

UNITED STATES OFFICE OF  
**GOVERNMENT ETHICS**



Preventing Conflicts of Interest  
in the Executive Branch

**ANNUAL REPORT PURSUANT  
TO EXECUTIVE ORDER 13490**

**ETHICS COMMITMENTS BY  
EXECUTIVE BRANCH PERSONNEL**

**JANUARY 1, 2015 – DECEMBER 31, 2015**

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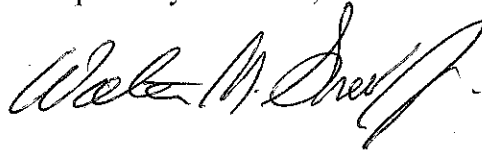
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## Preface

This is the seventh annual report provided pursuant to the President's Executive Order on Ethics (Executive Order 13490 of January 21, 2009, "Ethics Commitments by Executive Branch Personnel").

This report provides information on: the number of full-time, non-career appointees who were appointed during the 2015 calendar year; the number and type of appointees who were required to sign the Ethics Pledge; the number and names of those appointees who received waivers of any Ethics Pledge provisions; and, where appropriate, recusals or ethics agreements for those appointees who were registered lobbyists within the two years prior to their appointment. The report covers the time period January 1 through December 31, 2015. This report is publicly available and has been posted on the United States Office of Government Ethics' (OGE) website at [www.oge.gov](http://www.oge.gov).

Respectfully submitted,



Walter M. Shaub, Jr.  
Director  
United States Office of Government Ethics

## **Ethics Pledge Compliance**

### **(Calendar Year 2015 Appointments)**

Executive branch agencies, in addition to the White House and the Office of the Vice President, reported that 953 full-time, non-career appointees<sup>1</sup> were appointed during the period of January 1 through December 31, 2015. Of those appointees, 890 were required to sign the Ethics Pledge 889, or 99.9%,<sup>2</sup> have done so. In addition, agencies reported that during calendar year 2015, two of the full-time, non-career appointees were registered lobbyists during the two years prior to their appointment.

Finally, two agencies granted a total of two waivers during calendar year 2015. Copies of waivers issued to executive branch agency appointees are posted on OGE's website after OGE receives a copy from the wavier recipient's employing agency. Waivers issued by the White House are posted on the White House's website. All waivers issued during calendar year 2015 are found in Appendices IV and V.

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<sup>1</sup> Definitions of non-career appointees are as follows: PAS - Presidentially appointed, Senate confirmed; PA - Presidentially appointed; Non-Career SES - political appointees at the senior executive level; Schedule C - noncompetitive appointments to excepted service positions graded GS-15 and below; and Other - all other categories of non-career position appointments.

<sup>2</sup> One agency reported that one non-career SES employee resigned before signing the Ethics Pledge.

## Employees Subject to the Ethics Pledge

Of the 131 reporting agencies, 58 agencies and the White House and the Office of the Vice President<sup>3</sup> appointed 953 full-time, non-career appointees subject to the Ethics Pledge during the period of January 1 through December 31, 2015.<sup>4</sup> Table 1 shows the break-down for these appointees by classification.

Table 1: Full-Time, Non-Career Appointees  
(January 1 – December 31, 2015)

<b>PAS</b>	<b>PA</b>	<b>Non-Career SES</b>	<b>Schedule C</b>	<b>Other</b>	<b>Total</b>
<b>73</b>	<b>15</b>	<b>192</b>	<b>478</b>	<b>195</b>	<b>953</b>

## Compliance with the Ethics Pledge Signature Requirement

Section 1 of Executive Order 13490 requires that every appointee in every executive agency appointed on or after January 20, 2009, sign the Ethics Pledge. The Order defines "appointee" as follows:

‘Appointee’ shall include every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

Table 1 shows that agencies and the White House and the Office of the Vice President reported that 953 full-time, non-career appointees were appointed during the period of January 1 through December 31, 2015. Table 2 shows that of the 953 appointees, 890, or approximately 93.4%, were required to sign the Ethics Pledge upon appointment in 2015.<sup>5</sup> Table 2 also shows that the Schedule C category continues to be the largest category of appointees required to sign the Ethics Pledge.

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<sup>3</sup> The White House submission included the White House, Office of Policy Development, National Security Staff, and National Economic Council. The Office of the Vice President reported separately.

