

**From:** [Palatucci, William J.](#)  
**To:** [Walter M. Shaub](#)  
**Subject:** [GRAYMAIL] Re: question  
**Date:** Tuesday, November 15, 2016 11:36:51 AM

---

Hi Walt,

We are still with the transition but in different positions. We will get you clarity on the POC to OGE.

Bill



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**From:** Walter M. Shaub  
**Sent:** Tuesday, November 15, 2016 11:21 AM  
**To:** Palatucci, William J.  
**Subject:** question

Hi Bill,

I'm really sorry to bother you. Recent news reports have us a little confused about who we should be contacting. Could you let me know whether you, Rich Bagger, Bill Hagerty, Tim Petty, or Sean Doocey are still with the transition team?

Walt

Walter M. Shaub, Jr.

Director

U.S. Office of Government Ethics

1201 New York Avenue, NW, Suite 500

Washington, DC 20005-3917

Telephone: 202.482.9292

Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

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**From:** [Palatucci, William J.](#)  
**To:** [Walter M. Shaub](#)  
**Cc:** [Petty, Timothy J.](#)  
**Subject:** [GRAYMAIL] RE: question  
**Date:** Tuesday, November 15, 2016 3:43:59 PM

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Sean and Tim should remain as your processing contacts for the time being.



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**From:** Walter M. Shaub [mailto:wmshaub@oge.gov]  
**Sent:** Tuesday, November 15, 2016 11:21 AM  
**To:** Palatucci, William J.  
**Subject:** question

Hi Bill,

I'm really sorry to bother you. Recent news reports have us a little confused about who we should be contacting. Could you let me know whether you, Rich Bagger, Bill Hagerty, Tim Petty, or Sean Doocey are still with the transition team?

Walt

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[Redacted]

[Redacted]

[Redacted]

Referral to GSA  
Re: Office Space Access

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Referral to GSA

Referral to GSA  
Re: Office Space Access

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Referral to GSA

[Redacted]

[Redacted]

[Redacted]

Referral to GSA  
Re: Office Space Access

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Referral to GSA

Referral to GSA  
Re: Office Space Access

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Referral to GSA



**From:** [Walter M. Shaub](#)  
**To:** [Sean Doocey](#)  
**Subject:** Re: 278 Question  
**Date:** Sunday, November 27, 2016 7:32:56 PM

---

Thanks for reaching out, Sean. I'm very sorry I didn't see your message earlier. I normally check my blackberry constantly, but I left it behind by accident when (b)(6)

The answer depends (b) (5). I think for all of these nominees (b) (5). In that case, the period for assets and investment income dates back to (b) (5). The same is true for earned income and liabilities. This reporting period applies to parts 2, 5, 6 and 8.

Note that a different reporting period applies to positions held (part 1) and sources of earned income exceeding \$5,000 (part 4). For these items in part 1 and part 4, the reporting period dates back to (b) (5).

A third reporting period covers part 3 (arrangements and agreements). We have nominees report all arrangements/agreements in existence as of the date of filing and all arrangements/agreements in existence between the date of filing and the date of appointment into the government. Thus, for example, the former would cover a 401k plan and the latter would cover the forfeiture of unvested stock options upon resignation from a private employer following Senate confirmation.

Finally, nominees do not complete part 7 (transactions) or part 9 (gifts and reimbursements). But if they're using Integrity, the system won't ask them to complete those parts.

Don't hesitate to let me know if you have any questions or would prefer to talk by phone. We want to be as helpful as possible.

(b) (5)

Walt

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Sean Doocey  
**Sent:** Sunday, November 27, 2016 2:58 PM  
**To:** Walter M. Shaub

**Subject:** 278 Question

---

Hi Walt,

Hope you are having a nice weekend. (b) (5)

- 

Thanks!

Sean

--

**Sean Doocey**

Presidential Transition Team

Email: (b) (6)

Cell: (b) (6)

**From:** [Deborah J. Bortot](#)  
**To:** [Ann M Donaldson](#)  
**Subject:** Re: contact with Office of Government Ethics  
**Date:** Sunday, November 20, 2016 11:00:19 PM

---

Annie,

Based on Walt's messages to me earlier, he thinks you are coming to OGE.

Let me know if that does not work.

Thanks,  
Deb

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Ann M Donaldson  
**Sent:** Sunday, November 20, 2016 8:41 PM  
**To:** Deborah J. Bortot  
**Subject:** RE: contact with Office of Government Ethics

---

Deb,

I understand we have set up a meeting for 10am tomorrow morning. Should we plan to come to OGE or are you able to come to Jones Day? Want to make sure the logistics are worked out either way.

Thanks,  
Annie

----- Message from "Deborah J. Bortot" <djbortot@oge.gov> on Sun, 20 Nov 2016 00:37:59 GMT -----

**From:** "Deborah J. Bortot" <djbortot@oge.gov>  
**To:** "Ann M Donaldson"  
**Subject:** Fw: contact with Office of Government Ethics

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Walter M. Shaub <wmshaub@oge.gov>  
**Sent:** Saturday, November 19, 2016 6:32 PM  
**To:** Deborah J. Bortot  
**Subject:** FW: contact with Office of Government Ethics

Deb,

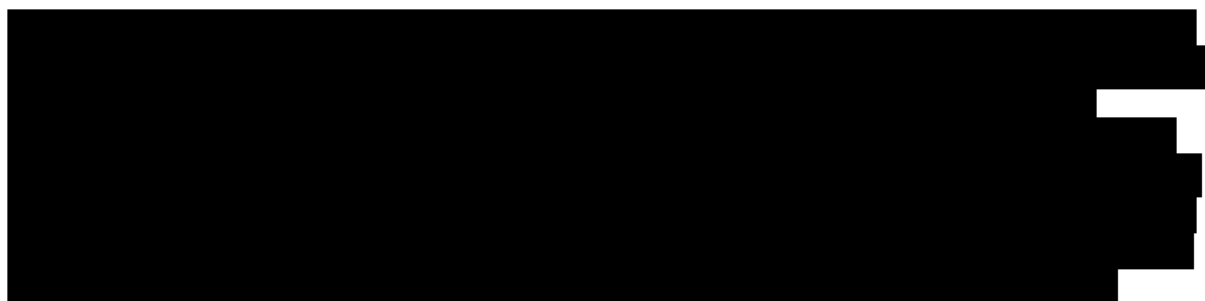
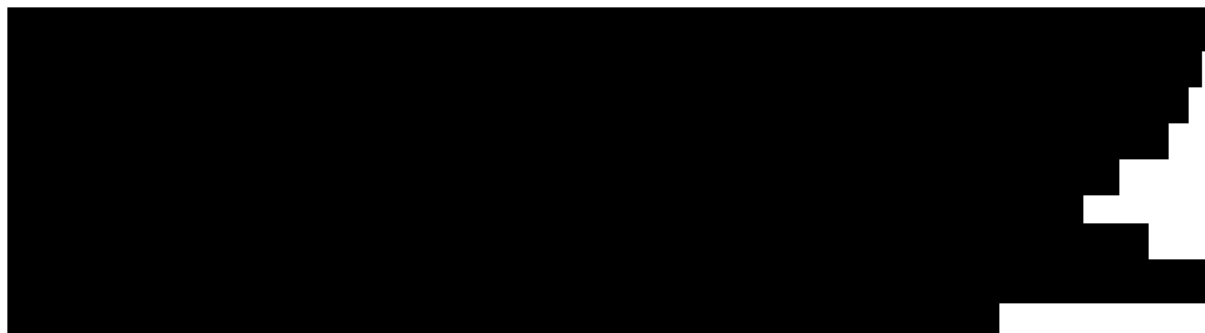
Please forward this message to Don McGahn's associate, in case she can get a message through.

Walt

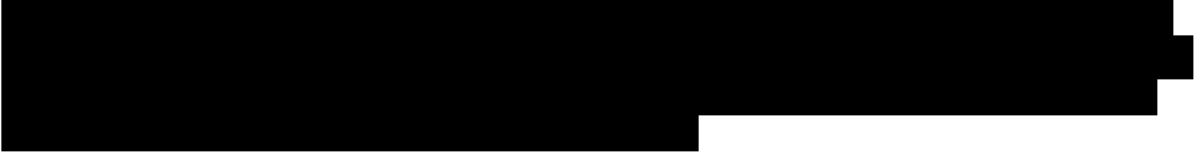

**From:** Walter M. Shaub  
**Sent:** Saturday, November 19, 2016 6:32 PM  
**To:** (b) (6) Don McGahn  
**Subject:** RE: contact with Office of Government Ethics

Don,

(b) (5)



(b) (5)

You might also want to review OGE's Transition Guide, the Nominee Ethics Guide, and the Appendix to our Nominee Ethics Guide for more background. We delivered additional hard copies to your office this week, and they are available online on OGE's website: <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>.

(b) (5)



Walt

Walter M. Shaub, Jr.

Director

U.S. Office of Government Ethics

1201 New York Avenue, NW, Suite 500

Washington, DC 20005-3917

Telephone: 202.482.9292

Email: [walter.schaub@oge.gov](mailto:walter.schaub@oge.gov)

**From:** Walter M. Shaub  
**Sent:** Friday, November 18, 2016 5:29 PM  
**To:** (b) (6) Don McGahn  
**Subject:** contact with Office of Government Ethics

Don,

Looks like we didn't manage to connect up this week. If you would prefer to talk over the weekend, I can be reached on my cell phone at (b) (6). (It would help if we could schedule the call an hour or more in advance, so I can try to get somewhere quiet with good reception.) Otherwise, we can try again on Monday. I do think it is important that we talk in the near future, as I would like to discuss ways OGE can help you and to give you some advice based on past experiences.

Thanks!

Walt

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**From:** [Donald F. McGahn](#)  
**To:** [Walter M. Shaub](#)  
**Subject:** RE: contact with Office of Government Ethics  
**Date:** Saturday, November 19, 2016 8:45:56 PM

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Thank you.

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----- Message from "Walter M. Shaub" <wmshaub@oge.gov> on Sun, 20 Nov 2016 01:44:38 GMT -----

**From:** "Walter M. Shaub" <wmshaub@oge.gov>  
**To:** "Donald F McGahn"  
**Subject:** Re: contact with Office of Government Ethics

Absolutely.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Donald F McGahn  
**Sent:** Saturday, November 19, 2016 8:41 PM  
**To:** Walter M. Shaub  
**Subject:** RE: contact with Office of Government Ethics

Can we come in Monday, say 10?

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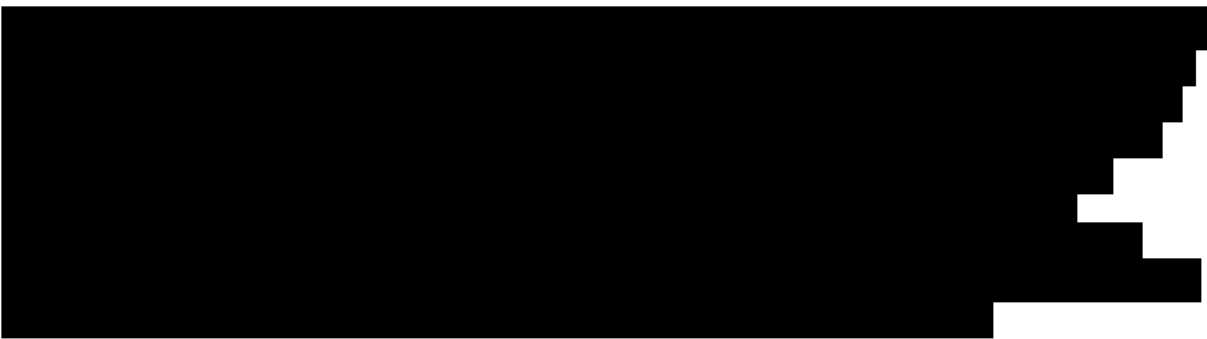
----- Message from "Walter M. Shaub" <wmshaub@oge.gov> on Sat, 19 Nov 2016 23:32:09 GMT -----



**From:** "Walter M. Shaub" <wmshaub@oge.gov>  
**To:** (b) (6) Don McGahn  
**Subject:** RE: contact with Office of Government Ethics

Don,

(b) (5)



(b) (5)

You might also want to review OGE's Transition Guide, the Nominee Ethics Guide, and the Appendix to our Nominee Ethics Guide for more background. We delivered additional hard copies to your office this week, and they are available online on OGE's website: <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>.

