



Outside Employment During a Lapse in Appropriations

Outside Employment and Activities – DHS employees remain federal employees even during a furlough due to a lapse of appropriations. As such, you continue to be bound by the rules contained in the [Standards of Ethical Conduct](#) for Employees of the Executive Branch and the Department’s [Supplemental Ethics Regulation](#).

Pursuant to those regulations, **DHS employees are required to obtain prior approval before engaging in any outside activities, with or without compensation, unless an exemption applies.** Existing exemptions are listed below, but these exemptions do **not** apply to officers and employees within the Office of Inspector General (OIG), U.S. Citizenship and Immigration Services (USCIS), and nonsupervisory TSOs within the Transportation and Security Administration (TSA).

Approval for outside activities should be granted unless the outside employment is expected to involve conduct prohibited by federal statute or regulation, i.e., creating the appearance or an actual conflict of interest. If you are contemplating non-federal employment in case you are furloughed, please contact the appropriate agency ethics official (see attached list) to obtain approval.

Note: You are permitted to access DHS/component intranet forms and workflows to submit outside activity approval processes even if furloughed.

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

- You may not participate personally and substantially in a particular DHS 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.
- You may not use the authority or title of your public office (your DHS 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 DHS 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 DHS duties and which is not generally available to the public. 18 U.S.C. § 1905; 5 C.F.R. § 2635.703.

EXISTING EXEMPT ACTIVITIES

DHS exempts fourteen categories of outside employment activities from the prior approval requirement because they present a remote likelihood of a conflict of interest with DHS duties. However, as mentioned above, these exemptions do **not** apply to officers and employees within OIG, USCIS, and nonsupervisory TSOs within TSA.

The exemption memorandum signed on January 28, 2022 revokes and supersedes all other previously issued exemptions of the prior approval requirement. Specifically, the following exemption memorandums are revoked and superseded:

- DHS Headquarters (HQ) and Cybersecurity Infrastructure and Security Agency (CISA), dated January 24, 2019,
- Federal Emergency Management Agency (FEMA), dated March 27, 2019, and
- U.S. Citizenship and Immigration Services (USCIS), dated June 9, 2020.

The following fourteen categories of employment are exempted from the prior approval requirement, *unless* the activities involve an entity personally owned by the officer or employee (e.g., sole proprietorship, a limited liability company, incorporated company):

- Artistic activities, such as being a musician or dancer and similar work as a performing artist, as well as selling personally created arts within the United States (excludes import and export activities under 5 C.F.R. §§ 4601.104 and 4601.106).
- Beauty/body care services (e.g., hair/nail/skin services, masseuse/wellness services)
- Compensated amateur athletic positions as sports officials or coaches.
- Food service industry positions (waiter/waitress, host/hostess, food preparation, etc.). This exemption does not apply to Transportation Security Inspectors with regard to work at entities in sterile areas of the airport.
- Driving and Delivery: Ride sharing services (e.g., Uber, Lyft, or similar services); limousine or taxi driver, food delivery (Uber eats, Grubhub, Doordash, etc.), and other freelance transportation of goods (e.g., Amazon Flex), except that this does not include: any services that require a Commercial Driver's License (class A, B, or C); driving services that require crossing international borders; or activities in support of international carriers.
- Event support: wedding and event planner, photographer/videographer, florist, graphic art/design, decoration, catering and/or bartending, and similar jobs. This exemption does not include event security.
- Officer roles on homeowners' and alumni associations.
- Personal training/physical exercise instruction not conducted in federal or General Services Administration (GSA)-leased facilities.
- Pet care (e.g., grooming, dog-walking, pet-sitting).
- Retail sales positions, not to include ownership (e.g., working at the grocery store, mall retail shops).
- Substitute teaching for an accredited elementary, middle, or high school.
- Task-oriented freelance services (e.g., TaskRabbit, Instacart, or similar service networks) for personal services such as childcare, caretaking, in-home cooking, shopping/picking up and delivering items, and assembling or moving furniture and similar items, etc.
- Trustee positions on personal trusts.
- Unincorporated rental of non-commercial real estate (e.g., renting out a personal residence or short-term rental of investment property).

Ultimately, it is the responsibility of each officer and employee to avoid a violation of the prior approval requirement. If it is unclear whether an activity is exempt, officers and employees must seek guidance from their servicing ethics office prior to engaging in the activity.

