Applicability of Ethics Rules During a Furlough

You, like all Commerce personnel, remain subject to the same conflict of interest statutes and ethics regulations that apply during normal non-duty hours, even during a furlough due to a lapse of appropriations. Below is general guidance that may be of interest to you should there be a furlough due to a lapse of appropriations.

Non-Government Employment and Activities

You may accept employment or engage in uncompensated business activity that does not conflict with your Commerce position. For example, laws prohibit you from working for a foreign government or engaging in activities that would require you to contact a Federal agency or court on behalf of others. You may want to avoid working for a company, organization, university, local government, or other non-federal entity that has interests that might come before you or your Commerce office (e.g., contractor, vendor, grantees, licensees, or regulated entities). Before accepting such employment, you should review the guidance from our website. If you have questions, you can follow up by seeking guidance from this office.

The following is a brief summary of the ethics rules related to outside employment:

- You may not use the authority or title of your public office (your DOC position) for the private gain of your employer or client. 5 C.F.R. § 2635.702.
- You may not, with or without compensation, represent your employer or client before any department, agency, or court, where the US is a party or has a substantial interest in the matter. 18 U.S.C. §§ 203 and 205.
- Official time and resources may only be used for official purposes and limited authorized activities. 5 C.F.R. §§ 2635.704 and 705. You may not use official time or resources for the benefit of your outside employer, including self-employment activities, regardless of whether it is non-profit or for-profit. However, for furlough purposes, there is no “official time” restriction on employees to engage in outside employment.
- You may not give the appearance that DOC sanctions or endorses your employer, its activities, or services. 5 C.F.R. § 2635.702(b) and (c).
- You may not use or improperly disclose non-public information, including sensitive, classified, or otherwise protected information acquired as part of your official DOC duties, and which is not generally available to the public. 18 U.S.C. § 1905; 5 C.F.R. § 2635.
- For a year after you end your engagement, you are considered to have a personal conflict and may not participate in DOC matters where the employer or client is a party or represents a party.
- If you continue the engagement after any furlough, you may not participate personally and substantially in a particular DOC matter (e.g., contract, grant, license, claim, investigation, or other agency decision) that will directly affect the financial interests of your outside employer or client. 18 U.S.C. § 208
Gifts and Other Payments

You remain subject to restrictions on gifts, which means you may not accept a personal gift offered because of your official position or from a prohibited source, unless an exception applies, such as a gift from a friend or a gift of $20 or less.* Prohibited sources include any person with interests that may be affected by your official duties as well as any person seeking official action by, doing or seeking to do business with, or conducting activities regulated by Commerce.

You may attend a widely attended gathering (WAG)* during a furlough period if you received approval from a supervisor before the shutdown or furlough. Absent advance written approval, you must pay the fair market value if you wish to attend.

You may accept any benefits that are offered to all Federal employees, including discounts and benefits offered to all furloughed employees.

* Political appointees may not accept a gift or WAG invitation from a lobbyist or lobbying organization unless it is a 501(c)(3) organization or a media company.

Political Activities

You may not engage in fund-raising for a political party or candidates or run for partisan political office when on furlough or during a shutdown. If you are a career SES employee, NOAA Corps officer, or Administrative Law Judge, you also may not assist a campaign or hold a party office.

This handout is for informational purposes only and is not a substitute for advice from an ethics official. Please check our website for additional ethics guidance and materials.