(b) (5)

Walt

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Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

**From:** Walter M. Shaub

**Sent:** Friday, November 18, 2016 5:29 PM

**To:** (b) (6) Don McGahn

**Subject:** contact with Office of Government Ethics

Don,

Looks like we didn't manage to connect up this week. If you would prefer to talk over the weekend, I can be reached on my cell phone at (b) (6). (It would help if we could schedule the call an hour or more in advance, so I can try to get somewhere quiet with good reception.) Otherwise, we can try again on Monday. I do think it is important that we talk in the near future, as I would like to discuss ways OGE can help you and to give you some advice based on past experiences.

Thanks!

Walt

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**From:** [Shelley K. Finlayson](#)  
**To:** ["Sean Doocey"](#)  
**Subject:** RE: Integrity  
**Date:** Thursday, November 17, 2016 12:03:06 PM

---

Hi Sean –

If George's entry to the transition space can't be worked out until tomorrow, are you available for a call this afternoon to discuss some preliminary matters that would make George's visit tomorrow more productive?

Thanks,  
Shelley

---

**From:** Shelley K. Finlayson  
**Sent:** Thursday, November 17, 2016 11:18 AM  
**To:** 'Sean Doocey'  
**Subject:** RE: Integrity

That is great news, Sean. As Walt mentioned, George is ready to come over as soon as you're ready to receive him. Just let me know what would work best for you and your team.

Shelley

**From:** Sean Doocey [[mailto:\(b\) \(6\)](#)]  
**Sent:** Thursday, November 17, 2016 10:55 AM  
**To:** Shelley K. Finlayson  
**Subject:** Integrity

Hi Shelley,

I think we are at the point where we need to start getting some folks into Integrity. Can I stop by OGE (or can George come by transition) just to make sure that we have set everything up correctly?

Thanks, Sean

--

**Sean Doocey**  
Presidential Transition Team  
Email: [\(b\) \(6\)](#)  
Cell: [\(b\) \(6\)](#)

**From:** [Ann M Donaldson](#)  
**To:** [George Hancock](#)  
**Cc:** "[Sean Doocey](#)"; [Shelley K. Finlayson](#)  
**Subject:** RE: New Counsel Users For Integrity  
**Date:** Wednesday, November 30, 2016 2:47:14 PM

---

George,  
The best number to reach me directly is (b) (6) (my mobile). If it's going in the system for semi-public (internal) consumption, my direct office line is below.  
Thanks,  
Annie

Ann M. Donaldson  
Associate  
[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

(b) (6)

**From:** George Hancock <[ghancock@oge.gov](mailto:ghancock@oge.gov)>  
**To:** 'Sean Doocey' (b) (6)  
**Cc:** Ann M Donaldson (b) (6), "Shelley K. Finlayson" <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)>  
**Date:** 11/30/2016 02:39 PM  
**Subject:** RE: New Counsel Users For Integrity

---

Sure Sean.

I'll need a phone number to register and accomplish the change.

Thank you,

George Hancock  
*Integrity Manager*  
Program Counsel Division  
Legal, External Affairs and Performance Branch  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005

**From:** Sean Doocey [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Wednesday, November 30, 2016 2:10 PM  
**To:** Shelley K. Finlayson; George Hancock  
**Cc:** Ann M Donaldson  
**Subject:** New Counsel Users For Integrity

Hi Shelley and George,

Per Don McGahn, Could we swap (b) (5), (b) (6) in Integrity?

Thanks, Sean

Ann Donaldson (b) (6)

--

**Sean Doocey**

Presidential Transition Team

Email: (b) (6)

Cell: (b) (6)

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=====

**From:** [Walter M. Shaub](#)  
**To:** ["Sean Doocey"; Shelley K. Finlayson](#)  
**Subject:** RE: OGE Materials  
**Date:** Thursday, November 17, 2016 11:09:04 AM

---

Absolutely. What would work best would be if I could send someone with the materials. It's three boxes on cart. Also, Shelley says you'd like to talk to George Hancock. I could send him over there too. Would that work?

**From:** Sean Doocey [mailto:[\(b\) \(6\)](#)]  
**Sent:** Thursday, November 17, 2016 10:56 AM  
**To:** Walter M. Shaub; Shelley K. Finlayson  
**Subject:** OGE Materials

Hi Walt and Shelley,

Would it be possible for us to get the copies of the OGE guides so that we can start sending them out to our nominees?

Thanks, Sean

--

**Sean Doocey**  
Presidential Transition Team  
Email: [\(b\) \(6\)](#)  
Cell: [\(b\) \(6\)](#)



**From:** [Walter M. Shaub](#)  
**To:** [Emily Mallon](#)  
**Subject:** Re: time-sensitive issue  
**Date:** Friday, November 18, 2016 10:18:48 AM

---

Sure.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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**From:** Emily Mallon  
**Sent:** Friday, November 18, 2016 10:18 AM  
**To:** Walter M. Shaub  
**Subject:** Re: time-sensitive issue

---

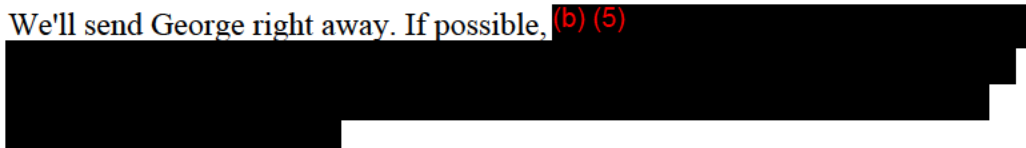
Walt,

Sean is in and out of meetings this morning. Would 11 work?

On Fri, Nov 18, 2016 at 10:08 AM, Walter M. Shaub <[wmschaub@oge.gov](mailto:wmschaub@oge.gov)> wrote:

Emily,

We'll send George right away. If possible, (b) (5)



Walt

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Emily Mallon  
**Sent:** Friday, November 18, 2016 10:04 AM  
**To:** Walter M. Shaub  
**Subject:** Re: time-sensitive issue

Walter,

That would be great. (b) (5) but we would love another quick demo from George.

Thanks,

Emily

On Fri, Nov 18, 2016 at 10:00 AM, Walter M. Shaub <[wmschaub@oge.gov](mailto:wmschaub@oge.gov)> wrote:

Thanks, Sean. Access is all set. We can send Emory right now if you're ready for him.

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Sean Doocey  
**Sent:** Friday, November 18, 2016 9:51 AM  
**To:** Walter M. Shaub; Emily Mallon  
**Cc:** Shelley K. Finlayson  
**Subject:** Re: time-sensitive issue

Thank you both. I understand the difficulty getting in touch with counsel's office.

On the plus side, we are ready to be initiating folks in Integrity.

I'm running in and out. Would it be possible to for George to coordinate a time with Emily and we can either come to you, meet at (b) (6), or here at the transition hq if the access was worked out with GSA.

Thanks, Sean

On Fri, Nov 18, 2016 at 9:15 AM, Walter M. Shaub <[wmschaub@oge.gov](mailto:wmschaub@oge.gov)> wrote:

Sean,

I'm just dropping another quick note to remind you that OGE is here to help. We seem to have lost contact with the Trump-Pence transition since the election.

As we discussed prior to the election, announcing cabinet picks without taking OGE up on the offer to take an early look at financial disclosure picks poses the risk of embarrassment for the President-elect (and the individual candidate for nomination) in the event that the individual walks away from the nomination after learning what he or she will have to do with his or her financial interests. This is true even in the case of Senators, as Senators are not subject to conflicts of interest laws and may not fully appreciate how different life is in the executive branch. We would genuinely like to help you prevent that undesirable outcome.

As we also previously discussed, the same offer applies to possible White House appointees. The risk is even higher for them because OGE would not normally receive their financial disclosure reports until after they have been in office for weeks or even months. By that time, they run the risk of having inadvertently violated the criminal conflicts of interest restriction at 18 USC 208. If we don't get involved early to prevent problems,

we won't be able to help them after the fact.

In addition, please remind people that, as we discussed, OGE needs to be involved before anyone seeks to set up a blind trust. Conversations with potential trustees before consulting to OGE could disqualify them. Also, please be sure that people realize that no asset placed in a blind trust is considered blind, and thus continues to pose conflicts of interest, until the asset has been sold off and the government official receives a letter (approved in advance by OGE) indicating that an asset has been sold down to \$1,000 or less.

I will be taking to Don McGahn as soon as I can pin him down to a time for a call, which is proving to be difficult. However, I don't have confirmation from anyone on the transition team or from OMB that he is serving in any official capacity. It would help to have confirmation that he is authorized to speak for the transition.

As you know, our goal is to help you by preventing problems before they arise. I will consider OGE successful if we get the new administration off to a great start, wholly free of conflicts of interest.

Walt

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Walter M. Shaub

**Sent:** Thursday, November 17, 2016 2:52 PM

**To:** Sean Doocey

**Subject:** semi time-sensitive issue

Sean,

Is there a phone number where I can call you for a quick phone call today. A somewhat time sensitive issue has arisen.

Walt

Walter M. Shaub, Jr.

Director

U.S. Office of Government Ethics

1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: [202.482.9292](tel:202.482.9292)

Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

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--

**Sean Doocy**

Presidential Transition Team

Email: (b) (6)

Cell: (b) (6)

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**From:** [Walter M. Shaub](#)  
**To:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#)  
**Subject:** update  
**Date:** Tuesday, November 15, 2016 2:05:26 PM

---

Folks, I've got great news for you. Our contact who we trained in Integrity is still with the transition team. He's also got experience with the ethics rules.

---

**From:** Walter M. Shaub  
**Sent:** Tuesday, November 15, 2016 2:04 PM  
**To:** 'Sean Doocey'  
**Subject:** RE: Quick question

That's great news!

**From:** Sean Doocey [[mailto:\(b\) \(6\)](#)]  
**Sent:** Tuesday, November 15, 2016 2:04 PM  
**To:** Walter M. Shaub  
**Subject:** Re: Quick question

It's still me... For now!

On Tue, Nov 15, 2016 at 2:03 PM Walter M. Shaub <[wmschaub@oge.gov](mailto:wmschaub@oge.gov)> wrote:

Thanks, Sean!! If you're still going to be operating the e-filing system, *Integrity*, for the transition team, I think we're all set. If not, could you let them know to assign someone and contact us for training?

Walt

**From:** Sean Doocey [[mailto:\(b\) \(6\)](#)]  
**Sent:** Tuesday, November 15, 2016 1:13 PM  
**To:** Walter M. Shaub  
**Subject:** Re: Quick question

Hi Walt,

Sorry for the slow reply! I am still here. We've had some transitions in the legal department. I'm tracking the the correct poc.

Sean

On Tue, Nov 15, 2016 at 7:56 AM, Walter M. Shaub <[wmschaub@oge.gov](mailto:wmschaub@oge.gov)> wrote:

Hi Sean, can you let me know whether you are still with the transition team? We're eager to help, but recent news reports have us a little confused about who we should be contacting. I'm really hoping you're still there. I'd hate to lose your experience and expertise, but I'll understand if things have changed.

Walt

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

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--

**Sean Doocey**

Presidential Transition Team

Email: (b) (6)

Cell: (b) (6)

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**From:** [Walter M. Shaub](#)  
**To:** [Sean Doocey](#)  
**Cc:** [Shelley K. Finlayson](#)  
**Subject:** time-sensitive issue  
**Date:** Friday, November 18, 2016 9:15:10 AM

---

Sean,

I'm just dropping another quick note to remind you that OGE is here to help. We seem to have lost contact with the Trump-Pence transition since the election.

As we discussed prior to the election, announcing cabinet picks without taking OGE up on the offer to take an early look at financial disclosure picks poses the risk of embarrassment for the President-elect (and the individual candidate for nomination) in the event that the individual walks away from the nomination after learning what he or she will have to do with his or her financial interests. This is true even in the case of Senators, as Senators are not subject to conflicts of interest laws and may not fully appreciate how different life is in the executive branch. We would genuinely like to help you prevent that undesirable outcome.

As we also previously discussed, the same offer applies to possible White House appointees. The risk is even higher for them because OGE would not normally receive their financial disclosure reports until after they have been in office for weeks or even months. By that time, they run the risk of having inadvertently violated the criminal conflicts of interest restriction at 18 USC 208. If we don't get involved early to prevent problems, we won't be able to help them after the fact.