NOTICE REQUIRED

Before engaging in outside employment or activities that are exempted from the prior approval requirement, all officers and employees must provide notice of each outside employment or activity to their immediate supervisor with the following information:

1. Name of the employer
2. Type of business (e.g., salon, grocery store, etc.)
3. Outside activity category from memorandum (e.g., category 10 – Retail sales)
4. Position title
5. Hours per week expected to work
6. Confirmation they have read and understand the “[Guidance for DHS Officers and Employees Who Meet the Outside Employment Activity Exemption](#)”

If your supervisor is furloughed, you should also notify the next level, exempt manager.

Please note that officers and employees must **also** comply with any component-specific notice process. For example, HQ personnel should ensure the notice to their supervisor also copies the Ethics and Compliance Law Division (ECLD) Inbox (EthicsOfficeHQ@hq.dhs.gov). For questions about a component-specific notice process, personnel should contact their servicing ethics office (see attached list).

As a reminder, employees are permitted to access DHS/component intranet forms and workflows to submit outside activity approval processes even if furloughed. If you cannot access a document, please contact your servicing ethics office.

FAQ DOCUMENT

A broader FAQ regarding the DHS Supplemental Ethics Regulation and the exemption memorandum is included as an attachment to this handout.

DHS ETHICS OFFICIAL CONTACT INFORMATION

Please submit any questions regarding the DHS Supplemental Ethics Regulation or requests for approval to your ethics official. The contact information for each servicing ethics office is included as an attachment to this handout.



DHS Ethics Offices Contact Information

*** During a furlough, employees should use the identified ethics official contact information.**

| COMPONENT | OFFICE | ETHICS OFFICIAL | |
|---------------------|--|--|--|
| HEADQUARTERS | | | |
| HQ | EthicsOfficeHQ@hq.dhs.gov* FinancialDisclosureHQ@hq.dhs.gov (202) 447 – 3515 | Michael O'Connor* | (202) 731 – 6193 |
| | | Jennifer Hallman * | (202) 597 – 4273 |
| | | David Spence Lauren Hnatowski Joshua Kessler <i>(OCFO, OCHCO, OHS, S&T, I&A, PLCY, OPE-FACA, OGC-ILD, OGC-OELD, OGC-TPLD, OGC-GLD-LEL, OGC-GLD-OHS, OGC-GLD-F, OGC-GLD-ADL)</i> | |
| | | Andrew Boddie Cody Cheek Morgan Huff <i>(FPS, OCSO, OCIO, OCPO, PARM, OSA, OLA, OPE, OPA, OGC-GLD-P, OGC-GLD-BCMR, OGC-GLD-LEL/FPS, OGC-LCD, OGC-RLD)</i> | |
| | | Regina York | <i>(CISOMB, CRCL, CWMD, OBIM, OCRSO, OIDO, OSLL, PRIV, USM, OGC-GLD-CWMD, OGC-IMM, OGC-LCD-PRIV, OGC-LCD-SO, OGC-MGMT)</i> |
| COMPONENTS | | | |
| CBP | Contact your CBP Ethics Official* 2023ShutdownEthicsQuestions@cbp.dhs.gov* | Philip Carpio Joanne Halley Frislanda Goldfeder Angela Sardelli | |
| CISA | CISAethics@cisa.dhs.gov* | Stephen Jamrozy | |
| FEMA | FEMA-Ethics@fema.dhs.gov* | Chris Kopf | |
| FLETC | FLETC.Ethics@fletc.dhs.gov | Stephanie Lewis Trisha Besselman | |
| ICE | ICEethics@ice.dhs.gov* (202) 732 – 3307* | Jennifer Vergne | |
| OIG | OIG.Ethics@oig.dhs.gov* Hotline (800) 323 – 8603 | Jean Kilker | |
| TSA | TSAethics@tsa.dhs.gov* | Sarah Grafton Courtney Christman Jonathan Hirsch | |
| USCG | HQS-smb-cg-ethics@uscg.mil* | Michael Barton | |
| USCIS | USCIS.Ethics@uscis.dhs.gov* | Troy Byers Dave Whitman William Mills Faith Del Vecchio Markci Metcalf Madeline Kern | |
| USSS | Ethics@ussdhs.gov* | Nicole Hutchinson | |



DHS SUPPLEMENTAL ETHICS REGULATION

FREQUENTLY ASKED QUESTIONS

Q1. WHAT DOES THIS REGULATION COVER?

