

**COMPREHENSIVE GUIDELINES FOR LICENSE APPLICATIONS
TO ENGAGE IN TRAVEL-RELATED TRANSACTIONS INVOLVING CUBA**

OFFICE OF FOREIGN ASSETS CONTROL

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Introduction

The Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), prohibit persons subject to the jurisdiction of the United States from engaging in transactions in which Cuba or a Cuban national has any interest whatsoever, direct or indirect, including transactions related to travel. OFAC's authority to license Cuba travel-related transactions was restricted by section 910 of the Trade Sanctions Reform and Export Enhancement Act of 2000, Pub. L. No. 387, 114 Stat. 1549, 1549A-71-72 ("TSRA"), which provides that OFAC may only license travel-related transactions involving activities ". . . expressly authorized in paragraphs (1) through (12) of section 515.560 of title 31, Code of Federal Regulations, or in any section referred to in any of such paragraphs (1) through (12) (as such sections were in effect on June 1, 2000)." Any activity falling outside of these twelve categories is defined in this section of TSRA as "tourism" and may not be the basis for issuing such a license. This statutory restriction was incorporated into the Regulations in section 515.560(b). See 66 Fed. Reg. 36687-88, July 12, 2001.

Within the confines of TSRA and current licensing policy, these Comprehensive Guidelines for License Applications to Engage in Travel-Related Transactions Involving Cuba (the "Application Guidelines"), are intended to promote the transparency, timeliness, and consistency of OFAC licensing determinations. The Application Guidelines are also intended to assist persons who wish to engage in travel-related transactions involving Cuba in making their own determinations as to whether their travel falls into one of the general license categories (no application needed) and, if not, to assess whether their activities might fall within one of the categories for which a specific license may be granted (application required). The Application Guidelines are intended to establish reliable, defined parameters for the application process to ensure that qualifying travel-related transactions are authorized while reducing the potential for illegal touristic activities.

The Application Guidelines contain a brief overview of the categories describing activities for which travel-related transactions either: 1) are authorized pursuant to a general license, or 2) may be authorized pursuant to a specific license. The Application Guidelines then address each of the categories of activities for which a specific license may be issued in the order in which it is listed in § 515.560(a) and set forth the criteria that must be adequately addressed by each applicant. Examples and other information are also included under most categories, as well as the address to which applications should be sent. The text of the relevant provision(s) of the Regulations for each category of

travel is provided immediately following the contact information in the Application Guidelines for each category for ease of reference. Appendix 1 contains the regulatory text of § 515.560(c), which describes the scope of the travel-related transactions that are licensed. Information concerning the arrangement of authorized travel, authorized transactions incident to travel, and the authorized exportation and importation of merchandise in conjunction with authorized travel can be found later in this Introduction.

The Application Guidelines should not be relied upon as a substitute for the Regulations. It is the responsibility of individuals wishing to engage in travel-related transactions involving Cuba to demonstrate or document that their proposed activities in Cuba fall into one of the general or specific license categories of activities listed in section 515.560(a) and related sections of the Regulations, and, with respect to qualification for specific licenses, meet the application criteria set forth in the Application Guidelines. OFAC may request additional information beyond that provided for in these Application Guidelines to determine whether an applicant qualifies for a license.

Applications that fail to identify an applicable category of licensable activity or fail to adequately address the application criteria relevant to that category will be denied. OFAC will only process fully completed applications. Authorization to engage in travel-related transactions involving Cuba is not transferable, and specific licenses are not granted as a matter of right. Authorization extended to any individual does not extend under either a general or specific license to non-qualifying spouses or other family members or friends who do not qualify under their own right under applicable criteria. Failure to properly use and, where applicable, oversee use of a specific license may result in suspension or revocation of the license.

Travel-related transactions involving Cuba that are not authorized under a general or specific license contained in or issued pursuant to the Regulations are prohibited and subject to enforcement and penalty provisions set forth in the Regulations and in OFAC's Enforcement Guidelines. See: 68 Fed. Reg. 4422, January 29, 2003.

These Application Guidelines supercede and replace any licensing application guidelines previously issued by OFAC concerning travel to Cuba. The Application Guidelines may be amended or modified from time to time as circumstances warrant. Please always refer to the current version of the Application Guidelines on OFAC's website at www.treas.gov/ofac. The effective date of the Application Guidelines appears on the bottom right-hand corner of each page.

