

## United States Department of Agriculture Office of Ethics – REE Mission Area Request for Prior Approval of Outside Activity / Employment

**Definition of Employment 5 C.F.R. 8301.102(b):** “Employment” means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities. (1) Providing personal services as a consultant or professional, including service as a witness or as an attorney; and (2) Providing personal services to a **for-profit** entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision-making or policy-making for the non-Federal entity, or the provision of advice or counsel.

**You may not take action in your official capacity on any matter related to your outside activity or employment irrespective of your outside activity or employment being an exempted compensated or non-compensated position listed below. See [18 U.S.C. § 208](#), [5 C.F.R. § 2635.502\(e\)](#), and [5 CFR 2635.702](#).** At all times you must review whether your personal involvement may affect your impartiality.

### Compensated Positions Exempt from Completing Outside Employment Application (Examples are not all-inclusive)

<b>Athletic Programs</b> (Coach, referee, Sports Instructor, gym) <b>Bail Bondsmen</b> <b>Boy/Girl Civic Clubs Leaders</b> (Girl Scouts, Boy Scouts) <b>Cashier /Stock Person</b> (department stores home improvement, supermarkets) <b>Day Laborer</b> (Construction, farming, landscape) <b>Delivery Drivers</b>	<b>Desk Clerks/ Waiter/ Bartender</b> (Hotel, Restaurants, Cashiers, Valet) <b>Distributors / Vendors / Sales Staff</b> (Juice Bowl Distributor, Ushers, Video Sales, Pampered Chef, Amway, Travel & Tours) <b>Food Service Industry</b> (Fast Food Restaurants) <b>Lawn &amp; Garden Maintenance</b> (Gardener, landscaper)	<b>Musicians / Entertainment Venues</b> (Music teachers, concert staff, ushers) <b>Novelty Acts / Adult Entertainment</b> (Exotic dancers, snake charmers, magicians) <b>Radio - Television Broadcaster</b> <b>Religious Establishments</b> (Staff, part-time workers,) <b>Sanitation Worker</b> <b>Tax Preparer</b>
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**Professional Services and the Scope of the Prior Approval Requirement:** [8301.102\(b\)\(1\)](#) requires prior approval for positions where an employee is providing personal services as a consultant or professional, *regardless of whether the positions are compensated*. The USDA Office of Ethics has interpreted “professional services” to mean those services that require a professional license (e.g. work as a physician, lawyer, Certified Public Accountant, real estate agent, appraiser, etc.). Examples follow:

- American Realtors Association, non-profit, President (real estate license required for position)
- National Association of Certified Public Accountants, non-profit, Treasurer (CPA license required for position)

Any ***non-compensated positions with non-profit entities would not require prior approval under the regulation.***  
Examples follow:

- Boy Scouts of America, non-profit, Board Member
- Friends of National Public Radio, non-profit, Treasurer

### **Who Is Required to Complete this Form?**

- All USDA employees who file the **OGE Form 450** or the **OGE Form 278** (except Special Government Employees).

**Return Completed form to your appropriate ethics contact at:**

<https://www.ethics.usda.gov/docs/agency-ethics-contacts.pdf>



## REQUEST FOR APPROVAL OF OUTSIDE ACTIVITY

USDA Supplemental Standards of Conduct  
[\(5 CFR 8301.101-102\)](#)

Detailed instructions for completing the OE-101 form can be found [here](#).

Initial Request	Revised Request	Renewal	DATE OF REQUEST
<b>Part I - EMPLOYEE INFORMATION</b>			
1. EMPLOYEE'S NAME (Last, First, MI)			
2. AGENCY/PROGRAM (Address)		TELEPHONE & E-MAIL	
		Phone:	
		E-Mail:	
3. USDA POSITION TITLE		4. PAY PLAN/GRADE/STEP	5. SALARY
			\$
6. FINANCIAL DISCLOSURE FILING STATUS			
Public (OGE 278)		Confidential (OGE 450)	
		Collateral Duty (SEB-102)	
		ARS-PI, COR or COTR	
		Non-filer	
7. NAME OF IMMEDIATE SUPERVISOR		SUPERVISOR'S TELEPHONE & E-MAIL	
		Phone:	
		E-Mail:	
<b>Part II - OUTSIDE ACTIVITY INFORMATION</b>			
1. <b>Nature of Outside Activity</b> - Indicate the type of activity for which you request prior approval, and describe the specific duties or services to be performed:			
Professional or Consultative Activity		Teaching, Speaking, Writing or Editing	Board Service
Expert Witness		Other (e.g. Fellowship)	
<b>Describe in detail specific duties or services to be performed:</b>			

**If you will provide personal services directly to multiple clients, customers, or others, as a self-employed individual or as an independent contractor, alone or jointly with others, check the box below and specify the type of activity or business in which you propose to be engaged.** Identify any partners or others with whom you will provide services to. Estimate the total number of clients, customers, or others, to whom you would provide services during the activity period.