A. The main reason for DHS's supplemental ethics [regulation](#) is to ensure that an employee's participation in certain outside employment or activities does not negatively affect official operations or place the employee at risk of violating any Federal conduct statutes or regulations. To accomplish this purpose, the regulation established a requirement for DHS employees to request and receive prior approval before engaging in certain outside employment and activities, unless the employee's agency has exempted them from the approval requirement. The regulation also reinforces every employee's obligation to report waste, fraud, abuse, and corruption, and establishes employee restrictions on the purchase of certain Government-owned property.

Q2. WHO IS COVERED BY THE REGULATION?

A. All full and part-time DHS employees, officers, and detailees. The regulation does not cover Special Government Employees or contractors.

Q3. WHY IS THIS REGULATION NECESSARY?

A. A Department-wide regulation was necessary to establish consistency throughout the Department and unify all DHS officers and employees under a single set of ethical standards.

This regulation also strengthens the integrity of DHS programs by allowing supervisors and ethics officials to provide guidance to employees before employees engage in potentially prohibited conduct. Officers and employees are often not aware of all applicable ethics rules that may be implicated when engaging in outside employment or activities. Some of these rules can have criminal, civil, and other implications, and violation of these rules may subject personnel to disciplinary action. Therefore, a requirement to get prior approval for outside employment and activities is not only in the best interest of DHS and the public, but also helps protect officers and employees from unintentionally breaking any laws, regulations, or policies.

Q4. WHAT IS CONSIDERED AN "OUTSIDE EMPLOYMENT OR ACTIVITY" REQUIRING PRIOR APPROVAL?

A. "Outside employment or activity" means any form of non-Federal employment, business activity, business relationship, or other activity identified in the regulation involving the provision of personal services by the employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, advisor, consultant, contractor, general partner, trustee, or teacher.

For example, the following activities and employment will require prior approval:

- Most compensated employment;
- Teaching a course or seminar;
- Serving as a board member or officer for outside organizations;
- Employment with a non-Federal entity that has business before the Department or the Federal government;
- Engaging in a profession that requires a professional license such as an attorney, accountant, or real estate agent.

Q5. ARE THERE ANY EXCLUSIONS OR LIMITATIONS TO THIS DEFINITION?

A. Yes. The following activities are not covered under the definition of outside employment, and thus do not require prior approval:

- Speaking and writing activities that are not combined with other activities or services requiring approval.
 - Note: Such activities could still require approval from the Office of Public Affairs if the speaking or writing activities relate to official duties or mission-related activities. Employees must also comply with ethics restrictions related to compensated speaking or writing.
- Participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization unless the participation involves:
 - Acting in a fiduciary capacity (such as serving as an officer or director);
 - Providing professional services for compensation;
 - Rendering advice for compensation other than the reimbursement of expenses; or
 - An activity relating to the employee's official duties as defined in 5 C.F.R. § 2635.807(a)(2)(i)(A) through (E).
- Activities otherwise permissible by the Hatch Act and related regulations relating to partisan political activities;
- State or Federal military service protected by the Uniformed Services Employment and Reemployment Rights Act.

Some examples of activities that are typically excluded are: voluntary coaching children's recreational activities, charitable fundraising activities, choir membership, supporting local schools, working at clothing drives, and serving at food banks. Further, although some activities still fit within this definition, they may be exempted from the prior approval requirement. See FAQ Q9. For questions or clarifications, personnel should contact their servicing [ethics office](#).

Q6. HOW DO I REQUEST APPROVAL FOR OUTSIDE EMPLOYMENT OR AN OUTSIDE ACTIVITY?

A. To request prior approval, please follow your agency or component's process for seeking approval. For example, DHS Headquarters (HQ) personnel should complete and PIV sign [DHS Form 480](#), send to their supervisor to complete and PIV sign, and then submit to the Ethics and Compliance Law Division (ELD) Inbox for ethics review prior to engaging in the activity

(EthicsOfficeHQ@hq.dhs.gov). All other officers and employees should contact their servicing [ethics office](#) for instructions on how to request approval.

Q7. WHAT IS THE STANDARD FOR APPROVAL?