In addition, please remind people that, as we discussed, OGE needs to be involved before anyone seeks to set up a blind trust. Conversations with potential trustees before consulting to OGE could disqualify them. Also, please be sure that people realize that no asset placed in a blind trust is considered blind, and thus continues to pose conflicts of interest, until the asset has been sold off and the government official receives a letter (approved in advance by OGE) indicating that an asset has been sold down to \$1,000 or less.

I will be taking to Don McGahn as soon as I can pin him down to a time for a call, which is proving to be difficult. However, I don't have confirmation from anyone on the transition team or from OMB that he is serving in any official capacity. It would help to have confirmation that he is authorized to speak for the transition.

As you know, our goal is to help you by preventing problems before they arise. I will consider OGE successful if we get the new administration off to a great start, wholly free of conflicts of interest.

Walt



Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Walter M. Shaub  
**Sent:** Thursday, November 17, 2016 2:52 PM  
**To:** Sean Doocey  
**Subject:** semi time-sensitive issue

---

Sean,

Is there a phone number where I can call you for a quick phone call today. A somewhat time sensitive issue has arisen.

Walt

Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: walter.shaub@oge.gov

**From:** [Walter M. Shaub](#)  
**To:** [Sean E. Doocey](#)  
**Cc:** [Shelley K. Finlayson](#)  
**Subject:** Re: time-sensitive issue  
**Date:** Friday, November 18, 2016 9:49:14 AM

---

Re-sending with some potentially confusing typos corrected (below) in case you need to forward the message to anyone. (Sorry for that. It's hard to proof read on a blackberry.)

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Walter M. Shaub  
**Sent:** Friday, November 18, 2016 9:15 AM  
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**Cc:** Shelley K. Finlayson  
**Subject:** time-sensitive issue

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**Subject:** semi time-sensitive issue

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Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: walter.shaub@oge.gov

**From:** [David J. Apol](#)  
**To:** [Elizabeth D. Horton](#)  
**Subject:** FW: time-sensitive issue  
**Date:** Friday, December 02, 2016 10:53:53 AM

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**From:** Walter M. Shaub  
**Sent:** Friday, November 18, 2016 9:52 AM  
**To:** David J. Apol; Deborah J. Bortot; Heather A. Jones  
**Subject:** Fw: time-sensitive issue

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Walter M. Shaub <[wmschaub@oge.gov](mailto:wmschaub@oge.gov)>  
**Sent:** Friday, November 18, 2016 9:49 AM  
**To:** Sean E. Doocey  
**Cc:** Shelley K. Finlayson  
**Subject:** Re: time-sensitive issue

Re-sending with some potentially confusing typos corrected (below) in case you need to forward the message to anyone. (Sorry for that. It's hard to proof read on a blackberry.)

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**Cc:** Shelley K. Finlayson  
**Subject:** time-sensitive issue

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**From:** Walter M. Shaub  
**Sent:** Thursday, November 17, 2016 2:52 PM  
**To:** Sean Doocey  
**Subject:** semi time-sensitive issue

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Is there a phone number where I can call you for a quick phone call today. A somewhat time sensitive issue has arisen.

Walt

Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

**From:** [Walter M. Shaub](#)  
**To:** (b) (6) Don McGahn  
**Subject:** press inquiries  
**Date:** Wednesday, November 30, 2016 1:13:47 PM

---

We started receiving dozens of press calls as soon as the President-elect announced his plan to divest his assets. Here's the response our spokesperson is sending out to them:

Like everyone else, we were excited this morning to read the President-elect's twitter feed indicating that he wants to be free of conflicts of interest. OGE applauds that goal, which is consistent with an opinion OGE issued in 1983. Divestiture resolves conflicts of interest in a way that transferring control does not. We don't know the details of their plan, but we are willing and eager to help them with it.

Walt

Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

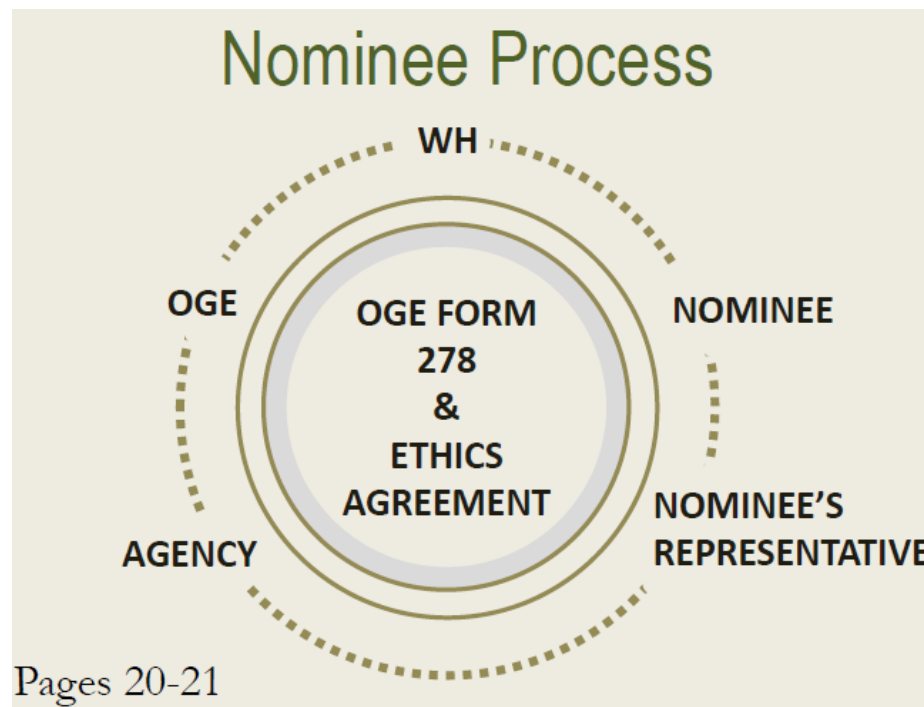
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**From:** Walter M. Shaub  
**Sent:** Wednesday, November 30, 2016 10:14 AM  
**To:** (b) (6) Don McGahn  
**Subject:** Can we talk today?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

## INFORMAL DISCUSSION POINTS (11/21/16)

- nominee process
  - financial disclosure report
    - collection by WH (transition team)
    - release to OGE/agency
    - multiple rounds of revision and information collection, conflicts analysis, ethics agreement (9-year average = ~40 days)



- preclearance
- review by WH (transition team)
- national security form
  - initiation by WH (transition team) through OPM's e-QIP
  - processed by OPM
  - FBI background investigation
  - FBI report drafted & issued
  - review by WH (transition team)
- public records search by WH (transition team)
- review of tax filings by WH (transition team)

- supplemental information collected by WH (transition team)
- Senate questionnaire collection, review, editing in consultation with agency and WH (transition team)
- reconciling inconsistent information in different forms
- interview of nominee by WH (transition team) vetting attorney
- meeting by WH (transition team) personnel office and counsel to formulate recommendation to President (President-elect)
- decision by President (President-elect)
- WH (transition team) communications team recommends best approach to announcing intent to nominate
- WH (transition team) legislative team prepares nominee
- Senate typically holds some cabinet hearings before January 20
- process in detail (pages 20-21)
- received v. preclear chart (pp. 24-25)
- critical milestones (pp. 22-23)
- blind reviews (page 13)
- *blind review v. OGE-only review v. risk management consultation*
- working with nominees (pp. 26-27)
  - nominee responsiveness is the primary driver of speed/delay
  - to speed up process:
    - deliver hard copy of Nominee Ethics Guide
    - communicate that it will be a lengthy process (multiple rounds) and that prompt responses are critical
    - communicate that they (and their spouses) may need to make changes to finances
- assignee
- *assignee v. detailee*
- additional expertise: in-house or outside counsel



- transition team personnel are running an instance of *Integrity* (page 29)

The screenshot shows the Integrity.gov website. On the left is the login page with the text "INTEGRITY Play your part." and a "Login to Integrity (using MAX.gov)" button. On the right is a diagram titled "Initiating Reports in Integrity" showing a flow from PPO to WHCO, and from Agency to OGE, with numbered steps 1 through 5. Below the diagram is the text "Page 35".

You indicated that you hold (or held) stock options. Answer the questions below regarding the stock options.

**VALUE**

Are you able to provide a value of these stock options?

Yes

No, a value is not readily ascertainable

**DESCRIPTION IN LIEU OF A VALUE**

You have indicated that a value is not readily ascertainable. In lieu of providing a value, provide the following information: (1) the number of shares of the stock for which the option was issued; (2) the strike price (e.g., "\$16.53/share"); (3) the expiration date; (4) an indication as to whether the options are vested or unvested; and (5) the date on which the options will vest (if the options are unvested).

1,000 unvested shares, \$11.75, exp. 2/1/27, vest 2/1/17  
 1,000 vested shares, \$11.50, exp. 2/1/26

Characters Left: 403

**INCOME**

Provide the amount of income produced by these options during the reporting period. ?

Note: We do not treat the receipt of stock options as income, even when taxable as ordinary income. For this reason, most filers select the "none or less than \$201" category.

Please Select

- Please Select
- None (or less than \$201)
- \$201 - \$1,000
- \$1,001 - \$2,500
- \$2,501 - \$5,000
- \$5,001 - \$15,000
- \$15,001 - \$50,000
- \$50,001 - \$100,000
- \$100,001 - \$1,000,000
- \$1,000,001 - \$5,000,000
- Over \$5,000,000

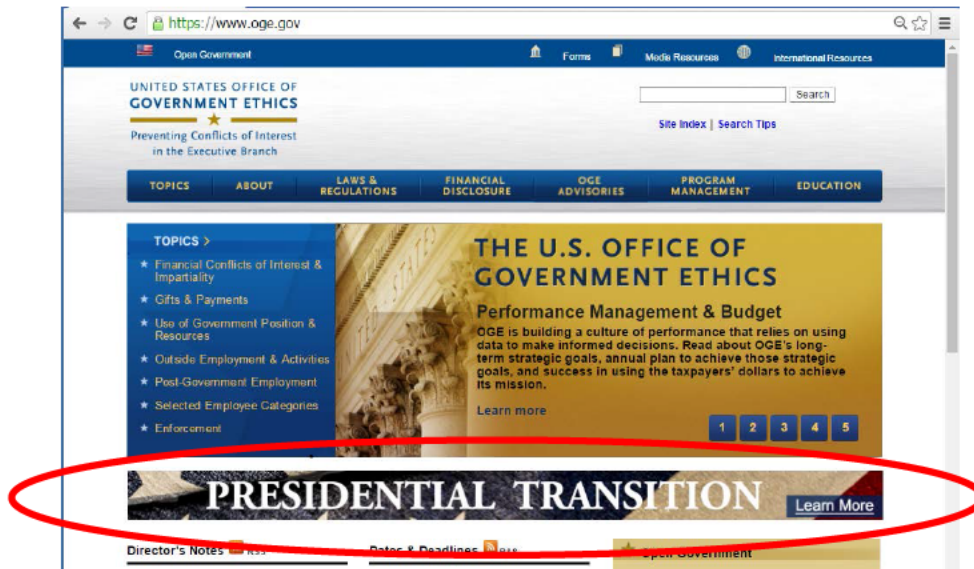
**ARRANGEMENT DESCRIPTION**

Describe what will happen to your stock options.

Please enter your Answer

- setting up lines of communication
- typical show stoppers for nominees (Nominee Appendix checklists)

- OGE resources:



## OGE TRANSITION MATERIALS

### OGE's Role in the Presidential Transition

The law requires OGE to review the financial disclosure reports of most Presidential nominees for civilian positions requiring Senate confirmation. OGE reviews these reports for potential conflicts of interest and for compliance with disclosure requirements. OGE's efforts to resolve potential conflicts help ensure that nominees will be able to perform the duties of their positions.

### OGE's Guide for the Presidential Transition Team

The work of a Presidential transition is a monumental undertaking. OGE developed this Guide as a resource for the Presidential Transition Team to prepare for the upcoming transition so that top leadership positions can be filled quickly and free from conflicts of interest. This guide explains the nominee ethics process, provides strategies for establishing a strong ethical culture in the new Presidential administration, and includes useful reference materials.

### OGE's Guide for Nominees

OGE developed this Guide as a resource for potential Presidentially-appointed, Senate-confirmed (PAS) nominees during the upcoming transition. The Guide contains helpful guidance for incoming PAS nominees including an introduction to the nominee process, guidance on financial disclosure, and an overview of key ethics rules and regulations.

