

**COMMUNICATIONS WITH REGISTERED  
LOBBYISTS AND OTHER PERSONS ABOUT EMERGENCY ECONOMIC  
STABILIZATION ACT FUNDS**

On January 27, 2009 Treasury Secretary Timothy Geithner announced new rules designed to limit the influence of lobbyists and special interests in the Emergency Economic Stabilization Act (EESA) process and ensure that investment decisions are guided by objective assessments in the best interest of the health and stability of the financial system. This guidance outlines the actions you are required to take whenever you receive or participate in oral or written communications with any outside persons or entities regarding EESA funding determinations.

**A. Unrestricted Oral Communications on Logistical Questions Related to EESA Funding**

There are no restrictions on communications between Treasury officials and any outside persons, including federally registered lobbyists, concerning general questions about the logistics of EESA funding or implementation. Such matters may include an outside person's request for a meeting, an inquiry concerning the status of an action, an inquiry concerning the deadlines or logistics of EESA funding, or any other similar administrative request, if the request does not involve advocacy about EESA policy or a specific application for funding under the EESA. The following general topics of discussion, for example, all may fall within the category of general questions about logistics or implementation:

- (1) How to apply for funding under the EESA;
- (2) How to conform to deadlines;
- (3) To which officials applications or questions should be directed; or
- (4) Requests for information about program requirements and Treasury practices under the EESA.

**B. Unrestricted Oral Communications at Widely Attended Gatherings**

The Secretary's policy is aimed at furthering the transparency of oral communications with Federal officials concerning EESA funding. Such transparency aims are achieved with respect to communications made at "widely attended gatherings." A gathering is widely attended when it is attended by a large number of people from throughout an industry or profession who represent a wide range of interests. The term is defined and implemented in ethics regulations at 5 C.F.R. § 2635.204(g)(2) and related interpretive guidance, and is regularly construed and applied by Treasury's designated ethics officials. Thus, the Secretary's policy imposes no further restrictions on such oral communications by any persons at widely attended gatherings. The restrictions below, however, do apply to private oral communications that may happen to occur at, in connection with, or immediately before or after, a widely attended gathering. In other words, private conversations at a widely attended gathering are not covered under this exemption.

C. Oral Communications During the Period Following Submission of a Formal Application for Federal Financial Assistance Under the EESA, Continuing Until Preliminary Approval of EESA Funds

During the period of time commencing with the submission of a formal application by an individual or entity for financial assistance under the EESA, and ending with the preliminary approval of EESA funds, you may not participate in oral communications initiated by any person or entity concerning a pending application for EESA funds, whether or not the initiating party is a federally registered lobbyist. This restriction applies unless:

- (i) The communication is purely logistical (Part A above);
- (ii) The communication is made at a widely attended gathering (Part B above);
- (iii) The communication is to or from a Federal executive agency official and a Treasury employee; or
- (iv) The communication is initiated by a Treasury official.

If an individual or entity contacts you to talk about a pending application for EESA funds and if the contact does not fall within any of the excepted categories above, you should immediately end the conversation.

D. Oral and Written Communications Concerning EESA Policy or Applications For Funding, and Written Communications Concerning Pending Applications

If you communicate with or are contacted by, via telephone or in person, any persons outside the Federal executive branch (including persons associated with for-profit companies, nonprofit organizations, and state and local governmental entities) regarding EESA policy or applications for funding, you should first ascertain that the contacting party is not restricted from communicating with you orally under Part C above.

Even if Part C does not limit oral communications, you must ask if any person participating in the oral communication is a federally registered lobbyist speaking on behalf of a client (or, in the case of an in-house registered lobbyist, on behalf of an employer) for whom the lobbyist is registered. This requirement applies unless the communication is purely logistical (Part A above) or the communication occurs at a widely attended gathering (Part B above). If any person is a federally registered lobbyist speaking on behalf of a client or employer for whom the lobbyist is registered, please take the following steps:

- (1) Inform the person(s) that you will document the fact of the conversation in writing, including the name of the lobbyist and other participants, together with a brief description of the conversation, for public posting on Treasury's website within 3 days.

(2) Subject to the exceptions contained in Part A and Part B above, document each in-person or telephonic conversation concerning EESA funding with a registered lobbyist immediately after the conversation. You may use the attached form. Remember that this form must be posted on the website within 3 days of the conversation. Please be sure your posting includes:

- (i) The date of contact,
- (ii) The names of the parties to the conversation,
- (iii) The name of the lobbyist's client(s),
- (iv) A general, one-sentence description of the substance of the conversation, and
- (v) Attachments that consist of any written materials prepared by outside participants of the meeting that were submitted in connection with the meeting.

(3) Submit the form to the Office of the Deputy Assistant General Counsel for Ethics. The ethics office will review the form for completeness and forward it for posting on the website within 3 business days of the communication.

If you receive a written communication from a federally registered lobbyist on behalf of a client or employer concerning EESA policy or applications for funding (including, but not limited to, any written communication from a federally registered lobbyist about a pending application), then please submit that written communication for posting on Treasury's website within 3 business days of the communication, in accordance with step (3) immediately above. In addition, written communications from EESA applicants or their representatives, in connection with applications for or specific disbursements of EESA funds while the application is pending, must also be submitted for posting on Treasury's website within 3 business days of the communication.

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Enclosures:

- (1) Frequently Asked Questions
- (2) Registered Lobbyist Contact Disclosure Form

## FREQUENTLY ASKED QUESTIONS

**Q: A local business group has contacted me to discuss how to apply for EESA funding. May I talk with members of the group?**

A: Yes. This area of discussion falls within the category of general logistical and implementation issues concerning the EESA, and thus you may talk with the group without restriction to answer its questions. However, if the group includes federally registered lobbyists and the discussion veers to advocacy about EESA policy or a particular project or application for funding under the EESA, you should document your discussion and forward that documentation to your agency representative for posting on the Internet. You should decline to discuss any pending applications for Federal financial assistance under the EESA.