<sup>5</sup> See OGE Legal Advisories DO-09-003 and DO-09-010, located on OGE’s website and Appendix I for detailed guidance regarding the appointees subject to the Ethics Pledge.

<sup>5</sup> Additionally, as Table 3 reflects, 54 other appointees had already signed the Ethics Pledge for prior appointments to different positions and these appointees remained subject to the Ethics Pledge upon their new appointments in 2015.

Table 2: Ethics Pledge Signatures (by Appointee Type)  
(January 1 – December 31, 2015)

<b>Appointee Type</b>	<b>Required</b>	<b>Not Required</b>	<b>Total</b>
<b>PAS</b>	<b>60</b>	<b>13</b>	<b>73</b>
<b>PA</b>	<b>14</b>	<b>1</b>	<b>15</b>
<b>Non-career SES</b>	<b>170</b>	<b>22</b>	<b>192</b>
<b>Schedule C</b>	<b>452</b>	<b>26</b>	<b>478</b>
<b>Other</b>	<b>194</b>	<b>1</b>	<b>195</b>
<b>TOTAL<sup>6</sup></b>	<b>890</b>	<b>63</b>	<b>953</b>

OGE, in consultation with the White House Counsel’s Office, determined in its implementing guidance that certain categories of individuals were not required to sign the Ethics Pledge. For every full-time, non-career appointee who did not sign the Ethics Pledge, agencies, and the White House and the Office of the Vice President were asked to provide the reason(s) why the Ethics Pledge was not signed. Sixty-three of the appointees who did not sign the Ethics Pledge fell into one of two categories, as detailed in Table 3. The two categories reflect OGE’s implementing guidance.

Table 3: Appointees Not Required to Sign the Ethics Pledge in 2015  
(January 1 – December 31, 2015)

<b>Reasons Why Appointees Were Not Required to Sign the Ethics Pledge</b>	<b>Number of Applicable Appointees</b>
Occupy an exempt non-policymaking position (Schedule C or other comparable authority)*	<b>9</b>
Appointed without break in service after serving in another position subject to the Ethics Pledge	<b>54</b>
*Exempt, non-policymaking positions include schedulers, office assistants, drivers, and similar positions.	

Former Lobbyists Appointed in Calendar Year 2015

Two executive branch agencies reported that two<sup>7</sup> of the full-time, non-career appointees appointed from January 1 through December 31, 2015, and subject to the Ethics Pledge had been registered lobbyists during the two years prior to their appointment.

Process for Evaluating Prior Lobbying

The starting point for determining whether someone is a “registered lobbyist” for purposes of Ethics Pledge paragraph 3 is whether, at any time during the two-year period before appointment, he or she has been listed as a lobbyist in either an initial Lobbying Disclosure Act

<sup>6</sup> One agency reported that one appointee appointed in 2014 signed the Ethics Pledge early in 2015. The appointee is included in Table 2.

<sup>7</sup> The White House reported that one registered lobbyist was issued a waiver in 2014, but was not appointed until 2015.

(LDA) registration or a subsequent quarterly report (line 10 of Form LD-1 or line 18 of Form LD-2). However, agency ethics officials and the White House Counsel’s Office have found it necessary in some instances to go beyond the House and Senate LDA databases to determine whether a person falls within the scope of Ethics Pledge paragraph 3. The databases may be insufficient on their own for a variety of reasons: individuals may fail to de-register as soon as they no longer meet LDA thresholds; LDA filings can be overly inclusive, with employers registering persons who were expected to engage in lobbying activities but subsequently did not do so; and finally, LDA filings are made quarterly and do not indicate the actual dates of lobbying activity.

Ethics Pledge Waivers

Waivers of provisions of the Ethics Pledge may be granted by the Director of the Office of Management and Budget (authority subsequently delegated to Designated Agency Ethics Officials), in consultation with the Counsel to the President, when it is determined that “the literal application of the restriction is inconsistent with the purposes of the restriction or that it is in the public interest to grant the waiver.”<sup>8</sup> The Executive Order explains that the public interest may include, but is not limited to, exigent circumstances relating to national security or to the economy.

Copies of waivers issued to executive branch agency appointees are posted on OGE’s website at [www.oge.gov](http://www.oge.gov), after OGE receives a copy from the wavier recipient’s employing agency. Waivers issued by the White House are posted on the White House website at [www.whitehouse.gov](http://www.whitehouse.gov).

