

# Rules and Regulations

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Parts 2634 and 2635

**RIN 3209-AA52**

#### Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations

**AGENCY:** Office of Government Ethics.

**ACTION:** Final rule; technical amendments.

**SUMMARY:** The U.S. Office of Government Ethics (OGE) is updating its executive branch regulation on financial disclosure to reflect the retroactive statutory increase of the reporting thresholds for gifts and travel reimbursements. OGE is also updating the executive branchwide standards of ethical conduct regulation to raise the widely attended gatherings nonsponsor gifts exception dollar ceiling tied to these thresholds. This change is not retroactive.

#### DATES:

*Effective date:* This final rule is effective June 18, 2020.

*Applicability date:* The amendments to 5 CFR 2634.304 and 2634.907 are applicable as of January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:**  
Patrick J. Lightfoot, Assistant Counsel, or Christie Chung, Assistant Counsel; Telephone: 202-482-9300.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The U.S. Office of Government Ethics (OGE) is amending pertinent sections of its executive branchwide ethics regulations on financial disclosure and standards of ethical conduct, as codified at 5 CFR parts 2634 and 2635, in order to update the thresholds for gifts and travel reimbursements, as well as the widely attended gatherings nonsponsor gifts exception dollar ceiling.

#### *Increased Gifts and Travel Reimbursements Reporting Thresholds*

First, OGE is revising its executive branch financial disclosure regulation at 5 CFR part 2634 to reflect the increased reporting thresholds for gifts, reimbursements, and travel expenses for both the public and confidential executive branch financial disclosure systems. The increased thresholds are applicable as of January 1, 2020. These increases conform to the statutorily mandated public disclosure reporting thresholds under section 102(a)(2)(A) and (B) of the Ethics in Government Act as amended, 5 U.S.C. app. 102(a)(2)(A) and (B), (Ethics Act) and are extended to confidential disclosure reporting by OGE's regulation. Under the Ethics Act, the gifts and travel reimbursements reporting thresholds are tied to the dollar amount for the "minimal value" threshold for foreign gifts as the General Services Administration (GSA) periodically redefines it.

GSA raised the "minimal value" amount under the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, to \$415 for the three-year period 2020–2022 (from the prior level of \$390) in a March 10, 2020, Federal Management Regulation Bulletin. See Gen. Servs. Admin., FMR B-50, Foreign Gift and Decoration Minimal Value (2020) (revising retroactively to January 1, 2020, the foreign gifts minimal value definition as codified at 41 CFR 102-42.10).

Accordingly, applicable as of that same date, OGE is increasing the thresholds for reporting of gifts and travel reimbursements from any one source in 5 CFR 2634.304 and 2634.907(g). The thresholds have been raised to "more than \$415" for the gifts and travel reimbursements aggregation thresholds and "\$166 or less" for the de minimis exception for gifts and travel reimbursements that do not have to be aggregated. As noted, these regulatory increases implement the underlying statutory increases effective January 1, 2020. OGE is also updating the examples following those sections, including appropriate adjustments to gift values.

OGE will continue to adjust the gifts and travel reimbursements reporting thresholds in its part 2634 regulation in the future as needed in light of GSA's redefinition of "minimal value" every three years for foreign gifts purposes.

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See OGE's prior three-year adjustment of those regulatory reporting thresholds, as published at 82 FR 22735 (May 18, 2017) (for 2017–2019, the aggregate reporting thresholds were more than \$390, with a \$156 or less de minimis exception).

#### *Increased Dollar Ceiling for the Exception for Nonsponsor Gifts of Free Attendance at Widely Attended Gatherings*

OGE is also increasing the exception ceiling for nonsponsor gifts of free attendance at widely attended gatherings from \$390 to \$415 in the executive branch standards of ethical conduct regulation, as codified at 5 CFR 2635.204(g)(3) (and as illustrated in the examples following paragraph (g)). This separate regulatory change is effective upon publication in the **Federal Register**, on June 18, 2020. As OGE noted in the preambles to the proposed and final rules on such nonsponsor gifts, that ceiling is tied to the financial disclosure gifts reporting threshold. See 60 FR 31415 (June 15, 1995) and 61 FR 42965 (Aug. 20, 1996). Thus, OGE is again increasing the nonsponsor gift ceiling to match the further increase in the gifts and travel reimbursements reporting thresholds described above. The nonsponsor gift ceiling was last raised May 2017. See 82 FR 22735 (May 18, 2017). The other requirements for acceptance of such nonsponsor gifts, including an agency interest determination and expected attendance by more than 100 persons, remain unchanged.

