your position. An activity conflicts with official duties --

- if it is prohibited by statute or by SBA regulations; or
- if the activity would require you to be disqualified from matters so central to the performance of your official duties as to materially impair your ability to carry out those duties.

You generally may not be paid for outside teaching, speaking and writing if the activity relates to your official duties. However, there is an exception that would allow you to be paid for teaching certain courses at accredited educational institutions. You may not use your

official title or position (except as part of a biographical sketch or for identification as the author of an article with an appropriate disclaimer) to promote a book, seminar, course, program or similar undertaking.

You may engage in fundraising in a personal capacity, subject to several restrictions. You cannot solicit funds from subordinates. In addition, you cannot solicit funds from persons who have interests that may be affected by SBA, such as those who are regulated by, seeking official action from, or doing business with SBA. You also cannot use or permit the use of your official title, position or authority to promote the fundraising effort.

Reference: [5 C.F.R. §2635.801-809](#)

### **Honoraria**

As an Executive Branch employee you are no longer subject to the prohibitions on the acceptance of honoraria contained in the Ethics Reform Act of 1989 (1989 Act). The 1989 Act had banned the receipt of any honoraria for an appearance, speech or article whether or not there was any connection to the employee's official duties. A later amendment to the 1989 Act had the effect of allowing payment for a series of such activities provided that the activity did not relate to your official duties.

This provision of the 1989 Act was challenged in court and eventually found by the Supreme Court to be an unconstitutional infringement of free speech. Subsequently, the U.S. Department of Justice, in an opinion issued on February 26, 1996, determined that the law was "effectively eviscerated" by the Supreme Court's decision and that there were no remaining applications of the law.

The result is that you generally may accept honoraria for an appearance, speech or article, provided that the activity does not relate to your official duties. Any employee who had kept honoraria in an escrow account during the litigation is now free to receive those funds. You are still subject to other restrictions on the receipt of honoraria in certain circumstances, including the prohibition on receiving compensation for teaching, speaking and writing that relates to your official duties (subject to an exception for teaching certain courses).

Reference: [Section 501\(b\), of the Ethics In Government Act, as added by section 601\(a\) of the Ethics Reform Act of 1989; United States v. National Treasury Employees Union, 513 U.S. 454, 115 S. Ct. 1003 \(1995\)](#)

### **Post-Employment**

As an Executive Branch employee you are also subject to certain restrictions on your activity after you leave Government service. Two of the restrictions apply with respect to particular matters involving specific parties that you were involved with while in Government service. If your involvement in such a matter was personal and substantial, then you are permanently barred from representing anyone back to any Federal department, agency, or court on that same matter. If the matter was under your official responsibility during the last year of your Government service, then you are barred for two years after leaving Government service from representing anyone back to the Government on that same matter.

In addition, certain high level officials are subject to a so-called "one-year cooling off period." For a period of one year after leaving certain "senior" SBA positions, you may not make any appearance on behalf of any person (other than the United States) before SBA with the intent to influence SBA on any matter in which that person seeks official action. Former senior and very senior employees are also restricted for one year after leaving Government service from representing, aiding or advising foreign governments or foreign political parties before an agency or department of the United States.

Reference: [18 U.S.C. §207; Executive Order 13490; 5 C.F.R. part 2641](#)

### **Representation Before Government Agencies and Courts**

As an Executive Branch employee you are subject to criminal statutes that prohibit the representation of private interests before the Government. One of these laws prohibits you from prosecuting a claim against the United States or representing a private party before the Government in connection with a particular matter in which the United States is a party or has a direct and substantial interest. This prohibition applies whether or not you receive compensation for your representation.

There are exceptions that would allow you to represent such private interests with or without compensation such as

- self-representation;
- representation of your parent, spouse or child; or
- representation of a person or estate that you serve as guardian, executor, administrator, trustee or personal fiduciary.

The matter involved may not be one in which you participated personally and substantially or which was the subject of your official responsibilities. Also, you must obtain approval for the activity from your appointing official.

You may represent employee nonprofit organizations (such as child care centers, recreational associations, professional organizations, credit unions or other similar groups) before the U.S. Government under certain circumstances. You may not be compensated and you may not represent an employee group in claims against the Government, in seeking grants, contracts or cash from the Government, or in litigation where the group is a party.

Another law governing representational activity prohibits you from accepting compensation for certain representational services before the Government, whether or not those services are provided by you personally or by some other person. Again, there are exceptions to this law that would allow for the representation of a parent, spouse, child or person served in a fiduciary capacity.

Reference: [18 U.S.C. §203](#), [18 U.S.C. §205](#)

### **Supplementation of Salary**

As an Executive Branch employee you may not be paid by someone other than the United States for doing your Government job. Thus, for example, a highly paid executive of a corporation upon entering Government service could not accept an offer from his or her former employer to make up the difference between his or her Government salary and the compensation he or she used to receive from the corporation.

This prohibition does not apply to --

- certain special Government employees and employees serving without compensation;
- funds contributed out of the treasury of any State, county, or municipality;
- continued participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer;
- payments for travel, subsistence, and other expenses made by a tax-exempt nonprofit organization incurred in connection with training; and
- moving expenses incurred in connection with participation in an executive exchange or fellowship program in an executive agency.

Reference: [18 U.S.C. §209](#)

**Content Comments to:** [Ethics@sba.gov](mailto:Ethics@sba.gov)

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