1.0 Summary

The Brookings Institution has adopted this Research Independence Policy (“Policy”) to enshrine in a single document the requirement that its scholars be independent and act accordingly. Specifically, the Institution and its personnel may not engage in activities, on behalf of Brookings or others, that run afoul of the IRS prohibition on a substantial part of the Institution’s activity consisting of attempts to influence legislation; that would require registration under the Lobbying Disclosure Act, the Foreign Agents Registration Act, or state and local lobbying disclosure laws; or that may otherwise call into question the independence and objectivity of the Institution’s research. This Policy also sets forth in one place the Institution’s rules with respect to interaction with donors.

2.0 People Affected

All Brookings employees, contractors, and affiliates (collectively, “Brookings Personnel”) when conducting activities that are funded by Brookings; that are undertaken on behalf of Brookings; that use the Brookings name, logo, facilities, or resources; or that use an individual’s title at Brookings.

3.0 Purpose

This Policy complements the Institution’s Conflict of Interest Policy and provides guidance concerning compliance with LDA, FARA, and the IRS Rules, as well as on interaction with donors.

4.0 Definitions

Brookings Personnel: Collectively, all Brookings employees, contractors, and affiliates when conducting activities that are funded by Brookings; that are undertaken on behalf of Brookings; that use the Brookings name, logo, facilities, or resources; or that use an individual’s Brookings title.

Covered Official: Defined by LDA to include all Members of Congress and congressional staff, all officials in the Executive Office of the President and its constituent agencies, senior agency and military personnel, and all agency political appointees. (see Section 5.3.B)

Foreign Agents Registration Act (FARA): The Foreign Agents Registration Act and the regulations promulgated pursuant to the statute.\(^1\)

IRS Rules: Section 501(c)(3) of the Internal Revenue Code and the regulations promulgated pursuant to that section.\(^2\)

Legislation: Broadly defined by the IRS Rules to encompass the introduction, amendment, enactment, defeat, or repeal of acts, bills, resolutions, and similar items. (see Section 5.3.A)

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\(^1\) Full citations: The Foreign Agents Registration Act, 22 U.S.C. §§ 611-621, and the regulations promulgated pursuant to the statute, 28 C.F.R. Part 5 (§§ 5.1-5.1101).

\(^2\) Full citations: Internal Revenue Code of 1986, as amended, 26 U.S.C. §501(c)(3), and the regulations promulgated pursuant to that section, principally Treas. reg. §1.501(c)(3)-1.
Lobbying Activity: Defined by LDA to include lobbying contacts with US government covered officials and all activities in support of such contacts. (see Section 5.3.B)

Lobbying Contact: Defined by LDA to include any communication, to a covered official by any means, on behalf of another related to legislation; a federal rule or regulation; an executive order; any policy, position, or program of the US government; a nomination or confirmation subject to Senate confirmation; or the award of a federal contract (subject to certain exceptions). (see Section 5.3.B)


5.0 Policy

5.1 SCHOLAR INDEPENDENCE

The conclusions and recommendations of any Brookings publication are solely those of its author(s) and do not reflect the views of the Institution, its management, or its other scholars.

Brookings research and researchers are and should be independent. Brookings scholars and other personnel must not permit the interests of any third party—whether a political party, government (foreign or domestic), donor, or non-governmental organization—to adversely affect their methods or conclusions. Our scholars may seek input from a number of interested stakeholders but they ultimately have the final word on their research and other activities. If a scholar believes he or she is being inappropriately pressured regarding the analysis, conclusions, or output of a research product or other activities, he or she should inform his or her program Vice President, the Institution’s Managing Director, or any member of the Management Team.4 When engaging in scholarly activities on behalf of Brookings, Brookings scholars must not act as representatives, lobbyists, advocates, or agents of any third party. This is true regardless of the extent to which a scholar’s views coincide with those of a third party.

We believe that our greatest value to funders is the high quality, independent research we produce. Scholars should do their work with neither fear nor favor toward Brookings funders. Brookings development staff will ask scholars, on occasion, to meet with funders to explain the nature of their research, and to hear the interests of funders. We expect in these circumstances for our scholars to give these funders an honest assessment of how those positions match against the scholars' research – including both the potential for the funder to make a positive contribution, as well as any public policy concerns the scholars may have about the funder’s views. In all cases, the scholars should be encouraged to be honest and fact-based in their assessments, and to retain final judgment on their own policy recommendations.