**Q: I have received a request to meet with federally registered lobbyists who represent a bank. Bank officials have stated openly that they plan to apply for funding under the EESA. May I talk with the bank's lobbyists about that project?**

A: Yes. So long as the bank has not submitted its formal application for the application in question, you may meet with the bank's lobbyists to discuss the matter in any way that is appropriate under other applicable law, regulations, and Treasury guidance. You must document your meeting with the lobbyists, however, and forward your documentation to the Office of the Deputy Assistant General Counsel for Ethics for posting on the Internet.

**Q: What is meant by, and how broad is, the exception for Treasury official-initiated conversations about pending applications for funding? Does the fact that an agency official is returning a phone call of an applicant make the conversation agency-initiated?**

A: The purpose of this exception is to allow Treasury officials to obtain the information they need or seek about pending applications in order to evaluate the applications, among other things. An agency official should not receive, be willing to receive or respond to communications concerning pending applications unless the official affirmatively seeks or requires information about the application.

**Q: I have received a request to meet with representatives of an organization that has filed an application for EESA funding. The representatives want to discuss the merits of the organization's proposal. The representatives are not federally registered lobbyists. May I speak with them?**

A: No. Because the organization has filed an application for funding, its representatives may not initiate communications with you orally about the merits of the application or proposal.

**Q: Shouldn't I simply avoid all contact with federally registered lobbyists about EESA matters, so I don't have to document anything?**

A: No. The purpose of this policy is to provide transparency to certain communications with federally registered lobbyists concerning the EESA, not to bar such communications. You should proceed with all communications in accordance with the protocol.

**Q: Do the reporting requirements that apply to lobbyists apply to all lobbyists—including lobbyists for governmental entities, lobbyists registered under state laws, and individuals who were federally registered lobbyists in recent years but are no longer so registered?**

A: The answer depends on the nature of the communication. If the communication is in connection with an application for or specific disbursements of EESA funds while the application is pending, such communications may only take place in writing, and must be posted on Treasury's website, regardless of whether the communication is from EESA applicants or their representatives (whether or not they are federally registered lobbyists).

The reporting requirements for other communications only apply to communications with individuals who are currently federally registered lobbyists, including lobbyists for governmental or non-profit entities, and who are communicating on behalf of a client for whom they are registered. They do not apply to individuals who have been previously registered but are no longer federally registered; to individuals registered to lobby under state rather than Federal laws; or to federally registered lobbyists who are not communicating on behalf of a client (or, in the case of an in-house registered lobbyist, on behalf of an employer) for whom they are registered.

**Q: A group has called me to discuss concerns about how funding is being allocated among different classes of financial institutions. May I speak with members of the group?**

A: Yes. Regardless of whether the group includes federally registered lobbyists, you may speak with members of the group about funding allocation. You may not speak with any member of the group, however, about any pending EESA applications before the agency. If the group includes federally registered lobbyists, you should document the contact on the attached form.

**Q: I am scheduled to deliver a speech to a group of business leaders about how to apply for EESA funds. Must I pre-screen the group for federally registered lobbyists? If federally registered lobbyists are present, do I need to document each of their questions as a lobbying contact?**

A: If the speech is before a widely attending gathering, you do not need to determine whether federally registered lobbyists are present, and you may discuss the EESA without documenting the discussion.

**Q: How do I know if a caller or meeting participant is a federally registered lobbyist or if the caller or meeting participant has submitted a formal application for EESA funds?**

A: You should simply ask your caller or meeting participants the applicable questions.

**Q: How much information do I need to include on the Lobbyist Contact Disclosure form?**

A: The form is meant to document the fact and date of your contact, along with the identity of the lobbyist, his or her client, and a one-sentence description of the general topic or topics of discussion. Additional detailed information is not required.

**Q: Are there any exemptions for communications with other government employees?**

A: You may have oral communications at any time, even after the submission of a formal application, with another Federal executive branch official.

**Q: Do the documentation requirements concerning lobbyist communications apply only to individuals who are federally registered lobbyists, or to lobbying organizations and their employees more generally?**

A: The documentation requirements apply only to communications with individuals who are federally registered lobbyists, and not with lobbying organizations or their non-registered employees more generally, with one exception: communications from EESA applicants or their representatives, in connection with applications for or specific disbursements of EESA funds while the application is pending, must take place in writing and be posted on Treasury's website.

**Q: An application for EESA funds has received preliminary approval. May I communicate with a federally registered lobbyist about the application?**

A: Yes, after an application has received preliminary approval of EESA funds, you may communicate orally in or in writing with any person or entity, whether or not a federally registered lobbyist (consistent with any other applicable law, regulation, or Treasury policy). You must document your meeting with a lobbyist, however, and forward your documentation to the Office of the Deputy Assistant General Counsel for Ethics for posting on the Internet.

# REGISTERED LOBBYIST CONTACT DISCLOSURE FORM

This form is to be completed by Executive Branch employees who are contacted by registered lobbyists regarding EESA. This report includes a written description of each contact, the date and time of the contact, and the names of the registered lobbyist(s) and the employee(s) with whom the contact took place. Written materials prepared by registered lobbyists should be attached to this form for posting on the website. The information on this form will be available to the public on Treasury's website.

To be completed by the employee contacted		
Date and time of contact:	Name of the Employee(s) Contacted (Name and Title)	Brief description of the communication: (attach separate sheet if necessary)
Name of the Employee(s) who prepared this form:		Date

Registered Lobbyist Name:	Title:	Firm or Organization:, if applicable	Client