### OGE's Appendix to the Guide for Nominees

The Appendix to the Guide for Nominees contains detailed reference content, such as financial disclosure checklists, criteria for identifying excepted investment funds, and information on ongoing financial disclosure obligations.

### (Unofficial) Excel workbook listing positions for which OGE reviews nominees

The official source for identifying political positions in the executive branch is the publication titled, "United States Government Policy and Supporting Positions." This publication, commonly known as the Plum Book, is published alternately by the Senate and the House committees after each Presidential election. However, the Presidential Transition Team will need to begin identifying possible nominees well before the election. To assist in this process, OGE has compiled an unofficial Excel workbook listing the civilian Presidentially appointed, Senate-confirmed positions traditionally subject to OGE's review in the nomination process.

### Ways OGE Can Help in the Presidential Transition (1-page graphic)

OGE is ready to assist the Presidential Transition Team in navigating the transition and laying the groundwork for a strong ethical culture in the new administration. OGE is also ready to assist in establishing a strong White House ethics program.

### OGE's Public Financial Disclosure Guide

The Public Financial Disclosure Guide is an interactive tool to assist individuals who file or review public financial disclosure reports (OGE Form 278e or OGE Form 278-T). The Guide offers helpful instructions, illustrations of sample language, definitions of terms, and plain language answers to frequently asked questions.

### OGE's Nominee Ethics Agreement Guide

The ethics agreement outlines specific steps a nominee will take to avoid conflicts of interest. OGE's staff and agency ethics officials draft each ethics agreement using standardized language from this Guide that will be modified as needed to tailor the agreement to the nominee's unique circumstances.

### Nominee Public Financial Disclosure Review Checklists

OGE developed this collection of public financial disclosure checklists for incoming Presidential nominees who file public financial disclosure reports, as well as for agency reviewers. The collection includes a general checklist applicable to all nominees and supplemental checklists that target incoming attorneys; corporate officers, employees, and directors; university professors and deans; and investment fund managers.

### OGE's Electronic Public Financial Disclosure Filing System, *Integrity*

Presidential nominees in the executive branch file public financial disclosure reports through Integrity, the executive branch electronic financial disclosure system. The online user manual for Integrity provides useful explanations of the system's features. A user name and password is required to access both Integrity and its user manual.

### Presidential Appointee & Nominee Records

Follow this link for access to public financial disclosure reports and ethics agreements, executive branch agency Ethics Pledge waivers, and the annual report on Executive Order 13490 (Ethics Pledge).

### The theme of OGE's 2016 National Government Ethics Summit: Presidential Transition

The National Government Ethics Summit held this spring kicked off OGE's efforts to ensure that the more than 4,500 ethics officials throughout the executive branch are prepared to help facilitate a smooth transition between Presidential administrations. Follow this link and the links below for more information on OGE's 2016 National Government Ethics Summit and other Presidential Transition readiness efforts.

- Materials from the 2016 National Government Ethics Summit on the Presidential Transition (March 8-10, 2016)
- Agenda for the full-day Symposium on Nominee Financial Disclosure in a Presidential Transition (March 7, 2016)
- Video: Replay of selected session from the 2016 National Government Ethics Summit
- OGE and Agency Ethics Officials Train for Post-Election Readiness
- Video: Transition Readiness Series

### OGE Form 278 (Public Financial Disclosure Report) and OGE Form 450 (Confidential Financial Disclosure Report)

Follow this link for access to OGE's financial disclosure forms and instructions for downloading the forms.

### OGE Senior Leadership

Follow this link to learn more about OGE's Senior Leadership.

### OGE Staff Contact Information

Follow this link for an OGE staff listing and contact information.

- Partnership for Public Service – Center for Presidential Transition

The screenshot shows the website for the Partnership for Public Service - Center for Presidential Transition. The page title is 'Incoming Administration: Appointments'. The main content area features an 'Overview' section with the text: 'The goal of a presidential transition team is not only to help the president-elect prepare to take office, but to fill roughly 4,000 politically appointed positions, including more than 1,000 jobs requiring Senate confirmation. Identifying, selecting and securing Senate confirmation of presidential appointees requires a thorough understanding of the number and types of presidential appointments that will need to be made, the skills that are needed in various positions, the importance of diversity among appointees and how the leadership team that is chosen will drive the new administration's agenda for the next four years.' Below this is a 'Transition Guide' section with a 'Download PDF' button. The sidebar on the left contains 'Transition Workstreams' (Agency Review, Appointments, Operations, Policy) and 'Outgoing Administration' (Federal Agencies). The top navigation menu includes 'READY TO GOVERN', 'RESOURCES', 'BLOG', 'ABOUT', and 'DON'.

- o **Max Stier, President and CEO**

(b)(6)

- recommendation

## QUALIFIED BLIND & DIVERSIFIED TRUSTS (a few key points)

### *Applicable to qualified blind trusts only*

- Trustee prepares and files the trust's taxes, including the taxes of any businesses in the trust (and Settlor does not receive information other than the limited information contained in the annual statement)
- Any initial asset placed in the trust is not "blind" and continues to pose conflicts of interest until it is sold down to a value of \$1,000 or less
- After obtaining OGE's approval of the written communication, Trustee will send Settlor written notice that the asset has been sold down to a value of \$1,000 or less (note: this notice is publicly available)

### *Applicable to qualified diversified trusts only*

- Only readily marketable assets can be placed in a diversified trust (i.e., cannot place closely held businesses in the trust)
- Trustee prepares and files not only the trust's taxes but also the Settlor's personal income taxes
- With respect to initial assets placed in the trust, no more than 5% can be in any asset and no more than 20% can be in any sector
- Assets placed in the trust immediately cease to pose conflicts
- Cannot place any asset in trust that poses a significant conflict

### *Applicable to both:*

- OGE must oversee establishment of trust from start to finish (no prior communications with prospective trustees)
- Must use OGE's model trust documents
- Trustee must be an institution and fully independent (cannot be a relative)
- A relative cannot be employed by the trust (i.e., in any businesses owned by the trust)
- Trustee must provide OGE with a relationship letter describing any relationships the trustee (including its officers, directors and principals) has with the interested parties
- Settlor must relinquish all control of assets
- Settlor must publicly disclose all assets placed in the trust

- Trustee must be provided with all information regarding businesses, including liabilities, assets and agreements
- Title must be transferred to Trustee
- Trust assets cannot be encumbered
- Liabilities, agreements, arrangements and all other entanglements with the Settlor and all interested parties must be transferred to the trustee
- There can be no restrictions as to actions the trust can take with regard to assets or liabilities (e.g., sale, liquidation, operation, destruction, settlement of lawsuits, etc.)
- Settlor cannot provide instructions, or even communicate specific preferences, as to the nature of the assets to acquire, retain, etc.
- All communications from the Settlor (and Settlor's representatives) to the trustee must be in writing
- All communications from the Trustee to the Settlor (and Settlor's representatives) must be in writing
- OGE must approve all written communications before they are transmitted
- OGE must receive another copy of the written communications after they are transmitted
- Trustee and agents of the trustee may not communicate any information about holdings, trades, etc.
- A quarterly statement is provided, but the only information in the statement is the total value of the trust
- An annual statement is provided with general tax information, but it cannot include any tax information that would reveal the nature of the assets
- When the trust is eventually dissolved (even if after the Settlor leaves government service) the holdings of the trust must be publicly disclosed
- OGE typically receives (and fulfills) requests from the public for all trust documents

**From:** [Sholk, Steven H.](#)  
**To:** [Shelley K. Finlayson](#)  
**Cc:** "Sean Doocey"  
**Subject:** [GRAYMAIL] RE: Thanks  
**Date:** Tuesday, September 06, 2016 3:15:49 PM

---

Thank you.

Steven H. Sholk, Esq.  
Director  
Gibbons P.C.

(b) (6)

[www.gibbonslaw.com](http://www.gibbonslaw.com) (Website)



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**From:** Shelley K. Finlayson [mailto:skfinlay@oge.gov]  
**Sent:** Tuesday, September 06, 2016 3:05 PM  
**To:** Sholk, Steven H.  
**Cc:** 'Sean Doocey'  
**Subject:** FW: Thanks

Good afternoon, Mr. Sholk –

In response to your voicemail message today, please find attached the fund manager letter that you requested. Please do not hesitate to contact me should you require any additional information or materials.

Regards,

Shelley Finlayson

Shelley K. Finlayson

Chief of Staff and Program Counsel

U.S. Office of Government Ethics

1201 New York Avenue NW, Suite 500

Washington, DC 20005

(202) 482-9314

[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)

Follow OGE on Twitter: @OfficeGovEthics

**From:** Shelley K. Finlayson

**Sent:** Thursday, September 01, 2016 4:57 PM

**To:** 'Sean Doocey'

**Subject:** RE: Thanks

Mr. Doocey,

Thank you for taking the time to attend the briefing here at OGE earlier this week. Attached please find the list of potential ethics detailees that we discussed and, per your team's request, a sample fund manager letter. Also, below is a link to the webpage on OGE's website that contains numerous resources, including all of the materials that we provided to you at the briefing.

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

We stand ready to provide your team training on *Integrity*, OGE's electronic public financial disclosure filing system. Please let me know what dates would be most convenient.

I look forward to hearing from you.

Regards,

Shelley Finlayson

Shelley K. Finlayson

Chief of Staff and Program Counsel

U.S. Office of Government Ethics

1201 New York Avenue NW, Suite 500

Washington, DC 20005

(202) 482-9314

[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)

Follow OGE on Twitter: @OfficeGovEthics

**From:** Sean Doocey [<mailto:><sup>(b)(6)</sup> ]

**Sent:** Wednesday, August 31, 2016 2:48 PM

**To:** Shelley K. Finlayson

**Subject:** Thanks

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean



Sean Doocey

(b)(6)

(b) (6)

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**HYPOTHETICAL 1: Filer but not filer's spouse is invested in the fund.**

[PRINTED ON LABEDZ AB STRATEGIES, LLC LETTERHEAD]

February 28, 2017

Joseph L. Bitler  
123 Wide Street  
Townville, VA 22345

Dear Mr. Bitler:

I am writing on behalf of Labeledz AB Strategies, LLC, which is the fund manager of Newton Distressed Opportunities IV, LP. As requested, this letter confirms that you do not control or direct the investments of Newton Distressed Opportunities IV, LP. This letter also confirms that the holdings of Newton Distressed Opportunities IV, LP are not disclosed to investors.

Sincerely,

John Doe  
[Title]

**HYPOTHETICAL 2: Filer's spouse but not the filer is invested in the fund.**

(Use the sample in Hypothetical 1, but address the letter to the spouse.)

**HYPOTHETICAL 3: Filer and filer's spouse are invested in the fund.**

[PRINTED ON LABEDZ AB STRATEGIES, LLC LETTERHEAD]

February 28, 2017

Joseph L. Bitler  
123 Wide Street  
Townville, VA 22345

Dear Mr. Bitler:

I am writing on behalf of Labeledz AB Strategies, LLC, which is the fund manager of Newton Distressed Opportunities IV, LP. As requested, this letter confirms that you do not, and your spouse does not, control or direct the investments of Newton Distressed Opportunities IV, LP. This letter also confirms that the holdings of Newton Distressed Opportunities IV, LP are not disclosed to investors.

Sincerely,

John Doe  
[Title]

**From:** [Shelley K. Finlayson](#)  
**To:** (b) (6)  
**Cc:** "[Sean Doocey](#)"  
**Subject:** FW: Thanks  
**Date:** Tuesday, September 06, 2016 3:05:25 PM  
**Attachments:** [fund\\_manager\\_letter.pdf](#)  
[list.pdf](#)

---

Good afternoon, Mr. Sholk –

In response to your voicemail message today, please find attached the fund manager letter that you requested. Please do not hesitate to contact me should you require any additional information or materials.

Regards,  
Shelley Finlayson

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)  
Follow OGE on Twitter: @OfficeGovEthics

---

**From:** Shelley K. Finlayson  
**Sent:** Thursday, September 01, 2016 4:57 PM  
**To:** 'Sean Doocey'  
**Subject:** RE: Thanks

Mr. Doocey,

Thank you for taking the time to attend the briefing here at OGE earlier this week. Attached please find the list of potential ethics detailees that we discussed and, per your team's request, a sample fund manager letter. Also, below is a link to the webpage on OGE's website that contains numerous resources, including all of the materials that we provided to you at the briefing.