Reverse Revolving Door Waivers

One executive branch agency reported that one appointee was granted a waiver from the requirements of Ethics Pledge paragraph 2 during the period from January 1 through December 31, 2015. Generally, paragraph 2 of the Ethics Pledge restricts an appointee’s participation in particular matters involving specific parties in which the appointee’s former employers or clients have an interest. The individuals who received a waiver of the requirements of Ethics Pledge paragraph 2 and the agency that issued the waiver are identified in Table 4 below. Appendix IV contains a copy of the waiver.

Table 4: Appointee who Received a Paragraph 2 Waiver in 2015

Appointee Name	Agency
John F. Kotek	Department of Energy

<sup>8</sup> Section 3 of Executive Order 13490 provides a waiver mechanism for restrictions contained in the Ethics Pledge including the standards that must be met for a waiver to be granted.

### Lobbying Waivers

One executive branch agency reported that one appointee was granted a waiver from the requirements of Ethics Pledge paragraph 3 during the period from January 1 through December 31, 2015. Generally, paragraph 3 of the Ethics Pledge restricts appointees from seeking or accepting employment with an executive agency that the appointee lobbied within the two years prior to appointment. Appendix V contains a copy of the waiver.

Table 5: Appointee who Received a Paragraph 3 Waiver in 2015

Appointee Name	Agency
Tanya Clay House	Department of Education

### Post-Employment Waivers

Generally, paragraph 4 of the Ethics Pledge restricts appointees from communicating with employees of their former executive agency for the period of two years following the end of their appointment. No paragraph 4 waivers were reported to have been issued during the period from January 1 through December 31, 2015.

### Enforcement<sup>9</sup>

Ethics Pledge paragraph 1 prohibits appointees from accepting gifts from registered lobbyists or lobbying organizations for the duration of their appointment. Agencies reported no instances in 2015 in which appointees were in violation of Ethics Pledge paragraph 1.

Ethics Pledge paragraph 2 requires, among other things, that for a period of two years following appointment, an appointee will not participate (absent a waiver) in any particular matters involving specific parties, including meetings or other communications, that are directly and substantially related to the appointee's former employer or former clients, unless the meeting or communication is about a particular matter of general applicability and participation in the meeting or other event is open to interested stakeholders. Agencies reported no instances in 2015 in which appointees may have had contact with former employers in violation of Ethics Pledge paragraph 2.

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<sup>9</sup> One agency reported that it referred an allegation of a potential violation of paragraph 4 of the Ethics Pledge to its Office of Inspector General. As of the date of this report, the matter was pending with the Inspector General.



# **APPENDIX I**

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## Presidential Documents

Executive Order 13490 of January 21, 2009

### Ethics Commitments by Executive Branch Personnel

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

**Section 1. *Ethics Pledge.*** Every appointee in every executive agency appointed on or after January 20, 2009, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. *Lobbyist Gift Ban.* I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"2. *Revolving Door Ban—All Appointees Entering Government.* I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"3. *Revolving Door Ban—Lobbyists Entering Government.* If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency that I lobbied within the 2 years before the date of my appointment.

"4. *Revolving Door Ban—Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment.

"5. *Revolving Door Ban—Appointees Leaving Government to Lobby.* In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"6. *Employment Qualification Commitment.* I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"7. *Assent to Enforcement.* I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Personnel,' issued by the President on January 21, 2009, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth

the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

**Sec. 2. Definitions.** As used herein and in the pledge set forth in section 1 of this order:

(a) "Executive agency" shall include each "executive agency" as defined by section 105 of title 5, United States Code, and shall include the Executive Office of the President; provided, however, that for purposes of this order "executive agency" shall include the United States Postal Service and Postal Regulatory Commission, but shall exclude the Government Accountability Office.

(b) "Appointee" shall include every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3) and (j)-(l) of title 5, Code of Federal Regulations.

(d) "Covered executive branch official" and "lobbyist" shall have the definitions set forth in section 1602 of title 2, United States Code.

(e) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(f) "Lobby" and "lobbied" shall mean to act or have acted as a registered lobbyist.

(g) "Particular matter" shall have the same meaning as set forth in section 207 of title 18, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(h) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(i) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(j) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients

of the appointee's former employer to whom the appointee did not personally provide services.

(k) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(l) "Participate" means to participate personally and substantially.