A. Ethics approval will be granted unless it has been determined that the outside employment is expected to involve conduct prohibited by ethics laws or regulations, including:

- Representing persons or entities before federal courts/agencies (certain exceptions apply);
- Accepting pay for activities related to official duties;
- Working for outside entities (e.g., government contractors) who have matters pending before DHS that you can personally and substantially affect in your official capacity;
- Engaging in unlawful activities;
- Working for a foreign government.

There may be other non-ethics reasons for which management may disapprove an outside activity, such as personnel, security, or operational policies or requirements.

Q8. ARE THERE ADDITIONAL RESTRICTIONS FOR CERTAIN PERSONNEL?

A. Yes. Employees of the Federal Emergency Management Agency (FEMA), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE) have additional prohibitions related to their outside employment and activities because of the unique missions of those components. These additional prohibitions are described in the regulation for each agency. Please contact your servicing [ethics office](#) to determine if these rules apply to you.

Q9. ARE THERE ANY EXEMPTIONS TO THE PRIOR APPROVAL REQUIREMENT?

A. Yes. DHS exempts 14 categories of outside employment activities from the prior approval requirement because they present a remote likelihood of a conflict of interest with DHS duties. However, this [exemption memorandum](#) does **not** apply to officers and employees within the Office of Inspector General (OIG), U.S. Citizenship and Immigration Services (USCIS), and nonsupervisory TSOs within the Transportation and Security Administration (TSA).

The exemption memorandum signed on January 28, 2022 revokes and supersedes all other previously issued exemptions of the requirement to obtain prior authorization for outside employment or activities. Specifically, the following exemption memorandums are revoked and superseded:

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- Federal Emergency Management Agency (FEMA), dated March 27, 2019, and
- U.S. Citizenship and Immigration Services (USCIS), dated June 9, 2020.

The following fourteen categories of employment are exempted from the prior approval requirement, unless the activities involve an entity personally owned by the officer or employee (e.g., sole proprietorship, a limited liability company, incorporated company):

- Artistic activities, such as being a musician or dancer and similar work as a performing artist, as well as selling personally created arts within the United States (excludes import and export activities under 5 C.F.R. §§ 4601.104 and 4601.106).
- Beauty/body care services (e.g., hair/nail/skin services, masseuse/wellness services)
- Compensated amateur athletic positions as sports officials or coaches.
- Food service industry positions (waiter/waitress, host/hostess, food preparation, etc.). This exemption does not apply to Transportation Security Inspectors with regard to work at entities in sterile areas of the airport.
- Driving and Delivery: Ride sharing services (e.g., Uber, Lyft, or similar services); limousine or taxi driver, food delivery (Uber eats, Grubhub, Doordash, etc.), and other freelance transportation of goods (e.g., Amazon Flex), except that this does not include: any services that require a Commercial Driver's License (class A, B, or C); driving services that require crossing international borders; or activities in support of international carriers.
- Event support: wedding and event planner, photographer/videographer, florist, graphic art/design, decoration, catering and/or bartending, and similar jobs. This exemption does not include event security.
- Officer roles on homeowners' and alumni associations.
- Personal training/physical exercise instruction not conducted in federal or General Services Administration (GSA)-leased facilities.
- Pet care (e.g., grooming, dog-walking, pet-sitting).
- Retail sales positions, not to include ownership (e.g., working at the grocery store, mall retail shops).
- Substitute teaching for an accredited elementary, middle, or high school.
- Task-oriented freelance services (e.g., TaskRabbit, Instacart, or similar service networks) for personal services such as childcare, caretaking, in-home cooking, shopping/picking up and delivering items, and assembling or moving furniture and similar items, etc.
- Trustee positions on personal trusts.
- Unincorporated rental of non-commercial real estate (e.g., renting out a personal residence or short-term rental of investment property).

Ultimately, it is the responsibility of each officer and employee to avoid a violation of the prior approval requirement. If it is unclear whether an activity is exempt, officers and employees must seek guidance from their servicing [ethics office](#) prior to engaging in the activity.

Note: as explained in FAQ Q10, even if you are exempt from seeking prior approval, you must still provide notice of certain activities. Further, if you file a financial disclosure report, you must continue to list all outside income and applicable outside activities listed in the form's directions, even if you are not required to seek advance approval.

Q10. DO I HAVE TO PROVIDE NOTICE OF ACTIVITIES FOR WHICH NO ADVANCE APPROVAL IS REQUIRED?