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

We stand ready to provide your team training on *Integrity*, OGE's electronic public financial disclosure filing system. Please let me know what dates would be most convenient.

I look forward to hearing from you.

Regards,  
Shelley Finlayson

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)  
Follow OGE on Twitter: @OfficeGovEthics

**From:** Sean Doocey (b)(6)  
**Sent:** Wednesday, August 31, 2016 2:48 PM  
**To:** Shelley K. Finlayson  
**Subject:** Thanks

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

## Special Agency Request

### Notice Options

Notice Name	Purpose of Notice	Y/N	Notice Text
INTEGRITY NOTIFICATIONS/USER PROVISIONING NOTIFICATION	If PTT creates a new user account for a reviewer, Integrity will send that individual a notice.	Y	<p>You have been granted access rights to Integrity, which is a system created by the U.S. Office of Government Ethics for electronically filing and reviewing public financial disclosure reports.</p> <p>Logging into Integrity requires an account with MAX.gov.</p> <p>- If you are currently a MAX.gov user, you can access Integrity by going to <a href="http://www.integrity.gov">www.integrity.gov</a>. Enter your existing MAX ID and password.</p> <p>- If you are not a current MAX.gov user, please use the following link to set up your password:</p> <p>[[passwordResetUrl]]</p> <p>After setting up your password, you can access Integrity by going to <a href="http://www.integrity.gov">www.integrity.gov</a>.</p>
INTEGRITY NOTIFICATIONS/CLOAKED USER PROVISIONING NOTIFICATION	If PTT creates a new user account for a Nominee filer, Integrity will send that individual a notice. (A new user account is not needed if the Nominee already uses Integrity. In such a case, the Nominee completes the report using his or her existing account. No provisioning notice is necessary.)	Y	<p>Dear [[name]],</p> <p>The Presidential Transition Team (PTT) has registered you in Integrity, which is the electronic filing system that you will use to file your public financial disclosure report.</p> <p>Before you can use Integrity, you will need to create a password. This email provides you with instructions for creating your password. It is very important that you create your password right away.</p> <p>In the near future, you will receive another email from this address. That email will advise you that PTT has set up a blank financial disclosure report form for you to complete. Once you receive that email, it will be very important that you begin working on your financial disclosure report as soon as possible, in order to avoid delaying your nomination.</p> <p>Please contact PTT if you have any questions.</p> <p>INSTRUCTIONS:</p> <p>1. USER ID: To ensure the security of the nominations process, your identity will be "cloaked" in Integrity in order to limit the number of individuals who know that you are an Integrity user. To achieve this cloaking, you have been assigned a User ID that is not your real name. Your unique User ID is listed immediately below. You must use this User ID each time you log into Integrity.</p> <p>User ID: [[cloakedId]]</p> <p>2. PASSWORD: To set up your password, click on the link immediately below, which will take you to Integrity's password reset page:</p>

FILER NOTIFICATIONS/REPORT ASSIGNMENT	If PTT assigns a Nominee report to a filer, Integrity will send that individual a notice.	Y	<p>Dear [[name]],</p> <p>You have been assigned a public financial disclosure report (OGE Form 278e) to complete in Integrity, which is the electronic filing system that nominees use to file public financial disclosure reports. To log into Integrity, type "integrity.gov" into your web browser or click on the link immediately below.</p> <p><a href="https://integrity.gov">https://integrity.gov</a></p> <p>***IMPORTANT*** In order to log into Integrity, you will need a User ID and password. If you are new to Integrity, you should have recently received an email providing you with a username. That email included instructions for creating a password. If you have not followed those instructions and created a password, you will not be able to log into Integrity. In that case, you should review that earlier email, follow the instructions, and create an email before trying to log into Integrity. If you are already an Integrity filer, you may use your existing User ID and password.</p>
FILER NOTIFICATIONS/FILING REMINDERS ASSIGNMENT	A reminder notice will be sent to the filer every 7 or 14 days.	N	<p>Dear [[name]],</p> <p>A public financial disclosure report (OGE Form 278e) is pending your action in Integrity, which is the electronic filing system that nominees use to file public financial disclosure reports. You may access the report by logging into Integrity at <a href="https://integrity.gov">https://integrity.gov</a>.</p>
REVIEWER NOTIFICATIONS/REPORTING PENDING ACTION NOTIFICATION	A notice will be sent to a reviewer when he or she receives an assignment. By default, all incoming Nominee reports are initially assigned to the Primary Reviewer.	Y	<p>A [[year]] [[item]] report for [[name]] is pending your action as [[role]] in Integrity. You may access the report by logging into Integrity at <a href="https://integrity.gov">https://integrity.gov</a>.</p>

**From:** [Shelley K. Finlayson](#)  
**To:** "[Sean Doocey](#)"; [Tim Petty](#); "[Emily Mallon](#)"  
**Subject:** Integrity orientation follow up  
**Date:** Thursday, September 29, 2016 5:35:51 PM  
**Attachments:** [Integrity Resources Binder Tab 8.docx](#)  
[Integrity Binder Tab 9.xlsx](#)

---

Good afternoon –

Thank you again for taking the time to attend an orientation on OGE’s public financial disclosure filing system, *Integrity*. As promised, please find attached the training resources (Tab 8 in your binder) with live links to training videos and the document containing system notice language (Tab 9 in your binder). As a reminder, you must customize the notice language and provide it to OGE before we can set you up on the live site.

As we mentioned at the orientation, if you have additional staff that you would like added for either PPO or White House Counsel roles, please provide their names, emails, contact information and what role they should be assigned.

We would be happy to schedule a time to come assist you in person with setting up your groups, adding users and sitting side-by-side while you use the system, and are always available to answer any questions you may have.

Please don’t hesitate to contact me or anyone on the *Integrity* team. We look forward to continuing to work with you.

Regards,  
Shelley

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)  
Follow OGE on Twitter: @OfficeGovEthics

Almost all of the *Integrity* information a campaign will need is in this binder: PPO actions, WHCO actions, information for nominees.

OGE prepared several brief video tutorials on select actions. A link to the video is shown after the video title below.

**PPO:**

- PPO 1 - Register a Nominee, <https://youtu.be/P2DVtTfwJKo>
- PPO 2 - Assign a Nominee Report, <https://youtu.be/u51gOkIRQYw>
- PPO 3 - Release Draft to WHCO, [https://youtu.be/JV\\_0rYYIQLY](https://youtu.be/JV_0rYYIQLY)

**WHCO:**

- WHCO Release Report to OGE and Agency, <https://youtu.be/JdT-vOKTDOE>

**Links to online resources related to the transition:**

OGE's Presidential Transition page:

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

OGE's *Nominee Ethics Guide*:

[https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/\\$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf](https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf)

OGE's online repository of general *Integrity* information: <https://community.max.gov/x/vQApLg> (requires login).

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**ABOUT INTEGRITY**

Home For Filers For Reviewers For Administrators Integrity User Guide Dates and Deadlines Help Desk Open Houses

**Learn About *Integrity***

*Integrity* provides a secure, web-based system through which individuals may file executive branch public financial disclosure reports. Data entry grids and context-dependent questions help Filers to report their financial interests correctly. *Integrity* also makes it easy for ethics officials to assign, review, and manage the reports electronically.

OGE has developed a set of resources to help familiarize you with *Integrity*. These include the *Integrity* User Guide and the "*Integrity* Overview" video below, as well as resources geared toward filers, reviewers, and administrators. We encourage you to share these resources at your agency as appropriate.

*Integrity* Reviewers and Administrators are encouraged to join the "OGE About *Integrity*" collaboration group by contacting your OGE Desk Officer. After you join, a link to "About *Integrity*" will be displayed on your MAX.gov homepage under "My Collaboration Groups" for convenient access whenever you log in.

**Information for:**

- **Filers:** If your executive branch agency has instructed you to file a public financial disclosure report through *Integrity*, click here to learn more.
- **Reviewers:** If you will review public financial disclosure reports through *Integrity*, click here to learn more.
- **Administrators:** If you have been designated as your agency's Administrator for *Integrity*, click here to learn more.

**General Resources**

- **Integrity User Guide:** To access the *Integrity* User Guide, click here.
- **Program Advisory PA 15-01:** To access PA 15-01: *Implementation of Integrity and New Public Financial Disclosure Report Form*, click here.
- **OGE Form 278/278e Compared:** To view charts mapping the old OGE Form 278 and new OGE Form 278e, click here.
- **Video: *Integrity* Overview:** To view a 14-minute video about *Integrity*'s features, please click below.

**INTEGRITY**.GOV  
Play your part.  
A conflicts-prevention instrument.

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Preventing Conflicts of Interest  
in the Executive Branch



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**WHCO:**

- WHCO Release Report to OGE and Agency, <https://youtu.be/JdT-vOKTDOE>

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OGE's *Nominee Ethics Guide*:

[https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/\\$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf](https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf)

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- **Reviewers:** If you will review public financial disclosure reports through *Integrity*, click here to learn more.
- **Administrators:** If you have been designated as your agency's Administrator for *Integrity*, click here to learn more.

**General Resources**

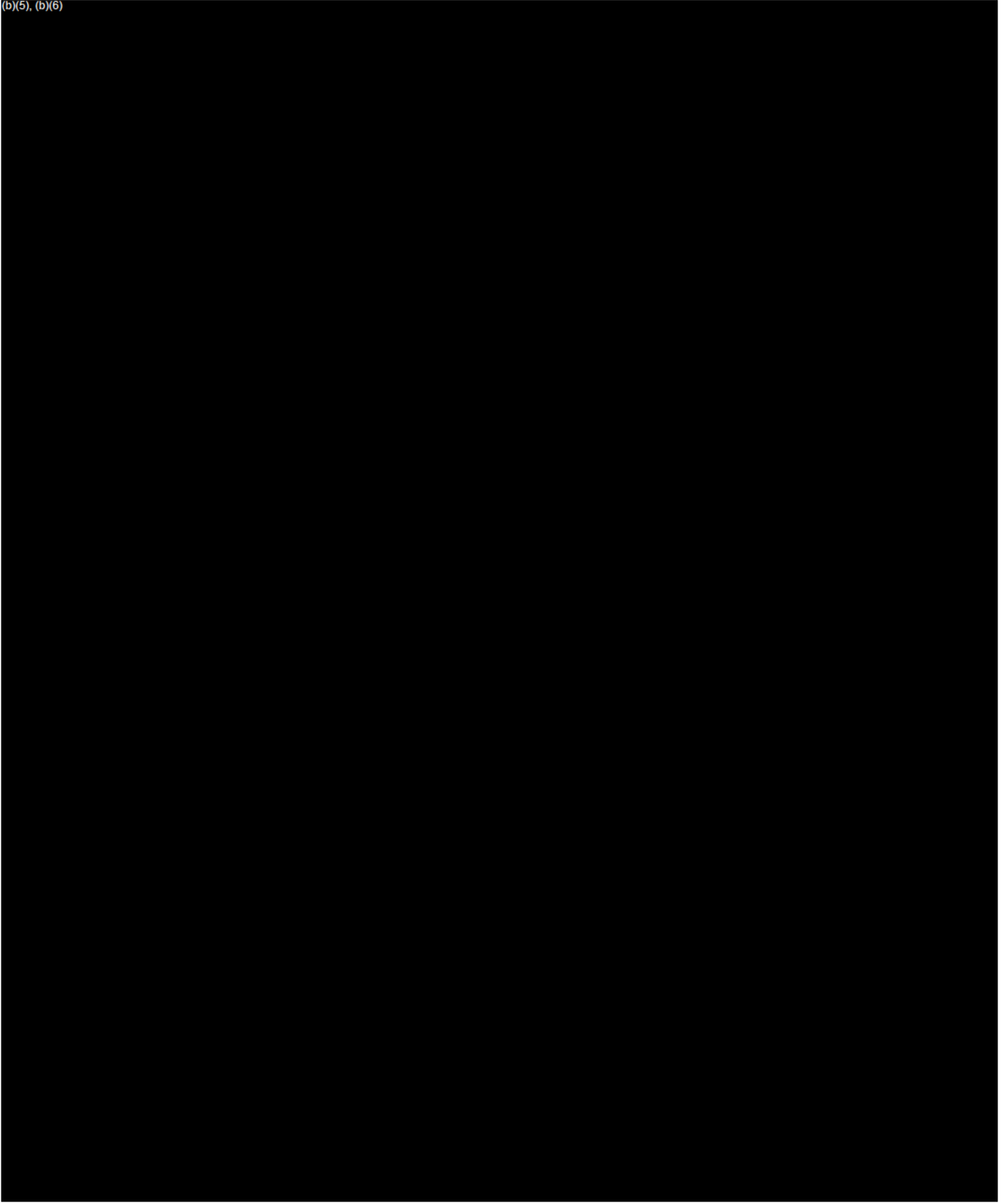
- **Integrity User Guide:** To access the *Integrity* User Guide, click here.
- **Program Advisory PA 15-01:** To access PA 15-01: *Implementation of Integrity and New Public Financial Disclosure Report Form*, click here.
- **OGE Form 278/278e Compared:** To view charts mapping the old OGE Form 278 and new OGE Form 278e, click here.
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GOVERNMENT ETHICS  
Preventing Conflicts of Interest  
in the Executive Branch

**Experienced Government Ethics Attorneys with Financial Disclosure Experience**

(b)(5), (b)(6)







**From:** [Shelley K. Finlayson](#)  
**To:** ["Sean Doocey"](#)  
**Subject:** OGE Integrity training  
**Date:** Tuesday, September 20, 2016 6:00:24 PM  
**Attachments:** [Nominee Agency Staff Information Request Form.xlsx](#)

---

Good afternoon, Sean –

I am writing to see if you have any additional questions regarding completing the requested information in anticipation of our training on Monday. Please don't hesitate to reach out if I can be of assistance.