(m) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(n) "Government official" means any employee of the executive branch.

(o) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(p) "Pledge" means the ethics pledge set forth in section 1 of this order.

(q) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2009.

**Sec. 3. Waiver.** (a) The Director of the Office of Management and Budget, or his or her designee, in consultation with the Counsel to the President or his or her designee, may grant to any current or former appointee a written waiver of any restrictions contained in the pledge signed by such appointee if, and to the extent that, the Director of the Office of Management and Budget, or his or her designee, certifies in writing (i) that the literal application of the restriction is inconsistent with the purposes of the restriction, or (ii) that it is in the public interest to grant the waiver. A waiver shall take effect when the certification is signed by the Director of the Office of Management and Budget or his or her designee.

(b) The public interest shall include, but not be limited to, exigent circumstances relating to national security or to the economy. *De minimis* contact with an executive agency shall be cause for a waiver of the restrictions contained in paragraph 3 of the pledge.

**Sec. 4. Administration.** (a) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; to ensure that compliance with paragraph 3 of the pledge is addressed in a written ethics agreement with each appointee to whom it applies, which agreement shall also be approved by the Counsel to the President or his or her designee prior to the appointee commencing work; to ensure that spousal employment issues and other conflicts not expressly addressed by the pledge are addressed in ethics agreements with appointees or, where no such agreements are required, through ethics counseling; and generally to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or his or her designee.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this order are made available for use by agencies in fulfilling their duties under section 4(a) above;

(2) in consultation with the Attorney General or the Counsel to the President or their designees, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) in consultation with the Attorney General and the Counsel to the President or their designees, adopt such rules or procedures as are necessary or appropriate:

- (i) to carry out the foregoing responsibilities;
- (ii) to apply the lobbyist gift ban set forth in paragraph 1 of the pledge to all executive branch employees;
- (iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;
- (iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.205 of title 5, Code of Federal Regulations;
- (v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations;
- (vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 6 of the pledge is honored by every employee of the executive branch;

(4) in consultation with the Director of the Office of Management and Budget, report to the President on whether full compliance is being achieved with existing laws and regulations governing executive branch procurement lobbying disclosure and on steps the executive branch can take to expand to the fullest extent practicable disclosure of such executive branch procurement lobbying and of lobbying for presidential pardons, and to include in the report both immediate action the executive branch can take and, if necessary, recommendations for legislation; and

(5) provide an annual public report on the administration of the pledge and this order.

(d) The Director of the Office of Government Ethics shall, in consultation with the Attorney General, the Counsel to the President, and the Director of the Office of Personnel Management, or their designees, report to the President on steps the executive branch can take to expand to the fullest extent practicable the revolving door ban set forth in paragraph 5 of the pledge to all executive branch employees who are involved in the procurement process such that they may not for 2 years after leaving Government service lobby any Government official regarding a Government contract that was under their official responsibility in the last 2 years of their Government service; and to include in the report both immediate action the executive branch can take and, if necessary, recommendations for legislation.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

**Sec. 5. Enforcement.** (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States pursuant to this section by any legally available means, including debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from lobbying any officer or employee of that agency for up to 5 years in addition to the time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which procedures shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in any United States District Court with jurisdiction to consider the matter.

(d) In any such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

**Sec. 6. General Provisions.** (a) No prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) Nothing in this order shall be construed to impair or otherwise affect:

(1) authority granted by law to a department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(d) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(f) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.



THE WHITE HOUSE,  
*January 21, 2009.*

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# **APPENDIX II**



## **Methodology**

In January 2015, each agency was asked to complete an assessment. The assessment focused on compliance with Executive Order 13490 for the period of January 1 through December 31, 2015.

The assessment was emailed on January 5, 2015 to Designated Agency Ethics Officials (DAEOs) and Alternate DAEOs or other designated officials. OGE received responses from all agencies required to be assessed. Based on responses to the assessment, OGE conducted follow-up with agencies to gather additional information and correct any discrepancies in submissions. In the interest of completeness, the White House and the Office of the Vice President voluntarily provided information about White House and the Office of the Vice President appointees.

# **APPENDIX III**

## Ethics Pledge Compliance Assessment

(Executive Order 13490)

Calendar Year 2015

**You are required to complete this assessment as the representative of your agency's ethics program. Each agency must provide a prompt and accurate response.**

### Deadline

The deadline for completing the assessment is **February 2, 2015**.