Program Vice Presidents and scholars must inform the Development staff about planned or actual interactions with donors and prospects; ideally, this information will be conveyed in advance, but if that is not practical, they must convey this information as soon after the interaction as practical. This allows Development officers to provide up-to-date information on any other interactions the prospect or donor may have had with Brookings and allows for an early review for any potential issues regarding prospective donors.

Consistent with that, Brookings Personnel must not take any action on behalf of any other person, including contacting a US government official on behalf of a Brookings donor or any other third party. As further outlined below, Brookings Personnel may not engage in activities that would require the Institution or its personnel to register as lobbyists under the Lobby Disclosure Act or comparable state and local laws, or as agents of a foreign principal under the Foreign Agents Registration Act, or that would cause Brookings to run afoul of the IRS Rules. Brookings will not accept gifts from donors who seek to undermine the independence of its scholars’ research or otherwise to predetermine or influence recommendations. Brookings does not accept support for proprietary research.

4 The Management Team is composed of the Brookings Managing Director, the Vice President for Institutional Advancement and External Relations, the Vice President for Communications, the Vice President and COO, the Vice President and CFO and Treasurer, the Chief of Staff, and the General Counsel.
5.2 INTERACTIONS WITH DONORS

Brookings engages its donors through a range of stewardship activities, including events, meetings, roundtables, forums, conferences, books and other publications, and specialized communications. Scholars, center directors, and Vice Presidents may also develop individual relationships with donors. When interacting with donors, Brookings Personnel should take care not to engage in conduct that might be construed as representing the interests of any third party, whether an individual, corporate, or government donor—foreign or domestic—nor otherwise engage in any activity that might call into question the independence of the Institution or its scholars.

A research program may flag for further research a prospective donor that might compromise our reputation for quality and independence by asking the program’s Development director to speak with the Vice President for Institutional Advancement & External Relations. Additionally, the program Development director may also put a note in the Raisers’ Edge system. Any solicitations that are unusual or potentially problematic may be elevated to the Gift Acceptance Committee by the Vice President for Institutional Advancement & External Relations. If no consensus is reached by this group, the Chief of Staff will bring the gift to the attention of the Steering Committee.

5.3 POLICY PROVIDES GENERAL GUIDANCE; SPECIFIC GUIDANCE MAY BE REQUIRED

The guidance provided by this Policy with respect to the IRS Rules, LDA, and FARA is general in nature. If Brookings Personnel have questions about specific scenarios or the legal matters covered by this Policy, the Office of the General Counsel is available to Brookings Personnel to answer questions, advise, and provide further resources and education.

When interacting with government officials, Brookings Personnel should take care not to engage in conduct that might be construed as representing the interests of any third party, whether an individual, corporate, foundation, or government donor—foreign or domestic—nor otherwise engage in activity that might call into question the independence of the Institution or its scholars.

5.4 LOBBYING

Brookings Personnel are prohibited from lobbying. Legally, that means complying with two different sets of rules at the federal level, and also with relevant state and local statutes. (State and local statues are beyond the scope of this Policy, however, and if questions arise about state and local lobbying, they should be addressed to the Office of the General Counsel.) The federal rules provide exemptions for certain activities, which leaves considerable room for Brookings scholars to advocate forcefully for their ideas.

Two separate legal regimes govern lobbying—LDA and the IRS Rules—and the overlap between the two is not perfect. Brookings Personnel must conform their interactions with policymakers to activities that are permitted under an exception or exemptions to both regimes. If a scholar has any doubt about a proposed activity, he or she should seek assistance from the Office of the General Counsel.

A. IRS Rules

Brookings adheres to a no lobbying policy. As a 501(c)(3), we choose to use the IRS rules that define lobbying under what is known as the “no substantial part” test. Under those rules Brookings would be considered to engage in lobbying if it or any of its employees, contractors, or affiliates acting on behalf of Brookings:

- Contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation (sometimes referred to as “direct” lobbying); or

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5 Gift Acceptance Committee members are the Brookings Vice President and CFO and Treasurer, the Vice President and COO, the Vice President for Communications, the Vice President for Institutional Advancement & External Relations, the Chief of Staff, the Managing Director, and the General Counsel.
• Otherwise advocates the adoption or rejection of legislation (e.g., by asking elected officials or members of the executive or legislative branches of government to support or oppose legislation).  
  • “Legislation” is broadly defined to encompass the introduction, amendment, enactment, defeat, or repeal of acts, bills, resolutions, and similar items. Legislation includes action by:
    • The Congress;
    • Any state legislature;
    • Any local council or similar governing body; and
    • The public in a referendum, initiative, constitutional amendment, or similar procedure.
  • However, “legislation” generally does not include actions by executive, judicial, or administrative bodies.

