

United States Senate

SELECT COMMITTEE ON ETHICS

June 3, 2020

Dear Colleague:

As you know, the Coronavirus Aid, Relief, and Economic Security (CARES) Act,¹ which was signed into law on March 27, 2020, provides emergency relief for individuals and organizations. At the request of the Offices of the Majority Leader and Minority Leader, the Select Committee on Ethics (the Committee) is issuing this letter to provide guidance to Senate Members, officers, and employees who seek or receive CARES Act assistance.

Section 4003 of the CARES Act authorizes the Department of the Treasury to make “loans, loan guarantees, and other investments” to provide liquidity to eligible businesses, states, and municipalities in response to losses incurred as a result of the COVID-19 pandemic. The CARES Act contains specific conflict of interest provisions restricting eligibility for assistance under § 4003.

Under § 4019, entities that have a controlling interest held by a Member of Congress, or the spouse, child, son-in-law, or daughter-in-law of a Member of Congress, are not eligible for assistance under § 4003.² A “controlling interest” is defined as “owning, controlling, or holding not less than 20 percent, by vote or value, of the outstanding amount of any class of equity interest in an entity.”³ The interests of a Member of Congress and their spouse, child, son-in-law, or daughter-in-law are aggregated when determining whether they together hold a “controlling interest.”⁴ Additionally, the CARES Act requires the principal executive officer and the principal financial officer, or individuals performing similar functions, of entities seeking § 4003 assistance to certify that the borrower is not prohibited by § 4019 from participating.⁵

The conflict of interest provisions found in § 4019 of the CARES Act only apply to relief authorized by § 4003, and not to other programs under the CARES Act (including the Paycheck Protection Program).⁶ However, as discussed below, other standards may affect Senate Members’, officers’, and employees’ ability to participate in those programs.

¹ Pub. L. No. 116-136 (2020).

² *Id.* § 4019(b).

³ *Id.* § 4019(a)(1).

⁴ *Id.* § 4019(a)(2).

⁵ *Id.* § 4019(c).

⁶ *Id.* § 4019(b).

Finally, any action related to the COVID-19 pandemic and related legislation or relief programs must also comply with existing federal laws, Senate Rules, and standards of conduct, including 18 U.S.C. §§ 203, 205, 431, 433, and Senate Rule 37.

This guidance highlights general issues that may arise in connection with Members, officers, and employees seeking or receiving assistance under the CARES Act, but is not intended to address all issues that may arise related to the COVID-19 pandemic. Please do not hesitate to contact the Committee at (202) 224-2981 if you have any questions.

Sincerely,



James Lankford
Chairman



Christopher A. Coons
Vice Chairman