### Purpose

The purpose of this assessment is to provide the U.S. Office of Government Ethics (OGE) with information about administration of the Ethics Pledge required by Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009). The information that you provide will be used by OGE to prepare an annual report as required by Executive Order 13490, sec. 4(c)(5).

The Executive Order requires every covered appointee to sign the Ethics Pledge upon assuming office. *See* Executive Order 13490, sec. 1. In addition, every covered appointee who was a registered lobbyist during the two years prior to appointment must have a written ethics agreement addressing the restrictions on incoming lobbyists under paragraph 3 of the Ethics Pledge. *See* Executive Order 13490, sec. 4(a).

This assessment focuses on compliance with the following **for the period between January 1, 2015 and December 31, 2015**:

- the requirement for full-time non-career appointees to sign the Ethics Pledge;
- the requirement to have a written ethics agreement covering any commitments under paragraph 3 of the Ethics Pledge (concerning lobbyists entering government); and
- the issuance of any waivers of Ethics Pledge requirements under section 3 of Executive Order 13490.

OGE also requests information on any violations of the Ethics Pledge and subsequent enforcement actions.

### Completing the Assessment

This assessment consists of up to nine items requiring response. Based on your responses, the assessment may skip items not applicable to your agency.

**Please keep in mind that you are required to submit your completed assessment electronically.** You may start this process by clicking the "Next" button below.

Throughout the assessment you will be offered an opportunity to provide comments.

After reviewing your submission, OGE may contact you for additional information.

### **Saving the Assessment**

If you want to save the assessment and complete it later, click the "Save and Continue Assessment Later" link available at the top of each page. You will be asked to provide an email address. A link will be sent to your email, which you may use to return to and complete the assessment.

### **Submitting the Assessment**

When you have completed the assessment, click the "Submit" button to send your assessment to OGE. At that time, you will be provided an opportunity to print a copy of your responses via your browser window.

### **Help**

If you need help with the assessment, please contact Brandon Steele, Assistant Counsel, by phone at (202) 482-9209 or at [bastele@oge.gov](mailto:bastele@oge.gov).

*NOTE: Complete this assessment only if you are an employee of the federal government.*

1. Agency \_\_\_\_\_
2. Were any full-time non-career appointees (e.g., Presidentially Appointed Senate Confirmed (PAS), Presidentially Appointed (PA), non-career Senior Executive Service (SES), Schedule C, etc.) appointed to or by your agency from January 1 through December 31, 2015?

- Yes  
 No

*NOTE: For guidance on what constitutes a full-time non-career appointee for purposes of the Ethics Pledge see [OGE DAEOgram DO-09-010](#) available at [www.oge.gov](http://www.oge.gov).*

Please type comments in the box below.

*NOTE: Those responding “no” to question 2 are not required to answer questions 3-7. However, you are required to complete questions 8 and 9 as well as the contact information section at the end of the assessment.*

3. For each category of appointee provide the number of full-time non-career appointees appointed between January 1 and December 31, 2015, and indicate the number who did and did not sign the Ethics Pledge. (*NOTE: Please include all appointees who did not sign, regardless of whether or not they were required to sign. Additional explanatory information is requested in the next question.*)

Number of Full-Time Non-Career Appointees	Type of Full-Time Non-Career Appointees					
	by Category					
	PAS	PA	Non-career SES	Schedule C	Other	Total
Appointed 01/01– 12/31/2015						
Signed the Ethics Pledge						
Did not sign the Ethics Pledge						

If for any field above you are unable to provide a complete response, please explain in the box below. You may also add additional comments.

4. For each appointee who did not sign the Ethics Pledge, find the appropriate rationale(s) and indicate the total number of appointees who fit into that category.

Rationale for Not Signing the Ethics Pledge	Number and Type of Full-Time Non-Career Appointees					
	Who Did Not Sign the Ethics Pledge					
	PAS	PA	Non-career SES	Schedule C	Other	Total
a. Occupy an exempt non-policymaking position (Schedule C or other comparable authority)						
b. Appointed without break in service after serving in another position for which the Ethics Pledge was already signed.						
c. Other (explain below)						

If other, explain here. You may also use the box below to provide a complete response or to add additional comments.