Regards,  
Shelley

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
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**From:** [Shelley K. Finlayson](#)  
**To:** "Sean Doocey"  
**Subject:** RE: OGE Integrity training  
**Date:** Tuesday, September 20, 2016 6:09:38 PM

---

Great, thanks, Sean.

I am sorry about the drop down functionality problem.

Please indicate next to the last name, in parentheses, who you would like to have the counsel roles and the leave the role field blank for that individual.

Thanks,  
Shelley

**From:** Sean Doocey [mailto:(b)(6)]  
**Sent:** Tuesday, September 20, 2016 6:03 PM  
**To:** Shelley K. Finlayson  
**Subject:** Re: OGE Integrity training

Hi Shelley,

We're just finalizing who will attend and will send you the completed Excel sheet tomorrow AM. On the drop down options for role it doesn't seem to allow the counsel roles, so is it okay to leave blank?

Thanks for all of your help.

Sean

On Tuesday, September 20, 2016, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:

Good afternoon, Sean –

I am writing to see if you have any additional questions regarding completing the requested information in anticipation of our training on Monday. Please don't hesitate to reach out if I can be of assistance.

Regards,  
Shelley

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**From:** [Shelley K. Finlayson](#)  
**To:** "[Sean Doocey](#)"  
**Subject:** RE: OGE Integrity training  
**Date:** Wednesday, September 21, 2016 5:50:00 PM

---

Hi Sean –  
Thanks so much for the information.  
We look forward to seeing you all on Monday.  
Regards,  
Shelley

**From:** Sean Doocey [mailto:(b) (6)]  
**Sent:** Wednesday, September 21, 2016 5:01 PM  
**To:** Shelley K. Finlayson  
**Subject:** Re: OGE Integrity training

Hi Shelley,

Sorry for the delay. Excel sheet is attached. (b)(5)

Thanks, Sean

On Tue, Sep 20, 2016 at 6:00 PM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Good afternoon, Sean –  
I am writing to see if you have any additional questions regarding completing the requested information in anticipation of our training on Monday. Please don't hesitate to reach out if I can be of assistance.  
Regards,  
Shelley

Shelley K. Finlayson  
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intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this email or its contents is strictly prohibited. If you have received this email in error, please notify the sender by responding to the email and then immediately delete the email.

**From:** [Shelley K. Finlayson](#)  
**To:** "[Sean Doocey](#)"  
**Cc:** [Tim Petty](#)  
**Subject:** RE: Thanks  
**Date:** Tuesday, September 13, 2016 10:17:15 AM

---

Yes, the PTT roles are equivalent to PPO.

**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Tuesday, September 13, 2016 10:17 AM  
**To:** Shelley K. Finlayson  
**Cc:** Tim Petty  
**Subject:** Re: Thanks

Thank you.

Are the "PTT roles" on the spreadsheet equivalent to PPO?

Sean

On Tue, Sep 13, 2016 at 7:44 AM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Good morning, Sean –

I am happy to hear that we are on for the 26<sup>th</sup> at 1 here at OGE.

In anticipation of the training, I need to gather some basic information from you about those who will attend the training and serve in specific capacities with regard to administering the campaign's instance of our electronic filing system, *Integrity*. A spreadsheet with the explanation of the roles is attached for you to complete and return to me by the 21st. The spreadsheet has two tabs: Staff and Notices. Please review both tabs, but please complete only the Staff tab. We will discuss the Notice tab at the end of the orientation. OGE will need this information for the final setup on the live site for use with actual nominees.

With regard to the training, we will present a full orientation to the system. Specifically, we will demonstrate how to use *Integrity* to collect financial disclosure information from its prospective nominees and, when ready, share that information with OGE and the target agency for review and certification.

We will cover the following topics, in addition to addressing any questions that you may have:

- Create nominee group
- Add staff users
- Add nominees
- Assign nominee a report & notify nominee
- View draft report
- Release report to campaign Counsel agency
- Counsel agency add group, add staff users

- Release draft to OGE & target agency
- Check status of a released draft report
- Next steps - practice and live site setup

Thank you in advance for providing the requested information.

I look forward to seeing you on the 26<sup>th</sup> and continuing to work with you.

Regards,  
Shelley

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
[\(202\) 482-9314](tel:(202)482-9314)  
[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)  
Follow OGE on Twitter: @OfficeGovEthics

**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Thursday, September 08, 2016 2:01 PM  
**To:** Shelley K. Finlayson  
**Cc:** Tim Petty  
**Subject:** Re: Thanks

Shelley,

Thanks for your quick reply. Monday 26 September at 1pm works well for us.

Thanks, Sean

<sup>(b)(6)</sup>

(b) (6)

On Wed, Sep 7, 2016 at 9:54 AM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Good morning –

Yes, Monday the 26<sup>th</sup> at either 10 a.m. or 1 p.m. would work well for our team. The team is also available in the morning of the 27<sup>th</sup> if that is preferable. The orientation and basic training on the system should take just over 2 hours.

Once we have established a date and time that works for you, I will reach back out to collect some specific information about the attendees so that we may provide them access to the system for the session. We encourage you to have at least 4 individuals (2 primary and 2 backup) trained and designated to have ongoing access to the system based on the roles

necessary to process a nominee financial disclosure report.  
We look forward to continuing to work with you.  
Regards,  
Shelley

**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Tuesday, September 06, 2016 4:03 PM  
**To:** Shelley K. Finlayson; Tim Petty  
**Subject:** Re: Thanks

Hi Ms. Finlayson,

Would either Monday, Tuesday, or Wednesday of the week of 26 September work for your team for the Integrity training?

Thanks, Sean

On Thu, Sep 1, 2016 at 4:57 PM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Mr. Doocey,

Thank you for taking the time to attend the briefing here at OGE earlier this week. Attached please find the list of potential ethics detailees that we discussed and, per your team's request, a sample fund manager letter. Also, below is a link to the webpage on OGE's website that contains numerous resources, including all of the materials that we provided to you at the briefing.

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

We stand ready to provide your team training on *Integrity*, OGE's electronic public financial disclosure filing system. Please let me know what dates would be most convenient.

I look forward to hearing from you.  
Regards,  
Shelley Finlayson

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
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**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Wednesday, August 31, 2016 2:48 PM

**To:** Shelley K. Finlayson

**Subject:** Thanks

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

(D) (b)

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**From:** [Sean Doocey](#)  
**To:** [Shelley K. Finlayson](#); [Diana Veilleux](#); [George Hancock](#)  
**Cc:** [Emily Mallon](#); [Tim Petty](#)  
**Subject:** Thank you  
**Date:** Monday, September 26, 2016 3:01:44 PM

---

Shelley, George and Diana,

Thank you very much for the Integrity briefing. It was very informative and seems like a much improved process vs. the old paper forms!

We look forward to working with all of you and will be in touch with additional questions and the information George requested.

Sean

(b)(6)

(D) (b)

**From:** [Sean Doocey](#)  
**To:** [Shelley K. Finlayson](#)  
**Subject:** Thanks  
**Date:** Wednesday, August 31, 2016 2:48:00 PM

---

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes or dates that might have been present.



**From:** [Walter M. Shaub](#) Rich H. Bagger, Bill Hagerty, Tim J. Petty and Sean E. Doocey  
**To:** "Palatucci, William J."; (b) (6)  
(b) (6)  
**Cc:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)  
**Subject:** RE: checking in  
**Date:** Thursday, November 10, 2016 11:22:09 AM

---

Rich, Bill, Bill, Tim, and Sean,

Emory and I have a bunch of supplies we would love to deliver to you today if you're settled in enough to receive them. If you're too busy to talk, we won't stay. However, I think you would benefit from having these items:

- A supply of Nominee Ethics Guide books to hand out to prospective nominees who appear in person;
- A supply of Nominee Ethics Guide books in pre-stamped envelopes (which will be charged to OGE) to send via UPS to prospective nominees who will not be visiting the transition office;
- A supply of Transition Ethics Guide books to have enough to share with other members of the transition team;
- A supply of regulation books, which contain OGE's government-wide regulations;
- A supply of statutory books, which contain relevant government ethics statutes; and
- A supply of ethics agreement guide books, which will help you (or at least Emory) in counseling prospective nominees on what steps they may need to take to resolve conflicts of interest (e.g., divestiture, recusal, waiver, etc.).

Let me know if you think we could stop by today with them. (b) (6)

(b) (6) So, if today is not good, we could try to deliver them on Monday if that works better for you.

Walt

---

**From:** Palatucci, William J. [mailto:(b) (6)]  
**Sent:** Wednesday, November 09, 2016 9:08 AM  
**To:** Walter M. Shaub; (b) (6)  
(b) (6) Rich H. Bagger, Bill Hagerty, Tim J. Petty and Sean E. Doocey  
**Cc:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)  
**Subject:** [GRAYMAIL] RE: checking in

Thank you, Walter. I'll give you a call later this morning.

**William J. Palatucci, Esq.**

**Special Counsel**

**Gibbons P.C.**

(b) (6)

<http://www.gibbonslaw.com>

One Gateway Center, Newark, New Jersey 07102-5310

Direct phone: (b) (6) | Cell: (b) (6)

**Newark | New York | Trenton | Philadelphia | Wilmington**

**From:** Walter M. Shaub [<mailto:wmschaub@oge.gov>]

**Sent:** Wednesday, November 09, 2016 9:02 AM

Rich H. Bagger, Bill Hagerty, Tim J. Petty, and Sean E. Doocey

**To:** Palatucci, William J.; (b) (6)

(b) (6)

**Cc:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)

**Subject:** RE: checking in

Congratulations on the campaign's victory. For your convenience here are our contact numbers, so you'll have them all in one place. We're really looking forward to getting down to work on this Presidential transition –which we're going to make the best one in history! I'll have my blackberry with me around the clock during the transition, so that's probably the best number to call first. I remember getting calls at 10:00 p.m. on a Saturday night and on Christmas during the last transition. So please don't hesitate to call at any time. You can call any member of OGE's leadership team around the clock, too.

**Walt Shaub**

**Director**

**Blackberry:** (b) (6)

**Desk:** 202-482-9302

**Shelley Finlayson**

**Chief of Staff and Program Counsel**

**Blackberry:** (b) (6)

**Desk:** 202-482-9314

**Dave Apol**

**General Counsel**

**Blackberry:** (b) (6)

**Desk:** 202-482-9205

**Deb Bortot**

**Chief, Presidential nominations branch**

**Blackberry:** (b) (6)

**Desk:** 202-482-9227

**Heather Jones**

**Senior Counsel for Financial Disclosure**

**Blackberry:** (b) (6)

**Desk:** 202-482-9316

**From:** Palatucci, William J. [mailto:(b) (6)]

**Sent:** Tuesday, November 08, 2016 10:55 AM

**To:** Walter M. Shaub; (b) (6) (b) (6)

**Cc:** Shelley K. Finlayson

Rich H. Bagger, Bill Hagerty, Tim J. Petty, and Sean E. Doocey

**Subject:** [GRAYMAIL] Re: checking in

Thanks, Walter. I appreciate your time and guidance regardless of the outcome. Your responsiveness has been refreshing. Bill



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**From:** Walter M. Shaub

**Sent:** Tuesday, November 8, 2016 10:51 AM

**To:** (b) (6) Palatucci, William J.; (b) (6)  
(b) (6)

**Cc:** Shelley K. Finlayson

Rich H. Bagger, Bill Hagerty, Tim J. Petty and Sean E. Doocey

**Subject:** checking in

Rich, Bill, Bill, Tim, and Sean,

I hope OGE has served you well in the lead up to the election, but I just wanted to check in to make sure you have everything you need from us. If there's anything more we can do for you, please don't hesitate to let me know. If your candidate prevails today, I'm looking forward to working with you. If the outcome is different, it's been a pleasure working with you and your team. It's been really great to see your folks so focused on building capacity for a smooth and effective transition.

