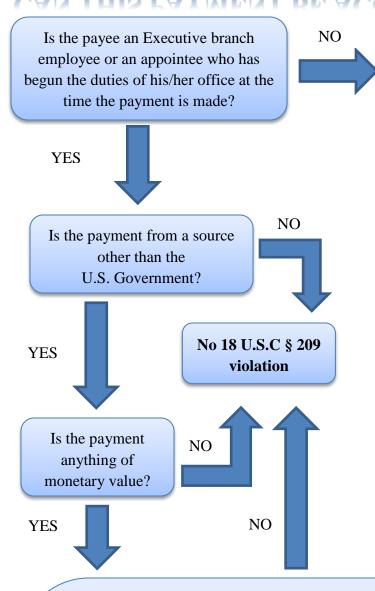
## CAN THIS PAYMENT BE ACCEPTED?

Guidance for 18 U.S.C. § 209 and 5 C.F.R. § 2635.503 Issues



Does the payment constitute an "extraordinary payment"?

Is it any item with a value in excess of \$10,000, which is paid:

- On the basis of a determination made after it became known to the former employer that the individual was being considered for or had accepted a government position; and
- Other than pursuant to an established compensation, partnership or benefits program (contained in bylaws, a contract, or other written form or is there a history of similar payments made to those not entering Federal service).



No recusal

necessary

Employee is disqualified from participating in any particular matter in which the former employer is a party or represents a party for two years from the date the payment is received.

Is the payment intended to be compensation for services as an employee of the United States?

Review relevant factors to assess intent of the parties:

- What is the nature of the services provided by the payee?
- Did the payor express his/her intent to compensate for gov't services?
- Is the employee in a position to influence the gov't on behalf of the payor?
- Is there a substantial relationship or pattern of dealings between the payee's agency and the payor?
- Is the compensation given because of the employee's official position?
- Is the payor also a gov't employee?
- Do circumstances indicate the payment is motivated by something other than to compensate for gov't service?
- Are similar payments made to non-gov't employees?
- Is the payment a *bona fide* public service award?