5. How many appointees appointed between January 1 and December 31, 2015 and subject to the Ethics Pledge were registered lobbyists during the two years prior to their appointment?

*NOTE: If none, enter "0" in the box below*

Please type comments in the box below.

*NOTE: If you did not have any appointees in 2015 subject to the Ethics Pledge who were registered lobbyists during the two years prior to their appointment, please skip to question 8.*

6. How many of the appointees identified in your response to the previous question as registered lobbyists during the two years prior to their appointment have an ethics agreement addressing their obligations under paragraph 3 of the Ethics Pledge? *(NOTE: If none, enter "0" in the box below)*

Please type comments in the box below.

7. For any appointee identified in your response to question 5 who does not have an ethics agreement, please provide their name and an explanation. (e.g., Pledge paragraph 3 not reasonably expected to limit participation in any agency matters because appointee's duties sufficiently unrelated to prior lobbying activities.)

8. Section 3 of Executive Order 13490 provides a waiver mechanism for the restrictions contained in the Ethics Pledge. Indicate below how many waivers were granted; the names of individuals granted waivers by your agency in 2015; and which of the Pledge paragraphs were implicated. *NOTE: Where none, enter "0"*

	<b>Number of Ethics Pledge Waivers Granted By Pledge Paragraph</b>	<b>Name(s) of Individual(s) Granted Ethics Pledge Waivers</b>
<b>Paragraph 2 Only</b>		
<b>Paragraph 3 Only</b>		
<b>Paragraphs 2 &amp; 3</b>		
<b>Other</b> (explain below)		

If other, please explain here. Other comments may also be provided in the box below.

9. If applicable, please provide information on any violations of the Ethics Pledge and enforcement actions taken as a result.

**Please provide a point of contact to answer OGE questions regarding this assessment.**

First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

Title/Position: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_



# **APPENDIX IV**



Department of Energy  
Washington, DC 20585

FEB 11 2015

MEMORANDUM FOR: JOHN F. KOTEK  
PRINCIPAL DEPUTY ASSISTANT SECRETARY  
OFFICE OF NUCLEAR ENERGY

FROM: SUSAN F. BEARD *Susan F. Beard*  
ASSISTANT GENERAL COUNSEL FOR GENERAL LAW  
AND DESIGNATED AGENCY ETHICS OFFICIAL  
OFFICE OF THE GENERAL COUNSEL

SUBJECT: Waiver of Paragraph 2 of the Ethics Pledge for  
specific party matters involving Battelle Energy Alliance, LLC and  
Battelle

Pursuant to the authority delegated under Section 3 of Executive Order 13490 "Ethics Commitments by Executive Branch Personnel" (January 21, 2009) and after consultation with the Counsel to the President, I hereby certify, for the reasons stated below, that it is in the public interest for you to receive a waiver of the restrictions in Paragraph 2 of the Ethics Pledge as the Principal Deputy Assistant Secretary, Office of Nuclear Energy, Office of the Under Secretary for Science & Energy, Department of Energy (DOE).

#### Background

The Principal Deputy Assistant Secretary (PDAS), Office of Nuclear Energy (NE), in collaboration with the Assistant Secretary for NE, is responsible for establishing policy and providing leadership for managing the government's investment in nuclear science and technology to address critical nuclear issues, contribute to energy supply diversity, and advance U.S. competitiveness and security. The PDAS provides executive direction to programs that provide nuclear products and services to meet the needs of the United States and the world community in a safe, environmentally sound, and economical manner; encourages public involvement in NE programs; and provides information to increase public knowledge.

Prior to your appointment as PDAS you served as a Managing Partner of the Idaho Office of Gallatin Public Affairs, Idaho Falls and Boise Idaho. While serving in that position, you provided communications counseling services to Battelle Energy Alliance LLC on matters related to the Idaho National Laboratory (INL) from 2007, until you left Gallatin Public Affairs.

INL is a DOE national laboratory and Battelle Energy Alliance LLC is the management and operating (M&O) contractor. Battelle Memorial Institute (Battelle) is the member of the LLC. The majority of NE supported research and development is conducted at INL. The mission of INL, is to lead and integrate U.S. nuclear energy research, development, demonstration and deployment efforts; ensure the nation's energy security with safe, competitive and sustainable energy systems and unique national and homeland security capabilities. INL areas of research



include: nuclear science and engineering; nuclear reactor design, development, operations and safety; national security research and testing; development of sustainable energy and environmental solutions.