Walt

Walter M. Shaub, Jr.

Director

U.S. Office of Government Ethics

1201 New York Avenue, NW, Suite 500

Washington, DC 20005-3917

Telephone: 202.482.9292

Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

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**From:** [Walter M. Shaub](#)  
**To:** [Sean Doocey](#)  
**Cc:** [Shelley K. Finlayson](#)  
**Subject:** time-sensitive issue  
**Date:** Friday, November 18, 2016 9:15:10 AM

---

Sean,

I'm just dropping another quick note to remind you that OGE is here to help. We seem to have lost contact with the Trump-Pence transition since the election.

As we discussed prior to the election, announcing cabinet picks without taking OGE up on the offer to take an early look at financial disclosure picks poses the risk of embarrassment for the President-elect (and the individual candidate for nomination) in the event that the individual walks away from the nomination after learning what he or she will have to do with his or her financial interests. This is true even in the case of Senators, as Senators are not subject to conflicts of interest laws and may not fully appreciate how different life is in the executive branch. We would genuinely like to help you prevent that undesirable outcome.

As we also previously discussed, the same offer applies to possible White House appointees. The risk is even higher for them because OGE would not normally receive their financial disclosure reports until after they have been in office for weeks or even months. By that time, they run the risk of having inadvertently violated the criminal conflicts of interest restriction at 18 USC 208. If we don't get involved early to prevent problems, we won't be able to help them after the fact.

In addition, please remind people that, as we discussed, OGE needs to be involved before anyone seeks to set up a blind trust. Conversations with potential trustees before consulting to OGE could disqualify them. Also, please be sure that people realize that no asset placed in a blind trust is considered blind, and thus continues to pose conflicts of interest, until the asset has been sold off and the government official receives a letter (approved in advance by OGE) indicating that an asset has been sold down to \$1,000 or less.

I will be taking to Don McGahn as soon as I can pin him down to a time for a call, which is proving to be difficult. However, I don't have confirmation from anyone on the transition team or from OMB that he is serving in any official capacity. It would help to have confirmation that he is authorized to speak for the transition.

As you know, our goal is to help you by preventing problems before they arise. I will consider OGE successful if we get the new administration off to a great start, wholly free of conflicts of interest.

Walt

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Walter M. Shaub  
**Sent:** Thursday, November 17, 2016 2:52 PM  
**To:** Sean Doocey  
**Subject:** semi time-sensitive issue

---

Sean,

Is there a phone number where I can call you for a quick phone call today. A somewhat time sensitive issue has arisen.

Walt

Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: walter.shaub@oge.gov

**From:** [Walter M. Shaub](#)  
**To:** [Sean E. Doocey](#)  
**Cc:** [Shelley K. Finlayson](#)  
**Subject:** Re: time-sensitive issue  
**Date:** Friday, November 18, 2016 9:49:14 AM

---

Re-sending with some potentially confusing typos corrected (below) in case you need to forward the message to anyone. (Sorry for that. It's hard to proof read on a blackberry.)

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

---

**From:** Walter M. Shaub  
**Sent:** Friday, November 18, 2016 9:15 AM  
**To:** Sean Doocey  
**Cc:** Shelley K. Finlayson  
**Subject:** time-sensitive issue

---

Sean,

I'm just dropping another quick note to remind you that OGE is here to help. We seem to have lost contact with the Trump-Pence transition team since the election.

As we discussed prior to the election, announcing cabinet picks without taking OGE up on the offer to take an early look at their financial disclosure reports poses the risk of embarrassment for the President-elect (and the individual candidate for nomination) in the event that the individual walks away from the nomination after learning what he or she will have to do with his or her financial interests. This is true even in the case of Senators, as Senators are not subject to conflicts of interest laws and may not fully appreciate how different life is in the executive branch. We would genuinely like to help you prevent that undesirable outcome.

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or from OMB that he is serving in any official capacity. It would help to have confirmation that he is authorized to speak for the transition team.

As you know, our goal is to help you by preventing problems before they arise. I will consider OGE successful if we get the new administration off to a great start, wholly free of conflicts of interest.

Walt

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---

**From:** Walter M. Shaub  
**Sent:** Thursday, November 17, 2016 2:52 PM  
**To:** Sean Doocey  
**Subject:** semi time-sensitive issue

---

Sean,

Is there a phone number where I can call you for a quick phone call today. A somewhat time sensitive issue has arisen.

Walt

Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: walter.shaub@oge.gov



**From:** [Walter M. Shaub](#)  
**To:** (b) (6) Don McGahn  
**Subject:** press inquiries  
**Date:** Wednesday, November 30, 2016 1:13:47 PM

---

We started receiving dozens of press calls as soon as the President-elect announced his plan to divest his assets. Here's the response our spokesperson is sending out to them:

Like everyone else, we were excited this morning to read the President-elect's twitter feed indicating that he wants to be free of conflicts of interest. OGE applauds that goal, which is consistent with an opinion OGE issued in 1983. Divestiture resolves conflicts of interest in a way that transferring control does not. We don't know the details of their plan, but we are willing and eager to help them with it.

Walt

Walter M. Shaub, Jr.  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

Telephone: 202.482.9292  
Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

---

**From:** Walter M. Shaub  
**Sent:** Wednesday, November 30, 2016 10:14 AM  
**To:** (b) (6) Don McGahn  
**Subject:** Can we talk today?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

## Heather A. Jones

---

**From:** Ann M Donaldson (b) (6)  
**Sent:** Friday, May 13, 2016 2:44 PM  
**To:** Heather A. Jones; Deborah J. Bortot  
**Subject:** Language as discussed

Entries marked with \* are hereby incorporated into the 2015 report, *to amend that report*

Line entries to which this applies will have an \*.

For clarity, this will not apply to anything on Exhibit A, so there should be no issue with conflicting note calls.

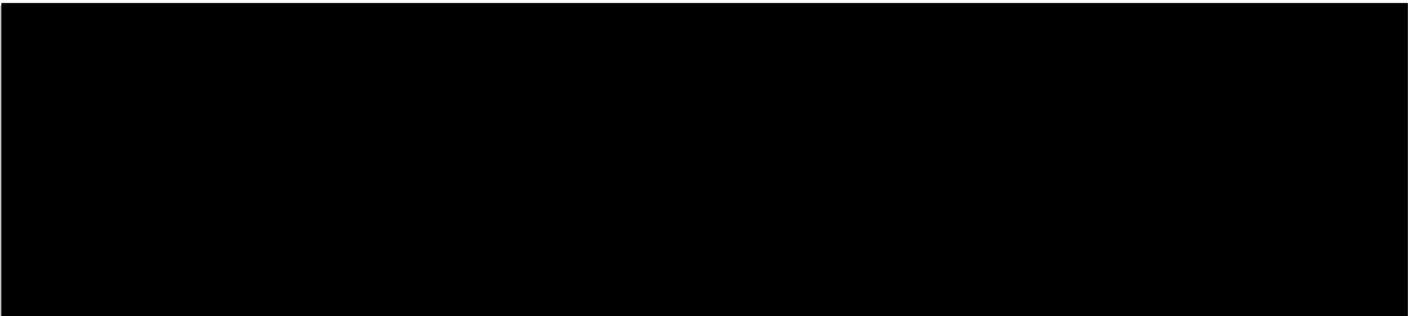
Ann M. Donaldson  
Associate  
JONES DAY® - One Firm Worldwide<sup>SM</sup>  
(b) (6)

=====

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=====

Not Responsive



**Deborah J. Bortot**

---

**From:** Ann M Donaldson (b) (6)  
**Sent:** Wednesday, June 01, 2016 11:49 AM  
**To:** Heather A. Jones; Deborah J. Bortot  
**Cc:** Donald F McGahn  
**Subject:** PFD Follow Up

Heather and Deb,  
Thanks for your patience on this. I have follow-up information from our previous phone call if you all are able to jump on the phone. I am pretty flexible until 4pm today or tomorrow until 2pm.  
Thanks,  
Annie

Ann M. Donaldson  
Associate  
JONES DAY® - One Firm Worldwide™

(b) (6)  
[Redacted]

=====  
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=====

**Deborah J. Bortot**

---

**From:** Ann M Donaldson (b) (6)  
**Sent:** Tuesday, June 07, 2016 12:53 PM  
**To:** Heather A. Jones  
**Cc:** Deborah J. Bortot  
**Subject:** RE: Follow-up Call

Please feel free to email or call. I'm tied up from 2:45 - 3:30 but otherwise flexible.  
Thanks,  
Annie

Ann M. Donaldson  
Associate  
JONES DAY® - One Firm Worldwide<sup>SM</sup>

(b) (6)

---

**From:** "Heather A. Jones" <hajones@oqe.gov>  
**To:** 'Ann M Donaldson' (b) (6) "Deborah J. Bortot" <djbortot@oqe.gov>  
**Date:** 06/07/2016 09:36 AM  
**Subject:** RE: Follow-up Call

---

We are tied up in meetings until 11 or so. Can I send you an e-mail when we free up?

**From:** Ann M Donaldson [mailto:(b) (6)]  
**Sent:** Monday, June 06, 2016 5:47 PM  
**To:** Heather A. Jones; Deborah J. Bortot  
**Subject:** Follow-up Call

Heather and Deb,  
Are you available tomorrow morning for a follow-up call?  
Thanks,  
Annie

Ann M. Donaldson  
Associate  
JONES DAY® - One Firm Worldwide<sup>SM</sup>

(b) (6)

=====  
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=====

**Deborah J. Bortot**

---

**From:** Ann M Donaldson (b) (6)  
**Sent:** Friday, May 20, 2016 12:52 PM  
**To:** Heather A. Jones; Deborah J. Bortot  
**Subject:** Call

Sorry I missed you all. I just wrapped up the call I was on when you tried me earlier. If you all want to give me a call back, I'm flexible until 4:00.