General Licenses

The Regulations currently contain three general licenses authorizing travel-related transactions involving Cuba. General licenses constitute blanket authorization for those transactions set forth in the relevant regulation and are self-selecting and self-executing. No further permission from OFAC is required to engage in transactions covered by that general license. Individuals wishing to engage in travel-related transactions involving Cuba relevant to:

- 1) official government travel by officials of the U.S. Government, foreign governments and international organizations of which the United States is a member;
- 2) journalism by journalists regularly employed in that capacity by a news reporting organization, including supporting broadcast or technical personnel; or
- 3) full-time professional research conducted by professionals in their professional areas, or attendance at certain professional meetings or conferences,

should first review the general license categories to see if their activities are covered by a general license. Specific licenses will not be issued for transactions that are authorized pursuant to the provisions of a general license. See § 501.801(a) of the Reporting and Procedures Regulations, 31 C.F.R. Part 501. Those individuals who determine that their activities fall into one of the general license categories must be able to document that their travel qualifies under that category and must keep records that may be furnished to OFAC or other law enforcement officials (e.g., Bureau of Customs and Border Protection) upon demand for a period of five years after the travel transactions take place. See 31 CFR 501.601 and 501.602.

Specific Licenses

OFAC also will consider the issuance of specific licenses on a case-by-case basis to permit travel-related transactions in certain limited instances where the proposed activity is not covered by a general license but is addressed by one of the statements of licensing policy set forth in § 515.560(a) and related sections of the Regulations. A written application in letter format with relevant supporting documentation must be made to OFAC to obtain a specific license. A specific license applicant must wait for OFAC to issue the license **prior** to engaging in travel-related transactions. Specific licenses normally will not be issued to individuals seeking to engage in an activity run by a third-country entity not subject to the jurisdiction of the United States.

III. PROFESSIONAL RESEARCH & MEETINGS - 31 CFR § 515.564

General license for certain professional research and attendance of certain meetings or conferences:

Section 515.564(a) sets forth a general license authorizing certain travel-related and additional transactions that are directly incident to full-time professionals conducting professional research in their professional areas in Cuba or attending meetings or conferences in Cuba. Research requires a full work schedule of noncommercial, academic research that has a substantial likelihood of public dissemination and is in the traveler's professional area. Meetings or conferences must be organized by an international professional organization, institution, or association headquartered outside the United States that regularly sponsors meetings or conferences in other countries. (An organization headquartered in the United States cannot organize or hold a meeting or conference in Cuba without a specific license issued by OFAC.) In addition, the meetings or conferences may not be for the purpose of promoting tourism in Cuba or other commercial activities involving Cuba that are not licensable under current U.S. policy and may not be intended primarily for the purpose of fostering production of any biotechnological products. Please review § 515.564(a) of the Regulations, which is included at the end of this category in the Application description and § 515.560(c) of the Regulations in Appendix 1.

Each person engaging in travel-related transactions under a general license must be able to document how he or she qualifies under the general license. For example, a resume or curriculum vitae generally demonstrates an individual's full-time professional area. A written work plan done prior to travel might also support an individual's intention of engaging in a full-time schedule of research. No prior written approval from OFAC is required for travel under a general license. An OFAC-authorized travel service provider ("TSP") is not responsible for making the determination that a traveler qualifies under the general license, although the TSP may ask the person to fill out an affidavit affirming that he or she qualifies before the TSP makes the travel arrangements.

Examples:

Licensed

Example 1: An international professional association headquartered in England organizes an annual training conference. This year the conference will be held in Cuba. The prior venues for this conference have included locations in Spain, China, and Mexico. The general license is applicable to individuals who are full-time professionals.

Example 2: A university professor with a specialty in plant disease wishes to conduct research in Cuba because his background research indicates that Cuba may have a plant strain that is resistant to disease. He is generally licensed to engage in travel-related transactions to conduct research provided the research is non-commercial in nature and there is substantial likelihood the research will be publicly disseminated.

Not licensed

Example 1: A company located in Brazil organizes professional conferences to be held in various countries and has organized a conference to be held in Cuba. Although the conference is endorsed by many international professional organizations and associations, the general license for conference attendance does not apply because the organizer of the conference is not a professional organization, institution, or association.

Example 2: A Cuban organization has organized an international conference that is endorsed by several professional organizations in third countries. This conference does not qualify under the general license because it is not organized by an international professional organization, institution, or association that holds conferences in various international locations.

