



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

CONFLICT OF INTEREST WAIVER FOR MINA HSIANG - GOB LLC

This memorandum provides a conflict of interest waiver for Mina Hsiang concerning her financial interests in GOB LLC and its underlying holdings, some of which give rise to a financial conflict of interest with Mina Hsiang's proposed duties as Administrator of the U.S. Digital Service (USDS). This waiver will allow Mina Hsiang to participate as a Government official in matters of general applicability that directly and predictably affect the holdings of one of the underlying assets of GOB LLC, the Baupost Group LLC hedge fund. As the Designated Agency Ethics Official (DAEO) of the Office of Management and Budget (OMB), I have been authorized to issue conflict of interest waiver determinations with respect to the financial interests of Mina Hsiang.

Background

Mina Hsiang is being considered for the position of Administrator of the USDS, which is a non-career SES position. In her role as Administrator of USDS, Ms. Hsiang would advise OMB Senior Leadership and White House (WH) Officials, up to and including the OMB Director, the OMB Deputy Director for Management, and the WH Deputy Chief of Staff, about technical approaches and the strategic delivery of government services through technology and design. The Administrator serves as the technical authority and creator in the development and delivery of the full spectrum of Federal digital services, and is responsible for the creation, transmission, use, transformation, interoperability, storage, sharing, and safeguarding of government services through technology.

Given the range of responsibilities and programs of USDS, Mina Hsiang's decisions and other official actions as Administrator may have a direct and predictable effect on the financial interests of the largest cloud providers such as Alphabet, Inc./Google LLC ("Google"), Amazon.com, Inc./Amazon Web Services ("Amazon"), Microsoft Corporation ("Microsoft"), International Business Machines Corporation ("IBM"), and Oracle Corporation ("Oracle"), because these companies' cloud platforms, products, and services are involved with nearly everything the federal government will accomplish through technology and design over the next several years. For example, Ms. Hsiang may advise federal agencies to "move . . . to the cloud," which could affect at least one of the cloud providers mentioned above. However, the Administrator's advice to federal agencies is not likely to have a direct and predictable effect on companies that provide specific technologies that are used by cloud providers or provide specific cloud computing services, because federal agencies, not USDS, are responsible for the actual selection and

procurement of cloud and other design or technology products and services.¹ Only the applicable federal agencies are legally authorized to obtain these products and services.

Waiver Request and Analysis

A Federal conflict of interest statute, 18 U.S.C. § 208, generally prohibits a Government employee from participating in matters in which that employee has a financial interest. This statute, however, permits an employee to participate in such a matter upon a prior written determination by the employee's appointing authority that "the [financial] interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee." 18 U.S.C. § 208(b)(1).

Mina Hsiang requests a waiver to permit her to maintain the interests in GOB LLC that she, her spouse, and her dependent child hold. GOB LLC is a holding company solely owned by members of Ms. Hsiang's immediate and extended family, established in 1999. There are approximately thirty-one beneficiaries, including Ms. Hsiang, her spouse, and her dependent child. Some of the beneficiaries' interests are structured as trusts, for example, the interests held by minors such as Ms. Hsiang's dependent child. Ms. Hsiang's role in GOB LLC is as a passive beneficiary. Neither she nor her spouse are members of GOB LLC's board of managers, who have the sole authority to make investment decisions for GOB LLC. Neither Ms. Hsiang nor her spouse have any authority to direct the board of managers to divest any of the assets of GOB LLC. Further, Ms. Hsiang has confirmed that it would be impossible for her or her spouse to divest their interests² in GOB LLC to anyone whose interests are not already imputed to Ms. Hsiang under 18 U.S.C. § 208. Accordingly, it would be impossible for Ms. Hsiang to divest of any underlying assets of GOB LLC that would pose a conflict with her anticipated duties as Administrator. Although Ms. Hsiang and her spouse can acquire more of an interest in GOB LLC by expressing an interest to invest more money and receiving approval from the board of managers, Ms. Hsiang agrees that, if the waiver is granted, neither she nor her spouse will request permission from the board of managers to increase their holdings in GOB LLC while Ms. Hsiang serves as Administrator.

GOB LLC owns the following assets:

- Altimeter Growth Partners Fund III ("Altimeter") is a venture capital fund. Ms. Hsiang has no knowledge of the proportion of the fund's underlying assets as they relate to her proportionate ownership interest of \$200,000 in Altimeter. These underlying assets are:
 - Snowflake (SNOW) - Snowflake has a specific usage scenario for its data storage and analytics service that is not in direct competition with cloud providers such as Microsoft, Amazon, or Google, although it can run on all three companies' cloud platforms. It is a data warehouse provider for business intelligence and analytics where datasets are massive, terabytes to petabytes of data. The decision to award a contract to Snowflake or one of its competitors would be made by a federal agency, not USDS or the Administrator, and such an award, if any, would be an

¹ The Administrator is not a procurement official or contracting officer for the federal government or USDS. While the Administrator may have a role in awarding contracts for services specifically provided to USDS, other USDS employees may be delegated that role.