Self-Employed Activity/Sole Proprietor Activity

**Type of Activity/Business:**

**Teaching, Speaking, or Writing - If a written invitation was received for this activity, attach a copy.**

For activities involving teaching, speaking, or writing, provide a syllabus, outline, summary, synopsis, draft, or similar description of the content and subject matter involved in the course, speech, or written product (including, if available, a copy of the text of any speech) and the proposed text of any disclaimer that indicates *the views expressed do not necessarily represent the views of USDA or the United States.*

**Check the applicable boxes indicating that these materials are attached.** If you are unable to provide this information or will be delayed in submitting the attachments, please explain below.

Written Invitation (includes e-mail)

Subject Matter of Activity

Text of Disclaimer

**Explain:**

**2. Outside Employer or Other Entity** - Identify the outside employer or entity and the nature of the entity's business for which the proposed activity will be performed. Provide the name and title of a contact person. In Items 3 and 4, provide address and contact information for the outside employer or entity.

OUTSIDE EMPLOYER OR ENTITY NAME AND NATURE OF BUSINESS

CONTACT PERSON

TITLE

**Is the Outside Employer or Entity owned or operated by a Foreign Government?**

Yes

No

If yes, please describe: See page 8 for further information.

**3. Outside Employer or Entity Address and Phone Number**

STREET ADDRESS

STATE/COUNTRY

ZIP/POSTAL CODE

TELEPHONE NUMBER

**4. Location** - Indicate the location(s) where the activity or service will be performed.

**5. Travel** - Indicate whether travel is involved, and if so, whether the transportation, lodging, meals, or per diem will be at your own expense or provided by the outside employer or entity in-kind or through reimbursement. Describe arrangements and provide estimated costs of items to be furnished or reimbursed by the outside employer or entity.

Yes:      At Own Expense              In-Kind or Reimbursed              Estimated Amount: \$ \_\_\_\_\_

No

**Describe:**

**6. Time** - Provide details with respect to the duration of the activity. This request must be resubmitted for approval upon a significant change in the nature of the outside activity or in your official position.

**a. Period Covered** (*Duration of Activity*)

From (mm/dd/yy):              To (mm/dd/yy):

**b. Estimated Time Devoted to the Proposed Activity**

Hours per day      Days Per Week      Weeks Per Year

**c. Will work be performed entirely outside of your normal tour of duty?**

Yes      No (If "no," estimate the number of hours or days that you will be absent from work and indicate the type of leave to be requested.)

Estimated hours      Estimated days      Leave Type

**7. Compensation**

Indicate whether the activity is compensated, and if so, answer the questions below.

Yes      No

**a. Method or Basis of Compensation** (Check all boxes that apply)

Fee      Honorarium      Retainer      Salary      Advance      Royalty      Stock      Stock Options

Other (describe below)      Non-Travel Related Expenses (describe below)

**Description:**

**b. Compensation Amount**

Indicate the total amount of compensation to be received for the proposed activity for the period covered by this request. Do not include the amount of any travel expenses to be provided by the outside entity that were reported in Part II, Item 5.

\$ \_\_\_\_\_

**c. Payor**

If any compensation will be received from a payor other than the employer or entity to which personal services will be provided, identify the payor and explain.

**Explain:**

**d. Funding Source**

Indicate whether any compensation is derived from a USDA grant, contract, cooperative agreement, or other source of federal funding or if the services to be performed are related to an activity funded by USDA regardless of the specific source of the compensation.

Yes (If "yes," describe below)                      No

**Description:**

**e. Grantee, Contractor or Other Status**

For activities involving the provision of consultative or professional services (including teaching), indicate whether the client, employer, or other person on whose behalf the services are performed is receiving, or intends to seek, a USDA grant, contract, cooperative agreement, or other funding relationship.

Yes (If "yes," describe below)                      No

**Description:**

**Part III - OFFICIAL DUTY INFORMATION**

**1. Nature of Official Duties**    *Attach a copy of your current position description.*                      Position Description Attached

**Describe the principle duties and responsibilities of your current position:**    Attach additional pages if necessary.

**2. Relationship of Official Duties to Outside Activity**

Do any of your official duties relate in any way to the proposed activity?

No, none of my official duties relate in any way to the proposed outside activity.

