

**From:** [Comfort, Melinda](#)  
**To:** [Chan, Vanessa](#)  
**Subject:** Review of Your Financial Disclosure Form and Conflict of Interest Advice  
**Date:** Monday, March 1, 2021 3:14:00 PM  
**Attachments:** [SeniorEmployeeNewEntrantNCareerRestrictionsForm.doc](#)

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Vanessa Chan, I have reviewed the Public Financial Disclosure Report that you recently submitted in connection with your new position at the Department of Energy. This email is intended to provide you with information and call to your attention certain conflict-of-interest provisions applicable to you in your new position. Please read it in its entirety and contact me if you have any questions.

### **Participation Restrictions**

Section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, a financial interest is held by you, or your spouse, minor child, general partner, or organization in which you are serving as officer, director, trustee, general partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment. This participation prohibition not only covers such items as contracts, grants, cooperative agreements, and claims, but also includes legislation and policy-making that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. This prohibition is not on having a specific financial interest, but rather on the work that you may perform.

**Accordingly, you should be careful to avoid participation, as a Government employee, in any particular matter that would have a direct and predictable effect upon University of Pennsylvania,\* Head First Ventures (you have advised this entity will remain dormant during your Government service), Sapor Food Group, Percepta, Walmart, Proscia, your intellectual property assets (Trademark "loopit," Reg. No. 5420880; "Earbud headphones that Convert into an Accessory," US Patent Number, 9,571,914; "Periodic Porous and Relief Nanostructured Articles," US Patent Number 7,799,416, "Earbud headphones that convert into an accessory," US Design Patent D798267), or any other entity in which you have a financial interest within the meaning of section 208, for as long as you hold such interest.**

**\*As you have taken an unpaid leave of absence from your position at the University of Pennsylvania, you may however participate in: (1) particular matters of general applicability affecting the financial interest of the University, provided that the matter will not have a special or distinct effect on the University, other than as part of a class; or (2) in accordance with the terms of any waiver that *may* be issued to you under 18 U.S.C. §208(b)(1). (Additional guidance regarding the University of Pennsylvania will be subsequently provided.)**

**Further, you should be careful to avoid participation, as a Government employee, in any particular matter that would have a direct and predictable effect upon the ability or willingness of: (1) Vanguard to pay the fixed obligation/Accounts/Receivable owed to you; or, (2) Exelon to pay its contractual obligation to your spouse under the defined benefit retirement plan (pension plan).**

Further, section 2635.502 of the Standards of Ethical Conduct for Employees of the Executive Branch at title 5 provides that where you know that a person with whom you have a "covered relationship" is or represents a party to a particular matter involving specific parties, and where you determine that the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality in the matter, you should not participate in the matter unless you have informed your immediate supervisor of the appearance problem and received authorization to

participate in the matter. For purposes of this restriction, a “covered relationship” includes:

- (i) A person, other than a prospective employer, with whom you have or seek a business, contractual or other financial relationship that involves other than a routine consumer transaction;
- (ii) A person who is a member of your household, or who is a relative with whom you have a close personal relationship;
- (iii) A person for whom your spouse, parent or dependent child is, to your knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
- (iv) Any person for whom you have, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or
- (v) An organization, other than a political party in which you are an active participant.

**Accordingly, you should seek the advice of this office prior to participating in any particular matter in which Head First Ventures (or its clients served within the preceding year), Robin Hood Ventures, ChargeItSpot, LLC, Percepta, or Walmart, are a party or represents a party, and should seek the advice of this office prior to participating in any such matter.**

In addition, President Biden issued an Executive Order on January 20, 2021 (the Biden Ethics Pledge) that expands this “covered relationship” restriction to include all former employers and former clients for whom you personally provided services within a two year period prior to your appointment for a period of two years after your appointment. **Therefore, for two years after your appointment you cannot participate in any particular matter involving specific parties, including regulations and contracts, related to any above mentioned former employers or clients (including En Pro Industries and GGB, as former clients of Head First Ventures).**

#### **Senior Employee Post Employment Restrictions**

As a “senior” employee (an individual compensated at a rate of pay in excess of \$172,395 in 2021) you are subject to the following post-employment restrictions: For one year after termination from service in a “senior” position, you may not:

- (1) knowingly make, with the intent to influence, any communication to or appearance before an employee of DOE, if that communication or appearance is made on behalf of any other person (except the United States), in connection with any matter concerning which you seek official action by the DOE employee; and
- (2) knowingly aid, advise, or make representations on behalf of a foreign entity, with the intent to influence a decision of an employee of a department or agency, including Members of Congress and their staffs, in carrying out your official duties.

