

§ 2640.204

Bureau of the Census at the United States Department of Commerce, who is also an employee of a State, local, or tribal government, may participate in the decennial census notwithstanding the disqualifying financial interests of the employee's non-Federal government employer in the census provided that the employee:

(1) Does not serve in a State, local, or tribal government position which is filled through public election;

(2) Was hired for a temporary position under authority of 13 U.S.C. 23; and

(3) Is serving in a Local Census Office or an Accuracy and Coverage Evaluation function position as an enumerator, crew leader, or field operations supervisor.

[61 FR 66841, Dec. 18, 1996 as amended at 62 FR 23128, Apr. 29, 1997; 65 FR 16513, Mar. 29, 2000]

§ 2640.204 Prohibited financial interests.

None of the exemptions set forth in §§ 2640.201, 2640.202, or 2640.203 apply to any financial interest held or acquired by an employee, his spouse, or minor child in violation of a statute or agency supplemental regulation issued in accordance with 5 CFR 2635.105, or that is otherwise prohibited under 5 CFR 2635.403(b).

Example 1: The Office of the Comptroller of the Currency (OCC), in a regulation that supplements part 2635 of this chapter, prohibits certain employees from owning stock in commercial banks. If an OCC employee purchases stock valued at \$2,000 in contravention of the regulation, the exemption at § 2640.202(a) for interests arising from the ownership of no more than \$5,000 worth of publicly traded stock will not apply to the employee's participation in matters affecting the bank.

§ 2640.205 Employee responsibility.

Prior to taking official action in a matter which an employee knows would affect his financial interest or the interest of another person specified in 18 U.S.C. 208(a), an employee must determine whether one of the exemptions in §§ 2640.201, 2640.202, or 2640.203 would permit his action notwithstanding the existence of the disqualifying interest. An employee who is unsure whether an exemption is applica-

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ble in a particular case, should consult an agency ethics official prior to taking action in a particular matter.

§ 2640.206 Existing agency exemptions.

An employee who, prior to January 17, 1997, acted in an official capacity in a particular matter in which he had a financial interest, will be deemed to have acted in accordance with applicable regulations if he acted in reliance on an exemption issued by his employing Government agency pursuant to 18 U.S.C. 208(b)(2), as in effect prior to November 30, 1989.

Subpart C—Individual Waivers

§ 2640.301 Waivers issued pursuant to 18 U.S.C. 208(b)(1).

(a) *Requirements for issuing an individual waiver under 18 U.S.C. 208(b)(1).* Pursuant to 18 U.S.C. 208(b)(1), an agency may determine in an individual case that a disqualifying financial interest in a particular matter or matters is not so substantial as to be deemed likely to affect the integrity of the employee's services to the Government. Upon making that determination, the agency may then waive the employee's disqualification notwithstanding the financial interest, and permit the employee to participate in the particular matter. Waivers issued pursuant to section 208(b)(1) should comply with the following requirements:

(1) The disqualifying financial interest, and the nature and circumstances of the particular matter or matters, must be fully disclosed to the Government official responsible for appointing the employee to his position (or other Government official to whom authority to issue such a waiver for the employee has been delegated);

(2) The waiver must be issued in writing by the Government official responsible for appointing the employee to his position (or other Government official to whom the authority to issue such a waiver for the employee has been delegated);

(3) The waiver should describe the disqualifying financial interest, the particular matter or matters to which it applies, the employee's role in the matter or matters, and any limitations