There are a number of potential exceptions from the definition of lobbying. Generally, Brookings Personnel may engage in the following:

1. **Nonpartisan Analysis, Study, or Research**
   Brookings scholars can and should assess various dimensions of an issue, evaluating costs and benefits, and broadly disseminate those views to the public. This analysis may include policy recommendations.

2. **Testimony**
   Brookings scholars can respond to official requests on behalf of a governmental body, committee, or sub-committee. That can include ranking minority members if they are asking in their committee capacity.

The Internal Revenue Service recognizes that these guidelines are general, and as a result, they apply a “facts-and-circumstances” test to particular cases. Time, place, and tone of various studies, reports, and communications matter considerably. If a scholar has any questions about these rules, he or she should seek guidance from the General Counsel.

**B. Lobbying Disclosure Act**

As Brookings policy is not to lobby, scholars and staff must refrain from doing anything that would cause them or the Institution to be required to register under the Lobbying Disclosure Act. LDA requires registration when an individual satisfies all three (3) of the following elements:

• Makes two or more federal “lobbying contacts” with a “covered official” in the US government on behalf of a third party;
• Spends more than 20% of his or her time on “lobbying activities” for the same third party in any three-month period; and
• Receives compensation for those activities.

The law provides ample room for scholars to advocate for their ideas. Those areas include, among other things, public comments in mass media, contacts under the Federal Advisory Committee Act, and agency notice-and-comment proceedings. Generally, Brookings Personnel may undertake the following:

• Communication made in a speech, article, publication, or other material that is distributed and made available to the public, or communication made through radio, television, cable, or other medium of mass communications;
• Testimony given before a committee, subcommittee, or task force of Congress, or submitted for inclusion in the public record in such committee, subcommittee, or task force; and

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6 Urging the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation (this is sometimes referred to as “grassroots” lobbying) is also prohibited under the IRS rules, however, this is unlikely to be applicable to Brookings.
• Information provided in writing in response to an oral or written request for specific information by a covered official of the executive branch or a covered official of the legislative branch.

If Brookings Personnel have questions about the LDA, the General Counsel or his/her designee are available to advise and provide further resources and education.

5.5 FOREIGN AGENTS REGISTRATION ACT

Brookings Personnel are not foreign agents and must not do anything that would require them to register as such under the Foreign Agents Registration Act (FARA).

As a matter of Brookings policy, Brookings scholars may not undertake the following activities:

• Engage in activities in the US on behalf of anyone outside of the US (e.g., a foreign government, a foreign corporation, a foreign individual, or a foreign organization) at the foreign entity’s “direction or control” or at the foreign entity’s “request;”

• Seek to influence the US government or US public on a matter of policy on behalf of a foreign entity or in the interest of a foreign entity;

• Engage in public relations, provide public relations advice, or provide political consulting advice on behalf of a foreign entity or in the interest of a foreign entity;

• Collect or dispense money on behalf of a foreign entity or in the interest of a foreign entity; or

• Represent the interest of a foreign entity in any interaction with the US government.

Brookings Personnel may engage in activities that are conducted for and in the interest of Brookings, consistent with the Institution’s mission. When engaging in activities funded by a bona fide grant to the Institution, Brookings Personnel must take care to maintain final authority and control over all aspects of the activities.

Brooking scholars may engage “in activities in furtherance of bona fide ... scholastic [or] academic ... pursuits,” which, so long as they don’t include attempts to influence the US government or the US public for a foreign entity or in the interest of a foreign entity, are exempt from registration under FARA.

Brookings Personnel must seek and obtain appropriate review and approval for any activity that presents a higher FARA registration risk. Specifically:

1. All proposals, including drafts proposals, concept papers (including informal emails to ascertain interest) to conduct research or undertake any activity that is funded by or conducted in cooperation with a foreign government, a foreign government official, or an organization owned or controlled by a foreign government, a foreign political party, or a foreign official must be reviewed by the designated Development officer and the Office of the General Counsel. The designated Development officer is required to undergo periodic training on the matters covered by this Policy.

2. All plans to convene or facilitate a public event, meeting, or other activity (public or private) in which a person from outside of the US may have an opportunity to seek to influence any person in the US must be reviewed by the designated Communications officer. The designated Communications officer is required to undergo periodic training on the matters covered by this Policy.