The Attorney General is authorized to enjoin any violation of this criminal statute. The penalties for violating these restrictions include criminal penalties not to exceed five years in prison and/or fines not to exceed \$50,000 for each violation or the amount of compensation which you received for the prohibited conduct, whichever is greater. **Please review and sign the attached Non-**

**Career Senior Employee Acknowledgement Form and return it to me.**

#### **Outside Activity Restrictions**

There are many statutory and regulatory restrictions applicable to outside activities. Before engaging in any outside employment (including volunteer work where you are providing professional services or serving on a board of directors) you must obtain written approval of your immediate supervisor, and this office. 5 C.F.R. § 3301.103. Further, with limited exceptions, you are prohibited from receiving compensation from any source other than the Government for teaching, speaking, or writing that relates to your official duties.

(b) (6)

Ethics laws prohibit you from engaging in outside employment or any other outside activity that conflicts with your official duties. An activity conflicts with your official duties if it is prohibited by statute or it would require your disqualification from matters so central or critical to the performance of your official duties that your ability to perform the duties of your position would be materially impaired. These rules also prohibit you from using public office for your own personal gain or the private gain of friends, relatives, persons, or other entities with whom you are affiliated in a non-governmental capacity, and from using official time other than in an honest effort to perform official duties.

Further, there are criminal statutes that restrict Federal government employees from engaging in certain activities with regard to the Government. In general, 18 U.S.C. §§ 203 and 205, prohibit Federal employees from representing, with or without compensation, any party other than the United States with respect to a certain matter involving specific parties before the Executive or Judicial branches of Government in which the United States is a party or has an interest. Representational services include written or oral communications and appearances made on behalf of someone else with the intent to influence or persuade the Government.

#### **Misuse of Position**

Regulations exist providing for the proper use of official time and authority, and of information and resources to which you have access resulting from your role as a Federal employee. 5 C.F.R. §§ 2635.701 - 2635.705. These regulations bar the use of public office for private gain. This broad ban prohibits the following: use of your title, position, or authority for your own private gain, or the private gain of friends, relatives, clients, or anyone with whom you are affiliated in a non-Governmental capacity (including nonprofit organizations in which you serve as an officer, member, employee, or persons with whom you have or seek an employment or business relationship); use of your title, position, or authority to coerce or induce another person to provide any benefit to yourself or any person identified above; use of any non-public information to further your private interests or those of another, or disclosing confidential or non-public information without authorization; and use of Government property and time for unauthorized purposes.

#### **Gifts**

As a Federal employee, you may not accept gifts from a prohibited source or gifts offered because of your official position as a DOE employee. A prohibited source is considered an entity who does business with the Department, is affected by the work of the Department, or has an interest in the work of the Department. There are certain exceptions to this rule. For example, small food items, that are less than a meal, such as coffee, are not considered a gift. In addition, the Biden Ethics Pledge prohibits you from accepting gifts from registered lobbyists or lobbying organizations during your service as an appointee. There are very few exceptions to this additional restriction. You should contact this office before accepting a gift from a prohibited source or one that is offered because of your official position.

#### **Political Activity Restrictions**

The Hatch Act on Political Activity (Hatch Act) limits the political activities of Federal employees. 5 U.S.C. §§ 7321-7326. Generally, Department employees are permitted to participate in partisan political activities. However, as a Federal employee, you are prohibited from engaging in political

activity while on duty; on government-paid travel; in any room or building occupied in the conduct of government business; wearing a uniform or official insignia identifying the office or position of the employee; or using any vehicle owned or leased by the government. Further, you may not solicit, accept, or receive political campaign contributions on behalf of a political candidate or political party. You also cannot use Government computers, phones, and similar equipment for partisan political activity. Please contact this office for more detailed advice before engaging in partisan political activity.