In addition, Battelle has a number of large contracts with DOE and operates facilities dedicated to critical DOE programs. Battelle is a partner in the M&O contracts for five other DOE national laboratories (i.e., Brookhaven National Laboratory, Lawrence Livermore National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, and Pacific Northwest National Laboratory).

In light of the critical services Battelle provides to the Department with respect to research and development supported by NE, it is necessary that you participate in matters in which Battelle is a party or represents a party, in order for you to perform your duties as PDAS.

#### Waiver Pursuant to Executive Order 13490

Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," Section 1 (Ethics Pledge), requires all covered political appointees to abide by certain commitments. Paragraph 2 of the Ethics Pledge provides that a covered appointee may not for a period of two years from the date of appointment participate in any particular matter involving specific parties that is directly and substantially related to a former employer or client. For purposes of applying this restriction, the term "particular matter" includes "meetings or other communications relating to the performance of one's official duties with a former employer or client." E.O. 13490, Sec. 2(h).

The Executive Order provides for waiver of the recusal provisions by the Director of the Office of Management and Budget (OMB) or his designee, in consultation with the Counsel to the President or his designee. E.O. 13490, Sec. 3(a). The Director, OMB, has designated the Designated Agency Ethics Official (DAEO) of each executive branch agency to exercise the Section 3 waiver authority, in writing, and in consultation with the Counsel to the President. A waiver of the restrictions contained in paragraph 2 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purpose of the restriction or that it is in the public interest to grant the waiver. *Id.*, Sec. 3(b).

Absent a waiver, you would be prohibited by paragraph 2 of the Ethics Pledge from participating in any particular matter involving specific parties in which Battelle is or represents a party. As discussed above, it is necessary that you participate in matters in which Battelle is a party or represents a party in order for you to perform your duties as PDAS. After consultation with the Office of the Counsel to the President, I have determined that it is in the public interest for you to participate in matters relating to Battelle. In order to meet the substantial challenge of providing nuclear energy products and services to meet the needs of the United States and the world community in a safe, environmentally sound, and economical manner, your expertise and judgment is necessary for the leadership of the Department's nuclear energy program, which will involve Battelle.

Your extensive knowledge of and experience in nuclear energy matters is critical to the success of DOE and in particular the Office of Nuclear Energy. Prior to your appointment as PDAS, you served in numerous positions focused on nuclear energy. In 2010, you served as the Staff

Director of the Blue Ribbon Commission on America's Nuclear Future, which conducted a comprehensive review of policies for managing the back end of the nuclear fuel cycle and recommended a new management plan. You also served in numerous senior positions at DOE, at various times in your career, for a total of 11 years, including as an Associate Director and Chief of Staff, in the Office of Nuclear Energy, Science and Technology, where you coordinated nuclear energy matters with Congressional staff, national laboratories, academia, and other key stakeholders in the nuclear energy community. Your most recent position at DOE was Deputy Manager of the Idaho Operations Office, where you were responsible for management of the INL contract, and helped transform INL into the nation's leading nuclear energy research and development laboratory. With regard to the consulting services you provided to Battelle, you have advised that the services were limited to approximately ten percent of the work you performed and billed for the years 2012 -2014, and were less than that for the years 2010 - 2011.

Accordingly, I hereby waive the requirements of paragraph 2 of the Ethics Pledge as it pertains to your future involvement in particular matters involving Battelle or any of its divisions or subsidiaries. This waiver does not authorize you to participate in any decision related to matters pertaining to raising the regional relevance of national laboratories. Nor may you participate in any communications plan that Battelle may submit regarding nuclear fuel siting, transportation, storage and disposal matters. (These were the two main areas for which you provided consulting services to Battelle Energy Alliance. Notably, you have advised me that in performing those duties you did not represent Battelle Energy Alliance to the Federal government.) Further, this waiver does not authorize you to participate in any decision related to the fee award for Battelle as it pertains to INL. A separate determination has been made under 5 C.F.R. § 2635.502 that the Department's interest in your ability to participate in these matters, given the critical responsibilities associated with your position, outweighs any possible concern that a reasonable person may question the integrity of DOE programs and operations.

This waiver does not affect your obligation to comply with other provisions of the Ethics Pledge and all other applicable government ethics rules.<sup>1</sup>

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<sup>1</sup> Importantly, this waiver does not address or effect the applicability of the Pledge to services you provided to Fluor Corporation, another Gallatin Public Affairs client.