## II. Matters of Regulatory Procedure

### Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), as Director of the Office of Government Ethics, I find that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these technical amendments. The notice and comment procedures are being waived because these amendments concern matters of agency organization, procedure and practice. It is also in the public interest that the accurate and up-to-date information be contained in the affected sections of OGE's regulations as soon as possible. The increase in the reporting thresholds for gifts and reimbursements is based on a statutory formula and lessens the reporting burden. Therefore,

that regulatory revision is retroactively applicable as of January 1, 2020, when the change became effective under the Ethics Act.

#### Regulatory Flexibility Act

As the Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final rule would not have a significant economic impact on a substantial number of small entities because it primarily affects current Federal executive branch employees.

#### Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require approval of the Office of Management and Budget.

#### Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 5, subchapter II), this final rule would not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

#### Congressional Review Act

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and Government Accountability Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

#### Executive Order 13563 and Executive Order 12866

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select the regulatory approaches that maximize net benefits (including economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. In promulgating this rulemaking, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in Executive Orders 12866 and

13563. The rule has not been reviewed by the Office of Management and Budget because it is not a significant regulatory action for the purposes of Executive Order 12866.

#### Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

#### List of Subjects

#### 5 CFR Part 2634

Certificates of divestiture, Conflict of interests, Government employees, Penalties, Reporting and recordkeeping requirements, Trusts and trustees.

#### 5 CFR Part 2635

Conflict of interests, Executive branch standards of ethical conduct, Government employees.

Approved: May 19, 2020.

#### Emory Rounds,

Director, U.S. Office of Government Ethics.

For the reasons set forth in the preamble, the U.S. Office of Government Ethics is amending 5 CFR parts 2634 and 2635 as follows:

### PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

■ 1. The authority citation for part 2634 continues to read as follows:

**Authority:** 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104–134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996) and Sec. 701, Pub. L. 114–74 (Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

■ 2. Amend § 2634.304 as follows:

■ a. Revise the Note to paragraph (a);  
 ■ b. In paragraphs (a) and (b), remove the dollar amount “\$390” and add in its place “\$415” wherever it appears;  
 ■ c. In example 1 following paragraph (d), remove the dollar amount “\$220” following “Gift 1-Print” and add in its place “\$240” and remove the dollar amount “\$390” in the sentence following “Gift 3” and add in its place “\$415”;  
 ■ d. In paragraph (d) and examples 1 and 2, remove the dollar amount “\$156” and add in its place “\$166” wherever it appears; and

■ e. In examples 2 and 3 following paragraph (d), remove the year “2017” and add in its place “2020”.

The revision reads as follows:

#### § 2634.304 Gifts and reimbursements.

(a) \* \* \*

*Note to paragraph (a):* Under sections 102(a)(2)(A) and (B) of the Ethics in Government Act, the reporting thresholds for gifts, reimbursements, and travel expenses are tied to the dollar amount for the “minimal value” threshold for foreign gifts established by the Foreign Gifts and Decoration Act, 5 U.S.C. 7342(a)(5). The General Services Administration (GSA), in consultation with the Secretary of State, redefines the value every 3 years. In 2020, the amount was set at \$415. In subsection (d), the Office of Government Ethics sets the aggregation exception amount and redefines the value every 3 years. In 2020, the amount was set at \$166. The Office of Government Ethics will update this part in 2023 and every three years thereafter to reflect the new amounts.

\* \* \* \* \*

■ 3. Amend § 2634.907 as follows:

■ a. In paragraph (g)(1), remove the dollar amount of “\$390” and add in its place “\$415”;  
 ■ b. In paragraph (g)(2) introductory text, remove the dollar amount “\$156” and add in its place “\$166”;  
 ■ c. Revise the Note to paragraph (g)(2);  
 ■ d. In the last sentence of the example following paragraph (g)(5), remove the dollar amount of “\$390” and add in its place “\$415” and remove the dollar amount “\$156” and add in its place “\$166”.

The revision reads as follows:

#### § 2634.907 Report contents.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

*Note to paragraph (g)(2):* The Office of Government Ethics sets these amounts every 3 years using the same disclosure thresholds as those for public financial disclosure filers. In 2020, the reporting thresholds were set at \$415 and the aggregation threshold was set at \$166. The Office of Government Ethics will update this part in 2023 and every three years thereafter to reflect the new amount.

