



| | | | |
|-----------------|--|------------|-----------|
| OFFICIAL POLICY | | | |
| Title | | | |
| Source: | Office of the Chief Ethics Officer | Version: | FINAL |
| | Lisa V. Terry | | |
| | Senior Vice President and Chief Ethics Officer | | |
| Approved: | | Effective: | Nov 2014 |
| Title: | Policy for Outside Employment | Review: | Sept 2018 |

1. POLICY

Purpose

The purpose of this document is to set forth the policy of the Export-Import Bank of the United States ("EXIM") with respect to outside employment for EXIM employees.

1.1. Background

EXIM employees may not engage in outside employment that conflicts with their official duties and activities. Under subpart H of 5 C.F.R. part 2365, outside employment conflicts with an employee's official duties and activities if it: (1) is prohibited by statute or agency supplemental regulation, or (2) requires the employee's disqualification from work at EXIM that is central or critical to the performance of the employee's official duties and activities. Further, employees must endeavor to avoid actions creating an appearance of violating any of the ethical standards and the prohibition against use of official position for private gain.

1.2. Policy Statement

Public service is a public trust. Therefore, it is the policy of EXIM to ensure that employees refrain from participating personally and substantially, in an official capacity, in any particular matter that would have a direct and predictable effect on the employee's own financial interests or on those interests imputed to the employee and from engaging in outside employment which could create actual or apparent conflict of interest with their official duties at EXIM. In practice, this means that outside employment will not be permitted where the duties and activities involved are the same or substantially the same as those performed by the employee at EXIM, and where the outside employer could be in a position to do business with EXIM in those areas of activity. Even in circumstances where an employee believes that his or her outside employment activities benefit EXIM, the public's interest in honesty, integrity of the service and the avoidance of a conflict of interest outweighs any such perceived benefit.

2. AUTHORITY

2.1. Authority for this policy is set forth at 18 U.S.C. §§ 203, 205, 208 & 209; 5 C.F.R. § 2635; and 5 C.F.R. § 6201.

2.2. Review Cycle for this policy will be annually.

2.3. Review History

| Date | Changes |
|---------|--|
| 11/2014 | <ul style="list-style-type: none"> • Revised Policy Established |
| 09/2018 | <ul style="list-style-type: none"> • Policy Revised for Changes in Staffing and Other Minor Edits |

3. DEFINITIONS

3.1. Conflict of interest: For purposes of this policy, where an outside employment or affiliation is determined to create an actual or apparent conflict between an employee’s private interests and the effective and impartial discharge of their official duties and activities at EXIM.

3.2. Employment: Any form of non-Federal employment, business relationship, or activity involving the provision of personal services by an employee.

3.2.1. Includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, or teacher;

3.2.2. Also includes writing when done under an arrangement with another person for production or publication of the written product; and

3.2.3. Does **NOT**, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, **UNLESS** such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.

3.2.4. Examples of such organizations, include: homeowners’ associations, parent-teacher associations or organizations, religious education/schools, community volunteer youth sports, or other, coaching, community or religious-affiliated mentoring or volunteering, alumni associations, community pool or recreation associations.

3.3. Financial interests imputed to the employee: Those financial interests that are treated as an employee’s own for purposes of conflicts of interest determinations, including those of a partnership or organization for which the employee serves as an officer, director, trustee, general partner or employee.

3.4. Pro Bono/Volunteer Work: Any work performed—including both legal and non-legal—without compensation other than reimbursement of expenses and including the provision of services to:

3.4.1. Persons of limited means or other disadvantaged persons;

3.4.2. Other organizations such as charitable, religious, civic, community, governmental, health and educational organizations in matters which are designed primarily to

address the needs of persons of limited means or other disadvantaged persons, or to further their organizational purpose;

3.4.3. Individuals, groups, or organizations seeking to secure or protect civil rights, civil liberties or public rights; or

3.4.4. In the case of pro bono legal service, activities for improving the law, the legal system, or the legal profession.

4. SCOPE AND APPLICATION

4.1. This Policy applies to all EXIM employees, including regional office employees.

4.2. Subject to certain exceptions, employees may not personally represent another (or share in compensation for another's representational services) before any court, Federal agency, or certain other entities concerning matters of interest or the United States.

4.3. Employees may not receive any salary or supplementation of salary, from any person other than the Government, as compensation for services as an EXIM employee.

4.4. Employees may not serve as an expert witness, other than on behalf of the United States, in certain proceedings in which the United States is a party or has a direct and substantial interest.

4.5. Employees may not receive compensation for teaching, speaking, or writing specifically related to their official duties except as set forth in the following.

4.5.1. Employees are encouraged to engage in teaching, speaking, or writing that is not prohibited by law. Generally, personal writings and prepared or extemporaneous speeches that are on subjects unrelated to EXIM and to employees' official duties are not subject to review.

4.5.2. An employee may accept compensation for teaching a course requiring multiple presentations by the employee if the course is offered as part of the regularly established curriculum of an institution of higher education as defined at 20 U.S.C. § 1141(a); or elementary or secondary school as defined by 20 U.S.C. § 2891; or a program of education or training sponsored and funded by the Federal Government or by a State or local government. (Note: in seeking approval, an employee may be asked to provide a syllabus or outline of the planned course).

4.5.3. In speaking and writing, employees are expected to disassociate themselves explicitly from EXIM and from their official positions. Personal writings as well as prepared or extemporaneous speeches by employees will not be subject to prior review. Where, however, the subject matter of such writing relates to U.S. export administration and financing or the history, organization, administration, practices, policies, transactions, buildings, or employees of EXIM, as well as matters relating to a field of an employee's official

specialization or the special clientele with which an employee works, and where some association may be made with an employee's official status, employees will: (1) assure accurate presentation of facts about EXIM and EXIM-related matters; (2) avoid the misrepresentation of EXIM policies; (3) avoid the use of any confidential business, non-public or privacy information; (4) avoid sources of potential damage to their ability to perform official duties in an objective and nonpartisan manner; and (5) assure, when appropriate, that employees' opinions clearly differentiate from EXIM policy.