# **APPENDIX V**



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

September 30, 2015

MEMORANDUM FOR TANYA CLAY HOUSE

FROM: SUSAN WINCHELL   
ASSISTANT GENERAL COUNSEL FOR ETHICS

SUBJECT: Limited Public Interest Waiver Pursuant to Section 3, Executive Order 13490

Pursuant to Section 3 of Executive Order 13490 (January 21, 2009), I hereby grant a waiver of the requirements of Paragraph 3 of the Ethics Pledge for Ms. Tanya Clay House. I have determined that this waiver is necessary because it is in the public interest for Ms. House to serve as Deputy Assistant Secretary for P-12 Education in the Office of Planning, Evaluation and Policy Development (OPEPD) at the U.S. Department of Education (Department). This waiver is limited, and Ms. House will abide by all other restrictions imposed by Executive Order 13490, including without limitation, communication and recusal requirements concerning former employers and clients.

Section 1 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" ("Ethics Pledge"), requires all covered political appointees to abide by certain commitments above those required by preexisting government ethics rules. Paragraph 3 of the Ethics Pledge applies to any covered appointee who was a registered lobbyist within the two years prior to the date of appointment. Paragraph 3 restricts a covered appointee's ability, among other things, to seek or accept employment with an executive agency that the appointee lobbied within the last two years prior to appointment.

A waiver of Paragraph 3 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purpose of the restriction or that it is in the public interest to grant the waiver. E.O. 13490, Sec. 3(b). The Director of the Office of Management and Budget has delegated to each executive branch Designated Agency Ethics Official the authority to issue waivers under Section 3 of Executive Order 13490.

Immediately prior to her appointment as Deputy Assistant Secretary for P-12 Education, Ms. House served as Director of Public Policy at the Lawyers' Committee for Civil Rights Under Law (LCCRUL). LCCRUL was registered under the Lobbying Disclosure Act, and Ms. House made lobbying contacts with the Department within the last two years. As such, absent a waiver of Paragraph 3, Ms. House is barred from employment with the Department.

For the position of Deputy Assistant Secretary for P-12 Education, the Department requires a candidate who has both legal and education policy expertise, as well as technical knowledge, in the field of P-12 education. Additionally, the candidate must possess experience and a track record of success working with a broad spectrum of stakeholders, including state and local educational agencies, non-profit organizations, and Members of Congress.

Ms. House's combination of professional experiences makes her uniquely qualified to serve as the Deputy Assistant Secretary for P-12 Education. She is a lawyer who, immediately prior to her appointment at the Department, served as Director of Public Policy for LCCRUL. In this role Ms. House managed public policy and legislative advocacy on behalf of LCCRUL, including extensive work on education issues such as school vouchers, the school to prison pipeline, diversity and equity, and the reauthorization of the Elementary and Secondary Education Act (ESEA). In previous positions, and through her impressive 20 year career, Ms. House gained substantive congressional experience in both the U.S. Senate and House; was the lead congressional staffer on numerous domestic policy issues, including education and civil rights issues; and gained legal, legislative and public policy expertise in positions with People for the American Way and the Equal Opportunity Advisory Council. She began her career in education as the minority recruitment coordinator for the Kentucky Department of Education. Additionally, Ms. House has an impressive list of publications and editorial credentials. In sum, Ms. House has extensive and substantial experience working with Congress and understanding the legislative process; the public policy development expertise needed through her work with People for the American Way, the Equal Opportunity Advisory Council, and the LCCRUL; hands-on experience working with a state education agency; demonstrated expertise and understanding of a variety of education policy issues through her numerous publications; and direct experience managing people and organizing teams, including individuals outside her own organization, to engage in a joint problem solving and decision-making process.

Accordingly, I have concluded that it is in the public interest to grant Ms. House a waiver of Paragraph 3 of the Ethics Pledge. This waiver is limited and does not permit Ms. House to participate in specific party matters involving her former employer, LCCRUL, or her former clients. My office has reviewed her financial disclosure report and concluded that there are no other potential conflicts that will interfere with her ability to serve effectively as the Deputy Assistant Secretary for P-12 Education. Ms. House will otherwise comply with the remainder of the Ethics Pledge and all other applicable government ethics rules.