² Any reference to Ms. Hsiang's ownership in GOB LLC, its underlying assets, or her investment portfolio includes the interests of Ms. Hsiang, her spouse, and her dependent child.

indirect result of any implementation of the Administrator's overall vision for technology or design.

- OMB Ethics has determined that the technologies represented by the rest of Altimeter's underlying assets, listed below, are highly unlikely to be considered for use by the federal government during Mina Hsiang's term as Administrator, as the technologies represented are either too speculative, cutting-edge, or inappropriate for the federal government's technology needs:
 - Unity (U) – a game-maker
 - Pine Labs (India-based payments and software platform)
 - Cerebras (chip system purpose for artificial intelligence and machine learning platforms)
 - Lightstep (application performance monitoring software)
 - Sigma Computing (business analytics tools in the cloud)
 - Blue Hexagon (artificial intelligence/machine learning powered platform for network security)
 - 23andme (genetic testing company)
- Baupost Group LLC ("Baupost") is a closed hedge fund, meaning that it is not taking any additional investors or capital, and there are no additional capital commitments required from existing investors. Baupost is diversely invested in Google and other publicly-traded companies. As discussed above, Google or one its cloud provider competitors (Amazon, Microsoft, IBM, and Oracle) may be affected by Ms. Hsiang's work as Administrator or by USDS actions. Ms. Hsiang's proportionate ownership of Baupost through GOB LLC is valued at approximately \$7.7 million.
 - According to Baupost's May 14, 2021 13F filing with the SEC, Google represents 4.7 percent of the fund's portfolio, which means that Ms. Hsiang's proportionate ownership of Google through her interest in GOB LLC is approximately \$360,000. Mina Hsiang's interest in Google represents a small portion of the value of her interest in GOB LLC – 4.4 percent – and of her entire investment portfolio – 3.2 percent. Accordingly, any official actions taken by the Administrator or USDS would likely have a negligible effect on Ms. Hsiang's interest in Google and, therefore, a very small percentage of her total investment portfolio.
 - Baupost's holdings in the finance, communications, materials, consumer discretionary, utilities, and real estate sectors would not pose a conflict with Ms. Hsiang's duties as Administrator.
 - As for Baupost's holdings in the "information technology" sector, OMB Ethics has reviewed each of the companies and the specific technologies involved, and determined that the Administrator's duties would not directly or predictably affect the finances of any of these companies, except Google. For example, Baupost's largest holdings are in hardware manufacturers. Matters that directly or predictably affect the finances of hardware manufacturers do not come before USDS because cloud providers, not USDS, decide which hardware products are needed to support the cloud services provided to the federal government.
 - Because Baupost, as a closed hedge fund, is not accepting new investors or requiring additional capital, it is unlikely to acquire new assets. It is possible, but unlikely, that Baupost could make a new investment with existing capital and it is

possible that its proportionate ownership of Google could increase due to market fluctuations.

- Residential rental property in Cambridge, MA. Mina Hsiang's proportionate ownership is valued at \$325,000 and would not pose a conflict with her duties as Administrator.

Waiver and Recusal

To allow Mina Hsiang to serve as Administrator of USDS, the Office of Management and Budget is granting her a waiver to maintain the interests in GOB LLC that she, her spouse, and her dependent child hold. OMB has determined that Ms. Hsiang's proportionate ownership of Google – currently 4.4 percent of the holdings of GOB LLC and 3.2 percent of the value of Ms. Hsiang's entire investment portfolio – is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from Ms. Hsiang. Ms. Hsiang will be permitted to work on particular matters of general applicability (i.e. policy matters) that will have a direct and predictable effect on the underlying assets of Baupost, including Google. However, the waiver does not cover “particular matters involving specific parties,” which means that Ms. Hsiang must recuse herself from any particular matter in which any of the underlying assets of GOB LLC are specific parties. Further, Ms. Hsiang agrees to monitor the underlying assets of GOB LLC, particularly Baupost's filings with the SEC, and inform OMB Ethics if her proportional interest in Google or Google's cloud provider competitors (Amazon, Microsoft, IBM, and Oracle) exceeds seven (7) percent of the value of her overall investment portfolio, so that this waiver can be reconsidered. Ms. Hsiang also agrees to inform OMB Ethics if GOB LLC or its underlying funds purchases assets in a company that may come before the Administrator or USDS as a specific party. Finally, Ms. Hsiang agrees that neither she nor her spouse will request permission from the board of managers to increase their holdings in GOB LLC while Ms. Hsiang serves as Administrator.

If any questions arise as to whether her participation in any particular matter is permitted under this waiver, Ms. Hsiang should consult with her supervisor and agency ethics official, as appropriate.

In accordance with 5 C.F.R. § 2640.303, I have consulted with the U.S. Office of Government Ethics prior to granting this waiver and a signed, final copy of this waiver will be forwarded to that Office. A copy of this waiver will be made available upon request to the public in accordance with the procedures described in 5 C.F.R. § 2640.304.

Dated: August 18, 2021



Samuel R. Bagenstos
General Counsel and
Designated Agency Ethics Official
Office of Management and Budget