

## Summary of Your Obligations under the Ethics Pledge (Pledge)<sup>1</sup>

### Executive Order (EO) 13490

#### **Who must sign the Pledge?**

All full-time political appointees must sign the Ethics Pledge as a condition of employment.

- “Appointee” includes all full-time non-career Presidential appointees, non-career Senior Executive Service (SES) appointees, and non-career appointees excepted from the competitive service by reason of being of a confidential or policymaking character (e.g., Schedule C, politically appointed term SES or equivalent).
- This *excludes* the following personnel:
  - Career officials temporarily acting in the absence of an appointee to a non-career position.
  - Special Government Employees.
  - Uniformed service commissioned officers
  - Certain Schedule C appointees who have no policymaking role and who have been properly exempted from filing a public financial disclosure report (e.g., chauffeurs and private secretaries).

#### **What are the restrictions of the Pledge?**

**1. Lobbyist Gift Ban:** You may not accept *gifts* from *registered lobbyists* or *lobbying organizations* for the duration of your Government appointment.

- “Registered lobbyist” is any individual registered with the Clerk of the House of Representatives and the Secretary of the Senate. Generally this will not include media organizations or not-for-profit entities exempt from taxation under 26 U.S.C. § 501(c)(3).
- “Lobbying organization” is any entity that employs at least one in-house lobbyist on its own behalf, e.g., Raytheon, Boeing, and Halliburton; not just lobbying firms.
- “Gifts” are most items of value; examples are free attendance at dinners and other meals, receptions, sporting events, and similar widely attended gatherings. Exclusions from this definition of gifts include, but are not limited to:
  - Modest refreshments (e.g., coffee & donuts)
  - Items of little intrinsic value (e.g., greeting card, plaque) intended solely for presentation
  - Benefits available to all Government employees or all uniformed military personnel.

The ***only*** gift exceptions applicable to the Ethics Pledge are:

- Gifts based on a personal relationship;
- Discounts and similar benefits;
- Gifts resulting from a spouse’s business or employment;
- Customary gifts/gratuities provided by a prospective employer;

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<sup>1</sup> Revised February 2013.

- Gifts to the President or Vice President;
- Gifts authorized by an OGE-approved agency supplemental regulation; and
- Gifts accepted under specific statutory authority.

BUT NOTE: Other exceptions to the Government’s regulatory ethics prohibition on gifts are not exceptions to this Pledge restriction, e.g., you may not accept a gift from a registered lobbyist such as a lunch even if the value of the lunch was equal to or less than \$20.

**2. Revolving Door Ban for Incoming Appointees:** For two (2) years from date of appointment, you may not *participate* in any *particular matter involving a specific party* that includes a *former employer* or a *former client*. This does not include performing perfunctory or administrative duties, or social interactions with your former employers or clients.

- “Particular matter involving a specific party” is defined as a specific proceeding affecting a party’s rights or a discrete transaction between identified parties; examples are a specific contract, license, enforcement action, court case, or administrative adjudication or decision. It also includes **any meeting or communication with the former employer or client that relates to the performance of the official’s duties**, *unless* the matter to be discussed is a broad matter of general applicability and the meeting is open to all interested parties.

Q: May you give an official speech at an event sponsored by a former client or employer?

Yes: Provided the speech would not have a demonstrable financial effect on the former client or employer.

No: For example, if an admission fee is charged, the event is a fundraiser, or the event is some kind of business development activity such as a seminar for current or prospective clients. Moreover, if it is within the first year in office, other ethics rules apply.

- “Former employer” is defined as any person for whom the appointee served as an employee, officer, director, trustee, or general partner within two (2) years prior to date of appointment.
- “Former client” is defined as any person or organization you served personally as an agent, attorney, or consultant within two (2) years prior to date of appointment. This excludes limited services like speeches or similar appearances.
- “Participate” means personally and substantially, e.g., decide, approve, or recommend.

**3. Revolving Door Ban for Incoming Lobbyists:** If you served as a *registered lobbyist* within two (2) years prior to appointment, for two (2) years after appointment, you may not:

- Participate in any *particular matter* on which you *lobbied* within two (2) years before date of appointment;
  - Participate in the specific issue area in which that particular matter falls; or,
  - Seek or accept employment with any executive agency that you lobbied within two (2) years prior to date of appointment.
- “Lobby” means to act as a registered lobbyist.

- “Particular matter” encompasses matters that involve deliberation, decision, or action that focus on the interests of specific people or a discrete and identifiable class of people.
- Broad policy decisions are covered by this only if the decisions narrowly focus on a discrete and identifiable class of people

**4. Revolving Door Ban for Outgoing Senior Officials:** Once you leave Federal service, if you were a *senior official* you may not communicate with, *lobby* back to, or represent another before your former DoD agency for two (2) years.

- “Senior official” is any appointee whose base pay is at or above 86.5% of the rate of Executive Schedule Level II (\$155,440.50 in 2012).
- For Presidentially Appointed, Senate-confirmed officials<sup>2</sup>, this restriction applies to the entire Department of Defense.
- For all other senior officials, the ban applies only to your former DoD component; it does not restrict communications to other designated DoD components or other Executive Branch agencies.
- For example, as a former senior OSD (but not Senate-confirmed) official, you are prohibited from representing your new employer back to OSD, which includes all organizations not designated components, including the COCOMS and many Defense agencies, for two (2) years after leaving DoD. You could, however, communicate and represent your new employer back to a Military Department (e.g. Department of the Navy), the National Security Agency, or any other designated component.
- This restriction does not apply to “behind the scenes” assistance.

**5. Lobbying Ban for Outgoing Appointees:** Once you leave Federal service, you may not *lobby* back to any Flag/General officer or political appointee in the Federal Government for the duration of President Obama’s Administration.

**6. Merit-Based Hiring:** You must make all employment decisions, including hiring, based on a candidate’s competence, experience, and qualifications.

**Is a waiver available for any of the Pledge restrictions?**

- The DoD General Counsel may grant a waiver, after consulting with the Counsel to the President, when he determines:
- Literal application of Pledge restriction is inconsistent with the purpose of the restriction; or
- It is in the public interest to grant the waiver.

BUT NOTE: waivers will be granted sparingly with as limited a scope as possible.

Please contact the DoD Standards of Conduct Office at (703) 695-3422 or [soco@osd.mil](mailto:soco@osd.mil) with any questions or concerns.

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<sup>2</sup> Applies to anyone “in a position for which the rate of pay is specified in or fixed according to 5 U.S.C. 5311-5318(the Executive Schedule)”.