Application criteria for specific licenses for other professional research, meetings, or conferences - 31 CFR § 515.564(b):

If you wish to conduct professional research or attend professional meetings and conferences in Cuba that do not qualify for the general license in § 515.564(a), you must apply for a specific license pursuant to § 515.564(b) in the form of a letter to OFAC providing the following information:

1. Identify yourself. Furnish your name, address, and daytime phone number.
2. Identify your organization. If you are applying on behalf of an organization, tell us what type of organization it is. If available, provide a copy of a brochure or other literature describing typical activities it undertakes.
3. Identify the category of travel. State your request for a specific license under § 515.564(b) of the Regulations to engage in transactions directly incident to professional research or attendance at a professional meeting or conference or for the organization of a professional meeting or conference in Cuba that does not qualify for the general license under § 515.564(a).

4. Describe duration of the proposed travel. Set forth the proposed dates and duration of trip. If multiple trips are proposed, indicate dates and duration of each trip and justification as to why multiple trips are necessary. Multiple trips to Cuba over an extended period of time may be requested and authorized for applicants demonstrating a significant record of research.

5. Describe the proposed research or meeting/conference.

a) Research: Provide a detailed description of the research you propose to conduct in Cuba and discuss how it is specific to Cuba and cannot take place elsewhere. A detailed description of the research should include (1) a statement of the thesis, (2) a description of the research plan or methodology, and (3) a description of the quantity and the nature of the resources you will be using, e.g., archives, interviews, etc.

b) Meeting/Conference: Describe the meeting or conference and the subject matter involved. Name the entity organizing the meeting or conference, if any, and indicate where it is headquartered. Furnish a copy of the conference program and/or agenda. Specific licenses will not be issued pursuant to § 515.564(b) simply because a professional does not qualify under the general license in § 515.564(a). Clearly articulate why your attendance at the particular meeting/conference is necessary and explain whether a similar conference elsewhere is not readily available.

6. Document your qualifications. Provide evidence of your professional qualifications, including, at a minimum, a copy of your resume or curriculum vitae. Discuss how your professional background or area of expertise is related to the subject matter you wish to research or the meeting or conference you wish to attend.

7. Extensions & renewals. When applying for an extension or renewal of a license, be sure to reference the license number in your application and also include the following:

(a) an explanation why an extension or renewal is necessary;

(b) a detailed report setting forth a record of all activities undertaken pursuant to the original license or, if the original license was renewed, the most recent renewal; and

(c) a complete copy of the license and all license amendments and renewals.

8. Sign your letter. Your signature is your certification that the statements in your application are true and accurate.

Note: For questions related to the licensing requirements for the exportation of goods from the United States to Cuba, please contact the U.S. Department of Commerce, Bureau of Industry and Security at (202) 482-4811.

Examples: (Examples are set forth in § 515.564 of the Regulations, which is included at the end of this category in these Application Guidelines. Additional examples are provided below.)

Licensable

Example 1: An estate attorney is handling a probate case in the United States in which a Cuban national is named as an heir. The attorney needs to gather information relevant to a conclusive determination regarding the Cuban national's entitlement that can only be ascertained by conducting research in Cuba. Licensing policy in such instances favors facilitating the resolution of legal proceedings.

Example 2: A professional writer or film maker wishes to travel to Cuba in order to engage in research necessary to produce a documentary book or film that will be published or otherwise distributed. Note: The making of a film absent the conduct of specific research would not qualify for a license. The making of a documentary film is a legitimate basis for issuing a license only if it is a vehicle for the presentation of the research conducted.

Example 3: An expert in orthopedic medicine seeks to travel to Cuba to attend an orthopedic conference organized solely by a Cuban entity and not by any international organization. The conference concludes with a two-day tour of medical clinics where certain procedures used only in Cuba will be observed first-hand.

Not licensable

Example 1: A railroad hobbyist desires to research aging locomotives in Cuba. The Regulations provide that licenses are not granted for travel in pursuit of a hobby or research for personal satisfaction only.

Example 2: A group of architects wants to arrange a sight-seeing trip to view the architecture of Old Havana. This does not constitute research and would not qualify for a license since it constitutes travel for personal satisfaction only.

Example 3: Oil company engineers want to research Cuba's offshore oil reserves. Travel transactions related to research of a commercial nature with commercial ramifications designed to position a company's entry into the Cuban market once the embargo is lifted is

not normally permitted pursuant to a specific license issued under this section.

Example 4: A U.S. law firm seeks to sponsor a conference in Havana with a focus on Cuban law and lectures by Cuban attorneys. Absent any direct nexus between the law practices of participating attorneys and the need for exposure to the Cuban legal system, this activity is not eligible for authorization by specific license.