- 4.6. Employees may not have any position in or receive any payment from a foreign government.
- 4.7. Outside employment and affiliations may warrant an employee's disqualification from an EXIM matter if a reasonable person would question the employee's impartiality. In the event the employee's outside employment activity relates to his or her official duty activity such that the ability to perform his or her official duties would be materially impaired, the employee must terminate the outside employment.
- 4.8. EXIM attorneys performing outside legal work should also refer to "Policy Statement on Pro Bono Legal and Volunteer Services for the Office of the Chief Ethics Officer."
- 4.9. Under Executive Order 13770, the Ethics Pledge imposes additional requirements for all full-time political appointees related to outside employment.

5. RESPONSIBILITY

- 5.1. **The Senior Vice President and Chief Ethics Officer** serves as EXIM's Designated Agency Ethics Official, and is responsible for oversight of this policy.
 - 5.1.1. Questions regarding the appropriateness of a particular outside employment should be referred to the Chief Ethics Officer or his or her designee.
 - 5.1.2. Whenever the Chief Ethics Officer has determined that any person or organization is engaged in or about to engage in an act or practice that constitutes or will constitute conduct prohibited by this policy or a violation of any requirement of this policy, the Chief Ethics Officer will take whatever steps are necessary, including seeking the assistance of the Inspector General and/or U.S. Department of Justice, to enforce the provisions of the applicable statutes and to seek all means of redress authorized by law, including both civil and criminal penalties.
- 5.2. **The Inspector General** is responsible for investigating violations of this policy.
- 5.3. Supervisors are responsible for reviewing employee requests for outside employment submitted in accordance with this policy.
 - 5.3.1. Outside employment should not be approved in cases where

it is anticipated that an employee would have to recuse himself from work assignments in order to avoid actual or apparent conflicts of interest.

- 5.3.2.** In extraordinary cases, where outside employment has been approved, but an employee's recusal is required from any work assignments involving specific or general matters relating to his or her outside employment, supervisors are also responsible for determining that there are sufficient staffing resources available in the event reassignment to another employee is necessary.
- 5.3.3.** Supervisors must notify the Chief Ethics Officer when such recusals are effectuated.
- 5.4.** All employees who plan to engage in any outside employment as defined in this policy are responsible for submitting a request for approval as outlined in section 6 of this policy:
 - 5.4.1.** Upon commencing work at EXIM;
 - 5.4.2.** In advance of beginning a new outside employment at any time during the year; and
 - 5.4.3.** For renewal, on an annual basis, by January 15 of each calendar year.
- 5.5.** Additionally, employees must report any reportable amounts of income received from outside activities and employment on their new, annual, and termination financial disclosure reports, as applicable.
- 5.6.** The Chief Ethics Officer will consult with the Inspector General regarding violations and suspected violations of this Policy for further action, where required.

6. PROCEDURES

- 6.1.** Upon commencing work at EXIM and before engaging in any outside employment, whether or not for compensation, an employee must complete, certify and submit a "Request for Approval of Outside Employment," available via the Ethics page on EXIMConnect.
 - 6.1.1.** Requests for outside employment approval will be forwarded through normal supervisory channels to the Chief Ethics Officer for approval.
 - 6.1.2.** Requests for approval should include, among other things the name of the person, group, or organization, including contact information and web address, if available, for which the outside work is to be performed; the type of work to be performed; and the proposed hours of and approximate duration of the employment.
- 6.2.** Supervisors must review requests for approval submitted by the employee and determine: (i) the extent to which the employee's official EXIM duties and activities are related to the proposed outside employment, and (ii) that the proposed outside employment is not

related to the employee's official duty or activities such that the employee's ability to perform the duties and activities of his or her position would be materially impaired.

- 6.3.** In considering the supervisor's input, the Chief Ethics Officer will grant approval for an outside employment only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation.
- 6.4.** A request for outside employment will be denied: (i) if it is determined that the employee's outside employment consists of activities involving the same or substantially the same activities in which the employee is engaged at EXIM and (ii) where the outside employer could be in a position to do business with EXIM in such area of activity.
- 6.5.** Employees are prohibited from using any government resources or equipment for their outside employment, including but not limited to, telephone, computers, laptops, tablets, smart phones, printers, copiers, official email address, cloud or similar platform, papers, pens etc. or official time, to conduct outside employment activities. See Policy No. 06-001, "Limited Personal Use" of Government Office Equipment Including Information Technology.
- 6.6.** Employees must request annual leave in the event that their outside employment must be conducted during normal duty hours. Annual leave may be denied at the supervisor's discretion in circumstances where the employee is needed to perform his or her official duties. Employees on telework duty may not conduct outside employment activities during the normal work day without taking pre-approved leave.
- 6.7.** Employees may not solicit business for their outside employment from EXIM customers, contractors or employees.
- 6.8.** Employees may not use any private or confidential business information belonging to EXIM or its customers in furtherance of outside employment.
- 6.9.** Employees may not represent outside employers or any client of such outside employers before any branch of the U.S. government (except in limited circumstances).
- 6.10.** In order to prevent a possible conflict of interest or ensure compliance with a statutory or regulatory provision, it may be necessary for an employee to avoid, modify, or terminate an outside employment.
- 6.11.** Employees may not advertise EXIM endorsement of outside employment.
- 6.12.** Violation of this policy may subject the employee to disciplinary action, up to and including removal.

Policy for Outside Employment