

POLICY ALERT

PRESIDENT OBAMA SIGNS EXECUTIVE ORDER ON ETHICS

On January 21, 2009, President Barack Obama issued an [Executive Order](#), “Ethics Commitments by Executive Branch Personnel,” requiring appointees appointed after January 19, 2009 to sign a pledge that they will follow the restrictions on gifts from lobbyists, as well as observe revolving door policies. “Appointees” include all non-career presidential or vice-presidential appointees, non-career Senior Executive Service employees and Schedule C appointees in executive agencies. The restrictions are described below.

GIFTS

The executive order requires that all appointees entering the executive branch agree not to accept gifts from registered lobbyists or lobbyist organizations (i.e., “registrants” under the Lobbying Disclosure Act) for the duration of their service as an appointee.

The definition of “gift” remains unchanged and includes anything of monetary value, such as cash, meals, trips, concert tickets and services. A gift does not include a cup of coffee, modest refreshments that are not part of a meal and items of little intrinsic value, such as greeting cards or plaques and certificates intended solely for presentation. Gifts given to an appointee’s spouse, child, parent, sibling, dependent relative, charity or other organization at the suggestion of the appointee are also included under the restrictions.

Previously there were several exceptions to the definition of gift, but the executive order limits the number of exceptions that apply to registrants. The exceptions that still apply to registrants are as follows—

- gifts based on a personal friendship
- discounts and similar benefits
- gifts based on outside business or employment relationships that—
 - result from the business or employment activities of an employee’s spouse when it is clear that such benefits have not been offered or enhanced because of the employee’s official position, or
 - are customarily provided by a prospective employer in connection with bona fide employment discussions
- gifts to the president or vice president relating to the conduct of their offices, including those of protocol and etiquette
- gifts accepted under specific statutory authority.

The following are exceptions to the executive branch gift rules that are no longer available to registrants:

- individual items with a value of less than \$20 per occasion and a total of \$50 from a source in one calendar year
- awards and honorary degrees
- gifts based on outside business or employment relationships resulting from outside business or employment
- gifts in connection with political activities permitted under the Hatch Act
- widely attended gatherings and other events
- social invitations from persons other than prohibited sources
- meals, refreshments and entertainment in foreign areas.

REVOLVING DOOR

The executive order also establishes more restrictive revolving door policies for appointees and establishes additional restrictions both for individuals who were lobbyists before entering the administration and for those who become lobbyists after leaving the administration.

All Appointees:

For a period of two years after an appointment to the executive branch, an appointee may not participate in matters involving specific parties related to former employers or former clients.

For those leaving an executive branch appointment, the one-year restriction for very senior personnel of the executive branch has been extended to two years. Those who were employed in the executive branch may not, for one year after leaving government service, knowingly make, with the intent to influence, any communication to, or appearance before, any officer or employee of any department or agency in which such individual served within a period of one year before leaving government service and any person appointed to a position in the executive branch that is listed in section 5312, 5313, 5314, 5315, or 5316 of Title 5 (i.e., positions covered under executive levels I-V).

Lobbyists:

In addition to abiding by the requirement that no appointees may participate in matters involving specific parties related to former employers or former clients for a period of two years after an appointment, individuals who were registered lobbyists prior to entering the executive branch may not participate in any particular matter they lobbied within two years before the date of employment, participate in the specific issue area in which the particular matter falls or seek or accept employment with an agency that he or she lobbied within two years before the date of the appointment.

Individuals who leave the executive branch to become lobbyists must observe the two-year cooling off period described above. Additionally, they must agree not to lobby any covered executive branch officials or non-career Senior Executive Service appointees for the remainder of the administration.

CONTACT INFORMATION

If you have questions about this alert, please contact:

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