**Periodic Transaction Report (OGE Form 278T)**

A periodic transaction report is only required to be submitted to report the purchase, sale, or exchange of stocks, bonds, options or futures (if the amount of the transaction is greater than \$1,000) by you, your spouse or dependent children. These reports must be filed: (A) within 45 days of the transaction, or (B) within 30 days of the date you learn of the transaction, whichever occurs earlier. There is a \$200 late filing fee on these reports. The periodic transaction report is not required to be submitted to report the purchase, sale, or exchange of mutual funds, real property, or deposit accounts. Periodic Transaction Reports must be filed using Integrity. Employees who have previously used OMB MAX should use their MAX user ID and password. On the Integrity landing page, <https://integrity.gov>, click "Login to Integrity." Click "Submit" and you should see a filer "My Tasks" dashboard. To start a 278-T, scroll down to the "My Tools" area and click on "278-T." That will display the report tool with brief instructions in a new window where you can enter your information and submit your report.

This email provided a general overview of the conflict of interest statutes and regulations that apply to you as an employee at the Department of Energy. Please remain alert for any potential conflicts that may arise and do not hesitate to contact this office at [standardsofconduct@hq.doe.gov](mailto:standardsofconduct@hq.doe.gov) with any questions related to these restrictions.

Melinda Comfort  
Attorney-Advisor  
Office of Assistant General Counsel,  
Ethics and Personnel Law, GC-21  
U.S. Department of Energy  
(202) 586-3056

## **Non-Career “Senior” Employee Acknowledgment**

Effective January 2004, a new performance-based pay system for the Senior Executive Service (SES) was established and, consequently amended 18 U.S.C. 207(c) to establish a new standard for “senior” employees. For 2015, a "senior" employee is an individual compensated at a rate equal to or greater than \$158,554.50 or 86.5% of the rate for level II of the Executive Schedule. As an employee entering a non-career “senior” position, I understand that the following restrictions apply to my current and future activities:

**Post Employment Restrictions:** For one year after termination from service in a "senior" position, I may not (1) knowingly make, with the intent to influence, any communication to or appearance before an employee of DOE, if that communication or appearance is made on behalf of any other person (except the United States), in connection with any matter concerning which I seek official action by the DOE employee; and (2) knowingly aid, advise, or make representations on behalf of a foreign entity, with the intent to influence a decision of an employee of a department or agency, including Members of Congress and their staffs, in carrying out his or her official duties. I also understand the Attorney General is authorized to enjoin any violation of this criminal statute. Furthermore, I understand violation of these restrictions include criminal penalties not to exceed five years in prison and/or fines not to exceed \$50,000 for each violation or the amount of compensation which is received for the prohibited conduct, whichever is greater.

**Outside Income and Outside Activities Restrictions:** Title V of the Ethics in Government Act of 1978, as amended, contains restrictions on my outside activities. Specifically, I may not in any calendar year have outside earned income in excess of 15 percent of the annual rate of basic pay for Level II of the Executive Schedule (EX-II), currently the cap for 2013 is \$26,550 (will be prorated for partial year service). In addition, I may not:

- receive compensation for affiliating with or being employed by an entity that provides professional services involving a fiduciary relationship;
- permit my name to be used by any entity that provides professional services involving a fiduciary relationship;
- receive compensation for practicing a profession that involves a fiduciary relationship;
- serve for compensation as an officer or member of the board of any entity; or
- receive compensation for teaching, speaking or writing without the prior approval of the Department.

Further, Department regulations require that, before engaging in any outside employment, whether or not for compensation, I must obtain the written approval of my immediate supervisor and ethics counsel (5 C.F.R. 3301.103). If I am currently engaged in an outside activity or plan to engage in any outside activities, I understand I must consult ethics counsel for further guidance and acknowledge that guidance is available in the Office of the Assistant General Counsel for General Law, at 202-586-1522.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Employee

cc: Susan F. Beard, Designated Agency Ethics Official  
Assistant General Counsel for General Law