Yes, my official duties relate to the proposed activity in the following manner:

**Explain:**

**3. Effect of Official Duties on Outside Employer or Entity**

In performing your official duties, could either your actions or the matters upon which you may be called upon to work affect the interests of the employer or entity for which the proposed activity will be performed?

No, performance of my official duties will not have any effect upon the interests of the employer or entity.

Yes, performance of my official duties will have the following effect upon the interests of the employer or entity:

**Explain:**

#### 4. Assignments Involving Outside Employer or Entity

Have you performed official duty assignments or had other official interactions that involved the employer or entity for which the proposed activity will be performed?

No, I have performed no such official duty assignments and have had no such other official interactions.

Yes, I have either performed such official duty assignments or have had such other official interactions. These assignments and interactions are as follows [indicate approximate dates of assignments and interactions]:

**Explain:**

#### 5. Certification

*I certify that I have read and understand the notice provided in Part VI and that the statements made and information provided on this form are complete and accurate to the best of my knowledge. I understand that I am performing this activity in my personal capacity and that my participation is not derived from my Federal position, title or authority; does not entail official positions or policies of USDA; and will not occur on official time nor involve the expenditure of appropriated funds.*

*I acknowledge that pursuant to 5 CFR 8301.102(c), I must resubmit a request for prior approval upon a significant change in the nature of the outside activity or in my official position. I will also provide written notification to my Immediate Supervisor and Agency Ethics Official if this activity is terminated prior to the period authorized.*

**EMPLOYEE SIGNATURE**

### Part IV - SUPERVISOR REVIEW/RECOMMENDATION

#### 1. Summary of Applicable Law

As a supervisor, your obligation and the duty of the employee seeking the outside arrangement are first and foremost to USDA and the successful accomplishment of its mission. If the outside activity is approved, it is part of your supervisory responsibilities to monitor the employee's compliance with applicable ethics laws and regulations.

An outside activity conflicts with official duties if it is prohibited by statute or regulation; or it would require the employee's recusal from matters so central or critical to the performance of his or her official duties that the employee's ability to perform the duties of his or her position would be materially impaired. Such a recusal would likely be required where the outside activity involves an employer or entity that is regulated by, does business with, receives grants or other benefits from, or is otherwise substantially impacted by the programs, policies and operations of the employee's agency.

#### Consider the following when reviewing this request:

- Do the circumstances indicate that the invitation to engage in the activity was extended to the employee primarily because of their official position rather than inherent expertise on the particular subject matter? How was this expertise acquired?
- Was the invitation to engage in the activity extended to the employee, directly or indirectly, by a person or entity who has interests that may be affected substantially by the performance or nonperformance of the employee's official duties?
- Will the information conveyed through the activity draw substantially on ideas or official data that are nonpublic information?
- Does the subject matter relate to any matter(s) to which the employee is presently assigned or has been assigned during the previous one-year period; or to any ongoing or announced policy, program or operation of the agency?
- Is the employee being asked to apply previously published work to specific scenarios posed by a private entity? In this circumstance, it is important to consider whether the employee is continuing to conduct research in the same area as his or her published findings.

If you determine that the subject area of the activity is too closely related to the employee's official duty, and the activity is not appropriate as an outside activity, a separate analysis must be conducted before consideration should be given to whether or not the activity would be more appropriately performed as an official duty. You must conclude that the employee seeking approval to engage in the activity in their official capacity is the appropriate person to represent USDA with respect to that subject matter. It is part of USDA's mission to disseminate information; however, agencies must be careful not to give preferential treatment to one entity, allowing that entity to have an advantage because of the exclusive receipt of government information. Consult your Agency/Area Ethics Official for additional guidance.

If you have determined that this activity would benefit the mission of your agency and more appropriately performed as an official duty, you should disapprove this outside activity request and require the employee to complete form SEB-106, Request for Approval of Official Duty Activity.

**2. Immediate Supervisor's Statement (MANDATORY)**

Describe the extent to which the employee's official duties are related to the proposed activity. If not related, explain:

**3. Recommendation**

The undersigned supervisor, identified in Part 1, Item 7, has reviewed the employee's responses, obtained additional information where appropriate, and recommends the following action:

**Recommend Approval**

If this box is checked, the supervisor understands that if the outside activity is approved, the employee may be disqualified from performing official duties that involve or affect any outside entity with which the employee has an outside employment, consulting, or similar relationship. If the activity constitutes employment or service as an officer, director, or trustee, or in another fiduciary role, the recusal obligation may extend not only to government matters that specifically involve or affect the outside entity, but to those matters that affect generally the industry or economic sector in which the outside entity operates. The supervisor understands that any work assignments involving specific or general matters from which the employee will be recused must be reassigned to another employee and are not so central or critical to the performance of the employee's official duties that the employee's ability to perform the duties of his or her position would be materially impaired.