\* \* \* \* \*

### PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

■ 4. The authority citation for part 2635 continues to read as follows:

**Authority:** 5 U.S.C. 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of

1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

#### **§ 2635.204 [Amended]**

- 5. In § 2635.204, in paragraph (g)(3)(iv) and examples 1 and 4 following paragraph (g)(6), remove the dollar amount “\$390” and add in its place “\$415” wherever it occurs.

[FR Doc. 2020-12357 Filed 6-17-20; 8:45 am]

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## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 120**

**[Docket No. SBA-2020-0036]**

**RIN 3245-AH50**

#### **Business Loan Program Temporary Changes; Paycheck Protection Program—Additional Revisions to First Interim Final Rule**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Interim final rule.

**SUMMARY:** On April 2, 2020, the U.S. Small Business Administration (SBA) posted on its website an interim final rule relating to the implementation of sections 1102 and 1106 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act) (published in the **Federal Register** on April 15, 2020). Section 1102 of the Act temporarily adds a new product, titled the “Paycheck Protection Program,” to the U.S. Small Business Administration’s (SBA’s) 7(a) Loan Program. Subsequently, SBA issued a number of interim final rules implementing the Paycheck Protection Program. This interim final rule revises SBA’s interim final rule published in the **Federal Register** on April 15, 2020 by changing the eligibility requirement related to felony convictions of applicants or owners of the applicant.

#### **DATES:**

*Effective date:* The provisions in this interim final rule are effective June 16, 2020.

*Comment date:* Comments must be received on or before July 20, 2020.

**ADDRESSES:** You may submit comments, identified by number SBA-2020-0036, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

SBA will post all comments on [www.regulations.gov](http://www.regulations.gov). If you wish to submit confidential business information (CBI) as defined in the User Notice at [www.regulations.gov](http://www.regulations.gov), please send an email to [ppp-ifr@sba.gov](mailto:ppp-ifr@sba.gov).

Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

**FOR FURTHER INFORMATION CONTACT:** A Call Center Representative at 833-572-0502, or the local SBA Field Office; the list of offices can be found at <https://www.sba.gov/tools/local-assistance/districtoffices>.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background Information**

On March 13, 2020, President Trump declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, territories, and the District of Columbia. With the COVID-19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, and local public health measures that are being taken to minimize the public’s exposure to the virus. These measures, some of which are government-mandated, have been implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, have been implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116-136) to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. The Small Business Administration (SBA) received funding and authority through the Act to modify existing loan programs and establish a new loan program to assist small businesses nationwide adversely impacted by the COVID-19 emergency.

Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the “Paycheck Protection Program.” Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program.

On April 24, 2020, the President signed the Paycheck Protection Program and Health Care Enhancement Act (Pub. L. 116-139), which provided additional

funding and authority for the PPP. On June 5, 2020, the President signed the Paycheck Protection Program Flexibility Act of 2020 (Flexibility Act) (Pub. L. 116-142).

#### **II. Comments and Immediate Effective Date**

This interim final rule is effective without advance notice and public comment because section 1114 of the CARES Act authorizes SBA to issue regulations to implement Title I of the Act without regard to notice requirements. In addition, SBA has determined that there is good cause for dispensing with advance public notice and comment on the grounds that that it would be contrary to the public interest. Specifically, advance public notice and comment would defeat the purpose of this interim final rule given that SBA’s authority to guarantee PPP loans expires on June 30, 2020. These same reasons provide good cause for SBA to dispense with the 30-day delayed effective date provided in the Administrative Procedure Act. Although this interim final rule is effective on or before date of filing, comments are solicited from interested members of the public on all aspects of the interim final rule, including section III below. These comments must be submitted on or before July 20, 2020. The SBA will consider these comments, comments received on the interim final rule posted on SBA’s website April 2, 2020 (the First Interim Final Rule) and published in the **Federal Register** on April 15, 2020, and the need for making any revisions as a result of these comments.

#### **III. Paycheck Protection Program—Additional Revisions to First Interim Final Rule (85 FR 20811)**

##### **Overview**

The CARES Act was enacted to provide immediate assistance to individuals, families, and businesses affected by the COVID-19 emergency. Among the provisions contained in the CARES Act are provisions authorizing SBA to temporarily guarantee loans under a new 7(a) loan program titled the “Paycheck Protection Program.” Loans guaranteed under the Paycheck Protection Program (PPP) will be 100 percent guaranteed by SBA, and the full principal amount of the loans may qualify for loan forgiveness. The purpose of this interim final rule is to make changes to the First Interim Final Rule, posted on SBA’s website on April 2, 2020, and published in the **Federal Register** on April 15, 2020 (85 FR 20811). The First Interim Final Rule, as amended, should be interpreted