A. Yes. Before engaging in outside employment or activities that are [exempted](#) from the prior approval requirement, all officers and employees must provide notice of each outside employment or activity to their immediate supervisor with the following information:

1. Name of the employer
2. Type of business (e.g., salon, grocery store, etc.)
3. Outside activity category from memorandum (e.g., category 10 – Retail sales)
4. Position title
5. Hours per week expected to work
6. Confirmation they have read and understand the “[Guidance for DHS Officers and Employees Who Meet the Outside Employment Activity Exemption.](#)”

Officers and employees must **also** comply with any component-specific notice process. For example, HQ personnel should ensure the notice to their supervisor also copies the Ethics and Compliance Law Division (ELD) Inbox (EthicsOfficeHQ@hq.dhs.gov). For questions about a component-specific notice process, personnel should contact their servicing [ethics office](#).

Q11. AS A SUPERVISOR, I RECEIVED NOTICE FROM A SUBORDINATE EMPLOYEE WHO WILL BE ENGAGING IN AN EXEMPTED OUTSIDE ACTIVITY. WHAT SHOULD I DO WITH THIS NOTIFICATION?

A. You should review the Notice to ensure the employee’s activity will not impede operations by, for example, overlapping with duty time. If an activity will impede operations, you may deny the outside activity. If you have questions or concerns about a proposed activity, you should contact your servicing [ethics office](#). Once satisfied the proposed activity will not interfere with the employee’s duties, you should file the Notice for future reference if needed.

Q12. IF MY OUTSIDE EMPLOYMENT OR ACTIVITY WAS PREVIOUSLY APPROVED, OR IF I PREVIOUSLY PROVIDED NOTIFICATION UNDER A PRIOR EXEMPTION, DO I NEED TO RESEEK APPROVAL OR RESEND NOTIFICATION?

A. No. One approval is enough – officers and employees are not required to seek a second approval for the same outside employment or activity. Similarly, the exemption memorandum does not invalidate exemptions for personnel who met the criteria **and** procedural requirements under a revoked prior exemption memoranda (See FAQ Q9).

For example, if a DHS HQ or CISA employee started a paid “private tutoring” outside activity in 2020 (which is no longer a listed exemption) and submitted the required notice under the former exemption to their supervisor and ethics official prior to the effective date of the revised exemption, there is no need to seek approval for this continuing activity.

Note: if your DHS position or duties change significantly, or if the nature of the outside employment, activity, or business changes, seek advice from your servicing [ethics office](#).

Q13. WHAT SHOULD I DO IF I GET A NEW DHS JOB (OR MY RESPONSIBILITIES CHANGE), BUT MY OUTSIDE EMPLOYMENT OR ACTIVITIES STAY THE SAME?

A. Officers and employees should check with their servicing [ethics office](#) whenever they start a new position at DHS or their job responsibilities change to ensure that their outside employment or activities do not conflict with their new DHS responsibilities.

Q14. DOES WRITING AN ARTICLE OR BOOK, GIVING A SPEECH, OR ACCEPTING AN HONORARIA REQUIRE PRIOR APPROVAL?

A. The prior approval requirement depends on several factors. For example, if an officer or employee is receiving compensation, or if the subject matter is related to their DHS job or DHS programs, the officer or employee will likely need to obtain prior approval. All personnel should contact their servicing [ethics office](#) for guidance.

Q15. WHAT IF MY OUTSIDE EMPLOYMENT OR ACTIVITY BEGAN BEFORE THE EFFECTIVE DATE OF THE REGULATION?

A. It depends. The prior approval requirement for covered outside employment and activities became effective on March 7, 2016. If an officer or employee was employed at DHS prior to March 7, 2016 **and** held the outside position prior to that date, then the activity does not require prior notification or approval. However, if either the outside position or DHS employment started after March 7, 2016, then the prior approval requirements apply, absent an exemption as noted FAQ Q9-Q10.

Q16. HOW DO I CONTACT MY SERVICING ETHICS OFFICE?

A. Here is a list of DHS and component [ethics offices](#) and their contact information.

Q17. WHERE CAN I FIND FURTHER INFORMATION ABOUT THE ETHICS RULES?

A. The Standards of Ethical Conduct for Employees of the Executive Branch and criminal conflict of interest laws can be found [here](#). The U.S. Office of Government Ethics [website](#) also provides further information about the ethics rules. The DHS Ethics and Compliance Law Division Library is [here](#).