**Recommend Disapproval**

If this box is checked, explain the reason(s) for disapproval in the space provided below.

**Explain:**

**IMMEDIATE SUPERVISOR'S SIGNATURE**

**Form submission instructions:**

Employees in the GS, GM, or WG pay grades should submit the form to the appropriate Agency Ethics contact once their supervisor signs the form. A current list of Agency Ethics Officials can be found [here](#).

Employees in the SES, RA, SL, ST or SSTS pay plans should submit this form to the USDA Office of Ethics – HQ at [DAEO.ethics@usda.gov](mailto:DAEO.ethics@usda.gov) once their supervisor signs the form.

**Part V – APPROVING AGENCY ETHICS OFFICIAL REVIEW**

<b>1. Name of Approving Agency Official</b>	<b>2. Title of Approving Agency Official</b>
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**3. Ethics Review**  
Review the employee’s answers and the supervisor’s recommendation. Indicate whether the activity can be approved or permission must be denied. Explain your reason(s) in the space below and describe any actions deemed necessary to ensure compliance with applicable ethics laws.

Request as described may be approved	Request may be approved subject to conditions noted in Comments section below.
Request as described must be denied	Other disposition noted in Comments section below.

**APPROVING AGENCY OFFICIAL’S SIGNATURE**

**4. Comments:**

**Part VI – USDA OFFICE OF ETHICS OFFICIAL REVIEW**

<b>1. Name of USDA Office of Ethics Official</b>	<b>2. Title of USDA Office of Ethics Official</b>
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**3. Concurrence**

Concur

Do Not Concur – provide reason in Comments section below

**USDA OFFICE OF ETHICS OFFICIAL’S SIGNATURE**

**4. Comments:**

**Employee Responsibilities follow on Page 8.**



## EMPLOYEE RESPONSIBILITIES

**Please be reminded that you are still responsible for adhering to all applicable ethics laws and regulations and recusing yourself from taking any action related to outside activities or employment in your official capacity:**

- [Under 18 U.S.C. 208](#), You are prohibited from participating personally and substantially in any particular matter that would have a direct and predictable effect on your financial interests or those of certain other persons or organizations (including trusts) identified in section 208.
- [Under 18 U.S.C. 203/205](#), You may not represent someone before a court or agency of the Federal government or accept compensation for someone else's representation on a matter in which the U.S. is a party or has an interest. There are exceptions for testifying under oath, for representing yourself or members of your immediate family.
- [Under 5 C.F.R. 2635.502\(e\)](#), Unless you are specifically authorized to do so by the agency designee, you may not participate in any particular matter involving specific parties where you or the agency designee have concluded that the financial interest of a member of your household, or the role of a person with whom you have a covered relationship, is likely to raise a question in the mind of a reasonable person about your impartiality.
- [Under 5 C.F.R 2635.702](#), You shall not use your public office for private gain, for the endorsement or any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom you are affiliated in a nongovernmental capacity, including but not limited to persons with whom you may seek employment or business relations.
- [Under 5 CFR 2635.704](#), You shall not use Government property, including official time, for other than authorized purposes.

### IS THE OUTSIDE ENTITY A FOREIGN ORGANIZATION?

The Emoluments Clause of the US Constitution prohibits a federal employee from accepting employment, gifts, or compensation from any foreign government, including any entity which is owned or operated by the foreign government, unless Congress gives its consent. Congress gave consent for some activities in the Foreign Gifts and Decorations Act (FGDA). If your proposed activity is with a foreign entity, please provide the following information:

- 1) What is the funding source – government or private sector?
- 2) Is the foreign entity an educational institution? Does the educational institution operate autonomously? For purposes of the Emoluments Clause, operating autonomously means that the institution establishes its own rules, appoints board members, and makes all hiring decisions, all without intervention or approval by the government. In addition, its employees are NOT considered Government employees.
- 3) Does the educational institution establish its own constitution, bylaws, and operating rules without a government official reviewing and approving them? If the government official must approve them, then the government runs the university.
- 4) Who appoints the Board? If the government appoints any board members, what percentage are appointed by the government? If the government appoints the majority of the board members, that means the government runs the university.
- 5) Are the employees of the educational institution considered government workers? If yes, then it is an entity of the foreign government.
- 6) Does a government official or agency oversee the institution and approve or disapprove the decisions? This means operational decisions, not the general government oversight of all universities to ensure they are compliant with the laws of the nation.