Mailing Address: Applications for specific licenses under this category should be submitted to:

**Licensing Division
Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220
Tel. 202/622-2480**

Internet website at www.treas.gov/ofac (Sanctions Programs & Country Summaries - Cuba, Guidelines and Information)

Text of Regulatory Provision for § 515.564:

§ 515.564 Professional research and professional meetings in Cuba.

(a) *General license.* (1) The travel-related transactions set forth in § 515.560(c) and such additional transactions that are directly incident to professional research by full-time professionals who travel to Cuba to conduct professional research in their professional areas are authorized, provided that:

(i) The research is of a noncommercial, academic nature;

(ii) The research comprises a full work schedule in Cuba;

(iii) The research has a substantial likelihood of public dissemination; and

(iv) The research does not fall within the categories of activities described in paragraph (c), (d), or (e) of this section.

Note to paragraph (a)(1): This general license does not authorize as professional research any travel-related transactions incident to attendance at professional meetings or conferences. Such transactions must either qualify under the general license set forth in paragraph (a)(2) of this section or be the subject of a request for a specific license under paragraph (b) of this section.

(2) The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to travel to Cuba by full-time professionals to attend professional meetings or conferences in Cuba organized by an international professional organization, institution, or association that regularly sponsors meetings or conferences in other countries are authorized, provided that:

(i) The international professional organization, institution, or association is not headquartered in the United States unless that organization, institution, or association has been specifically licensed to sponsor the meeting in Cuba;

(ii) The purpose of the meeting or conference is not the promotion of tourism in Cuba or other commercial activities involving Cuba that are inconsistent with this part; and

(iii) The meeting or conference is not intended primarily for the purpose of fostering production of any biotechnological products.

Note to paragraph (a): See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Exportation of equipment and other items, including the transfer of technology or software to foreign persons ("deemed exportation") and items not eligible for Department of Commerce GFT or BAG License Exceptions, 15 CFR 740.12 and 740.14, may require separate authorization by the Department of Commerce.

(b) *Specific licensing.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to professional research and professional meetings that do not qualify for the general license in paragraph (a) of this section. Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips to Cuba over an extended period of time by applicants demonstrating a significant record of research. Specific licenses will not be issued for travel-related transactions for purposes of attendance at meetings or conferences in Cuba organized by the Cuban government where such meetings or conferences could be intended primarily for the purpose of fostering the production of any biotechnological products.

(c) Categories of activities that do not qualify for the general license in paragraph (a) of this section and for which the specific licenses described in paragraph (b) of this section will not be issued include recreational travel; tourist travel; travel in pursuit of a hobby; research for personal satisfaction only; and any travel for an authorized professional research purpose if the schedule of activities includes free time, travel, or recreation in excess of that consistent with a full work schedule of professional research or attendance at professional meetings or conferences.

(d) An entire group does not qualify for the general license in paragraph (a) of this section and will not be issued a specific license under paragraph (b) of this section merely because some members of the group could qualify individually for such licenses.

Example 1 to paragraph (d): A musicologist travels to Cuba to do research on Cuban music pursuant to the general license for professional researchers set forth in paragraph (a) of this section. Others who are simply interested in music but who do not research music as part of their careers may not engage in travel-related transactions with the musicologist in reliance on this general license. For example, an art historian who plays in the same band with the musicologist would not qualify as a professional researcher of Cuban music for purposes of this general license.

Example 2 to paragraph (d): A specific license issued pursuant to paragraph (b) of this section authorizing travel-related transactions by a fish biologist who travels to Cuba to engage in professional research does not authorize transactions by other persons who might travel with the fish biologist but whose principal purpose in travel is to engage in recreational or trophy fishing. The fact that such persons may engage in certain activities with or under the direction of the professional fish biologist, such as measuring or recording facts about their catch, does not bring these individuals' activities within the scope of professional research and similar activities.

(e) A person will not qualify as engaging in professional research merely because that person is a professional who plans to travel to Cuba.

Example 1 to paragraph (e): A professor of history interested in traveling to Cuba for the principal purpose of learning or practicing Spanish or attending general purpose lectures devoted to Cuban culture and contemporary life does not qualify for the general license in paragraph (a) of this section or for a specific license issued pursuant to paragraph (b) of this section.

Example 2 to paragraph (e): A professional photographer who wishes to take photographs in Cuba that will become the basis for creating post cards, paintings, and other secondary products or that merely document the photographer's travel does not qualify for the general license in paragraph (a) of this section or for a specific license issued pursuant to paragraph (b) of this section.