3. Brookings personnel may not organize private meetings for foreign government officials with U.S. government officials unless such meeting is (i) within the scope of an existing and approved scholarly or academic program or line of research and the specific meeting is approved by his or her research Vice President (or an appropriate designee); (ii) or approved by a waiver from the Office of the General Counsel.

4. All proposed Memoranda of Understanding, Grant Agreements, Grant Letters, Gift Letters, and other documents setting forth the arrangements between Brookings and a foreign government, a foreign government official, or an organization owned or controlled by a foreign government, a foreign political party, or a foreign official must be reviewed and approved by the Office of the General Counsel.
5. Donor appreciation events for foreign donors must be approved, in general and specific terms, including guest lists and program content, by the Office of the General Counsel and the President or a member of the Steering Committee designated by the President.

6. All requests, plans, or pleas to take any action at the request of a person located outside of the US that are not clearly within the scope of an existing and approved project or line of research must be disclosed, reviewed, and approved by the relevant program Vice President and Director or his/her designee. Program Vice Presidents and anyone to whom they delegate authority to review and approve such requests, plans, or pleas are required to undergo periodic training on the matters covered by this Policy.

5.6 DISCLOSURES AND EXTERNAL REVIEW

In the interest of transparency and full disclosure, a research product (a paper, report, or other written document in excess of 2,000 words) that is specifically referenced as an output of a grant or gift in a proposal, must disclose the sources of such restricted funding on the research product.¹ The relevant research program vice president in consultation with his or her development staff shall have the authority to determine which research products are supported by such restricted funding, and are therefore subject to disclosure. Along similar lines, when a scholar is writing a research product that discusses a donor or donors to the Institution (other than incidental and neutral references), he or she should confer with his or her research program vice president, development staff, and communications officer about whether a disclosure of such donor support is appropriate under the circumstances.

In the unusual circumstance that a research product (a paper, report, or other written document in excess of 2,000 words) is written or co-authored by a donor or an employee of a donor, such research product must undergo external review (review by non-Brookings experts) prior to publication to ensure it meets the Institution’s standards of quality and independence.

6.0 Responsibilities

6.1 BROOKINGS SCHOLARS

As the Brookings Personnel on the “front lines” of maintaining the Institution’s independence, scholars must help protect the Institution’s independence. Accordingly, they must familiarize themselves with the contents of this Policy and consult with the appropriate Brookings experts (e.g., Development, Communication, Legal) before proceeding with any activity which might actually or might be perceived to be contrary to the letter or spirit of this Policy.

6.2 DEVELOPMENT STAFF

Development staff must undergo periodic training in the matters covered by this Policy and use that knowledge to review all proposals (including drafts proposals), concept papers (including informal emails to ascertain interest) to conduct research or undertake any activity that is funded by or conducted in cooperation with a foreign government, a foreign government official, or an organization owned or controlled by a foreign government, a foreign political party, or a foreign official.

6.3 COMMUNICATIONS STAFF

Communications staff must undergo periodic training in the matters covered by this Policy and use that knowledge to review all plans to convene or facilitate an event, meeting, or other public or private activity in which a person from outside of the US may have an opportunity to seek to influence any person in the US.

¹ If a donor is anonymous or requires prior written consent before being disclosed on a research product, the relevant Research Vice President will work with his or her Development staff to get such permission or otherwise reach a mutually satisfactory resolution appropriate under the circumstances.
6.4 BROOKINGS PERSONNEL

All Brookings Personnel must help protect the Institution’s independence. Accordingly, they must familiarize themselves with the contents of this Policy and consult with the appropriate Brookings experts (e.g., Development, Communication, Legal) before proceeding with any activity which might actually or might be perceived to be contrary to the letter or spirit of this Policy.

6.5 GENERAL COUNSEL

The General Counsel or the General Counsel’s designee must conduct periodic training on the contents of this Policy and serve as a resource to the Institution regarding the legal matters covered by this Policy, including LDA, the IRS Rules, FARA, and similar laws.

1.1 Supporting Forms and Documents

- Conflict of Interest Policy
- Nonpartisanship Policy

8.1 Approvals and Revision History

The following Brookings Personnel reviewed and approved this Policy:

- February 4, 2014–Steering Committee
- February 13, 2015– Policy created, posted to Intranet
- February 13, 2015– Policy went into effect
- February 13, 2015–Policy revision
- June 21, 2017– Last Policy revision

9.0 Distribution

This Policy should be distributed to all Brookings Personnel.