Thanks,  
Annie

Ann M. Donaldson  
Associate

JONES DAY® - One Firm Worldwide<sup>SM</sup>

(b) (6)

=====

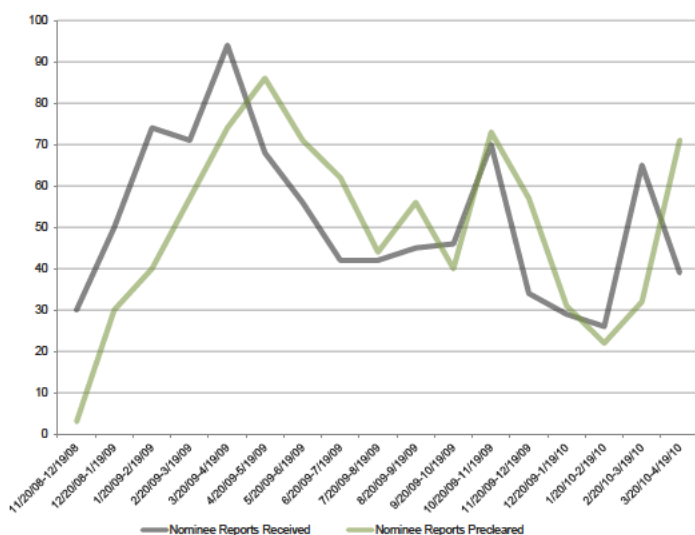
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=====

- Walter M. Shaub, Jr., Director, 202.482.9302, walter.shaub@oge.gov
- Shelley K. Finlayson, Chief of Staff, 202.482.9314 shelley.finlayson@oge.gov
- David J. Apol, General Counsel, 202.482.9205 david.apol@oge.gov
- Deborah J. Bortot, Chief, Presidential Nominations Branch, 202.482.9227, deborah.bortot@oge.gov

# WAYS OGE CAN HELP

- Briefings before and after the election
- Review of financial disclosure reports
- Consultations on prospective nominees
- “Blind” reviews of certain nominee reports
- Technical assistance with ethics initiatives
- Training and guidance on government ethics
- Training on *Integrity* (e-filing system)



## TIMELINE

**August**  
SCHEDULE AN OGE BRIEFING

**September**  
Receive training on *Integrity*

**October**  
Recruit ethics official

**November**  
Collect financial disclosure reports

**December**  
Increase volume of reports

## PROCESS

- Provide Nominee Ethics Guide to nominee
- Initiate financial disclosure report in *Integrity*
- Release report to OGE and the agency
- OGE/agency work on report with nominee (multiple rounds over several weeks)
- OGE and agency draft ethics agreement
- OGE “preclears” report
- Senate holds hearings before Inauguration

## ADDRESSING RISK FACTORS

### • Risk: Too little time

Send OGE as many reports as possible in November and early December

### • Risk: Slow responses from nominees

Emphasize the importance of responding promptly to questions about their reports

### • Risk: Nominees’ resistance to resolving conflicts of interest

Advise nominees early in the process that they and their spouses may be required to make changes to their financial interests

### • Risk: Confidentiality concerns shorten timeframe for reviewing certain reports

Request an initial “blind” review by OGE

### • Risk: Issues arising from the complexity of ethics rules and the nominee process

Detail an agency ethics official or hire an outside financial disclosure expert

**From:** [Shelley K. Finlayson](#)  
**To:** [Brandon A. Steele](#)  
**Subject:** FW: U.S. Office of Government Ethics  
**Date:** Wednesday, July 13, 2016 5:35:47 PM

---

Hi Brandon –

The email forwarded below is in response to Document Search OGE FOIA FY 16/063.

Thanks,  
Shelley

---

**From:** Shelley K. Finlayson  
**Sent:** Wednesday, July 06, 2016 6:52 PM  
**To:** (b) (6)  
**Subject:** U.S. Office of Government Ethics

Mr. Bagger –

Federal Transition Coordinator Timothy Horn indicated that you would like to have a discussion about the support that we at OGE will be able to provide to the campaign in the pre-election and post-election period. I am pleased to provide you information about how our agency provides support to the campaigns, transition teams, and new administration, in particular with regard to our role in ensuring that Presidentially-appointed, Senate-confirmed nominees are free of financial conflicts of interest. Please let me know your availability for a call or meeting.

Regards,  
Shelley Finlayson

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)  
Follow OGE on Twitter: @OfficeGovEthics

**From:** [Sholk, Steven H.](#)  
**To:** [Shelley K. Finlayson](#)  
**Cc:** "Sean Doocey"  
**Subject:** [GRAYMAIL] RE: Thanks  
**Date:** Tuesday, September 06, 2016 3:15:49 PM

---

Thank you.

Steven H. Sholk, Esq.  
Director  
Gibbons P.C.

(b) (6)

[www.gibbonslaw.com](http://www.gibbonslaw.com) (Website)



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**From:** Shelley K. Finlayson [mailto:skfinlay@oge.gov]  
**Sent:** Tuesday, September 06, 2016 3:05 PM  
**To:** Sholk, Steven H.  
**Cc:** 'Sean Doocey'  
**Subject:** FW: Thanks

Good afternoon, Mr. Sholk –

In response to your voicemail message today, please find attached the fund manager letter that you requested. Please do not hesitate to contact me should you require any additional information or materials.

Regards,

Shelley Finlayson



Shelley K. Finlayson

Chief of Staff and Program Counsel

U.S. Office of Government Ethics

1201 New York Avenue NW, Suite 500

Washington, DC 20005

(202) 482-9314

[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)

Follow OGE on Twitter: @OfficeGovEthics

**From:** Shelley K. Finlayson

**Sent:** Thursday, September 01, 2016 4:57 PM

**To:** 'Sean Doocey'

**Subject:** RE: Thanks

Mr. Doocey,

Thank you for taking the time to attend the briefing here at OGE earlier this week. Attached please find the list of potential ethics detailees that we discussed and, per your team's request, a sample fund manager letter. Also, below is a link to the webpage on OGE's website that contains numerous resources, including all of the materials that we provided to you at the briefing.

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

We stand ready to provide your team training on *Integrity*, OGE's electronic public financial disclosure filing system. Please let me know what dates would be most convenient.

I look forward to hearing from you.

Regards,

Shelley Finlayson

Shelley K. Finlayson

Chief of Staff and Program Counsel

U.S. Office of Government Ethics

1201 New York Avenue NW, Suite 500

Washington, DC 20005

(202) 482-9314

[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)

Follow OGE on Twitter: @OfficeGovEthics

**From:** Sean Doocey [<mailto:><sup>(b)(6)</sup> ]

**Sent:** Wednesday, August 31, 2016 2:48 PM

**To:** Shelley K. Finlayson

**Subject:** Thanks

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

(b) (6)

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**From:** [Shelley K. Finlayson](#)  
**To:** (b) (6)  
**Cc:** "[Sean Doocey](#)"  
**Subject:** FW: Thanks  
**Date:** Tuesday, September 06, 2016 3:05:25 PM  
**Attachments:** [fund\\_manager\\_letter.pdf](#)  
[list.pdf](#)

---

Good afternoon, Mr. Sholk –

In response to your voicemail message today, please find attached the fund manager letter that you requested. Please do not hesitate to contact me should you require any additional information or materials.

Regards,  
Shelley Finlayson

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
[skfinlay@oge.gov](mailto:skfinlay@oge.gov)

Visit OGE's website: [www.oge.gov](http://www.oge.gov)  
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---

**From:** Shelley K. Finlayson  
**Sent:** Thursday, September 01, 2016 4:57 PM  
**To:** 'Sean Doocey'  
**Subject:** RE: Thanks

Mr. Doocey,

Thank you for taking the time to attend the briefing here at OGE earlier this week. Attached please find the list of potential ethics detailees that we discussed and, per your team's request, a sample fund manager letter. Also, below is a link to the webpage on OGE's website that contains numerous resources, including all of the materials that we provided to you at the briefing.

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

We stand ready to provide your team training on *Integrity*, OGE's electronic public financial disclosure filing system. Please let me know what dates would be most convenient.

I look forward to hearing from you.

Regards,  
Shelley Finlayson

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
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Follow OGE on Twitter: @OfficeGovEthics

**From:** Sean Doocey (b)(6)  
**Sent:** Wednesday, August 31, 2016 2:48 PM  
**To:** Shelley K. Finlayson  
**Subject:** Thanks

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

## Special Agency Request

### Notice Options

Notice Name	Purpose of Notice	Y/N	Notice Text
INTEGRITY NOTIFICATIONS/USER PROVISIONING NOTIFICATION	If PTT creates a new user account for a reviewer, Integrity will send that individual a notice.	Y	<p>You have been granted access rights to Integrity, which is a system created by the U.S. Office of Government Ethics for electronically filing and reviewing public financial disclosure reports.</p> <p>Logging into Integrity requires an account with MAX.gov.</p> <p>- If you are currently a MAX.gov user, you can access Integrity by going to <a href="http://www.integrity.gov">www.integrity.gov</a>. Enter your existing MAX ID and password.</p> <p>- If you are not a current MAX.gov user, please use the following link to set up your password:</p> <p>[[passwordResetUrl]]</p> <p>After setting up your password, you can access Integrity by going to <a href="http://www.integrity.gov">www.integrity.gov</a>.</p>
INTEGRITY NOTIFICATIONS/CLOAKED USER PROVISIONING NOTIFICATION	If PTT creates a new user account for a Nominee filer, Integrity will send that individual a notice. (A new user account is not needed if the Nominee already uses Integrity. In such a case, the Nominee completes the report using his or her existing account. No provisioning notice is necessary.)	Y	<p>Dear [[name]],</p> <p>The Presidential Transition Team (PTT) has registered you in Integrity, which is the electronic filing system that you will use to file your public financial disclosure report.</p> <p>Before you can use Integrity, you will need to create a password. This email provides you with instructions for creating your password. It is very important that you create your password right away.</p> <p>In the near future, you will receive another email from this address. That email will advise you that PTT has set up a blank financial disclosure report form for you to complete. Once you receive that email, it will be very important that you begin working on your financial disclosure report as soon as possible, in order to avoid delaying your nomination.</p> <p>Please contact PTT if you have any questions.</p> <p>INSTRUCTIONS:</p> <p>1. USER ID: To ensure the security of the nominations process, your identity will be "cloaked" in Integrity in order to limit the number of individuals who know that you are an Integrity user. To achieve this cloaking, you have been assigned a User ID that is not your real name. Your unique User ID is listed immediately below. You must use this User ID each time you log into Integrity.</p> <p>User ID: [[cloakedId]]</p> <p>2. PASSWORD: To set up your password, click on the link immediately below, which will take you to Integrity's password reset page:</p>

FILER NOTIFICATIONS/REPORT ASSIGNMENT	If PTT assigns a Nominee report to a filer, Integrity will send that individual a notice.	Y	<p>Dear [[name]],</p> <p>You have been assigned a public financial disclosure report (OGE Form 278e) to complete in Integrity, which is the electronic filing system that nominees use to file public financial disclosure reports. To log into Integrity, type "integrity.gov" into your web browser or click on the link immediately below.</p> <p><a href="https://integrity.gov">https://integrity.gov</a></p> <p>***IMPORTANT*** In order to log into Integrity, you will need a User ID and password. If you are new to Integrity, you should have recently received an email providing you with a username. That email included instructions for creating a password. If you have not followed those instructions and created a password, you will not be able to log into Integrity. In that case, you should review that earlier email, follow the instructions, and create an email before trying to log into Integrity. If you are already an Integrity filer, you may use your existing User ID and password.</p>
FILER NOTIFICATIONS/FILING REMINDERS ASSIGNMENT	A reminder notice will be sent to the filer every 7 or 14 days.	N	<p>Dear [[name]],</p> <p>A public financial disclosure report (OGE Form 278e) is pending your action in Integrity, which is the electronic filing system that nominees use to file public financial disclosure reports. You may access the report by logging into Integrity at <a href="https://integrity.gov">https://integrity.gov</a>.</p>
REVIEWER NOTIFICATIONS/REPORTING PENDING ACTION NOTIFICATION	A notice will be sent to a reviewer when he or she receives an assignment. By default, all incoming Nominee reports are initially assigned to the Primary Reviewer.	Y	<p>A [[year]] [[item]] report for [[name]] is pending your action as [[role]] in Integrity. You may access the report by logging into Integrity at <a href="https://integrity.gov">https://integrity.gov</a>.</p>

**From:** [Shelley K. Finlayson](#)  
**To:** "[Sean Doocey](#)"; [Tim Petty](#); "[Emily Mallon](#)"  
**Subject:** Integrity orientation follow up  
**Date:** Thursday, September 29, 2016 5:35:51 PM  
**Attachments:** [Integrity Resources Binder Tab 8.docx](#)  
[Integrity Binder Tab 9.xlsx](#)

---

Good afternoon –

Thank you again for taking the time to attend an orientation on OGE’s public financial disclosure filing system, *Integrity*. As promised, please find attached the training resources (Tab 8 in your binder) with live links to training videos and the document containing system notice language (Tab 9 in your binder). As a reminder, you must customize the notice language and provide it to OGE before we can set you up on the live site.

As we mentioned at the orientation, if you have additional staff that you would like added for either PPO or White House Counsel roles, please provide their names, emails, contact information and what role they should be assigned.

We would be happy to schedule a time to come assist you in person with setting up your groups, adding users and sitting side-by-side while you use the system, and are always available to answer any questions you may have.

Please don’t hesitate to contact me or anyone on the *Integrity* team. We look forward to continuing to work with you.

Regards,  
Shelley

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
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Almost all of the *Integrity* information a campaign will need is in this binder: PPO actions, WHCO actions, information for nominees.

OGE prepared several brief video tutorials on select actions. A link to the video is shown after the video title below.

**PPO:**

- PPO 1 - Register a Nominee, <https://youtu.be/P2DVtTfwJKo>
- PPO 2 - Assign a Nominee Report, <https://youtu.be/u51gOkIRQYw>
- PPO 3 - Release Draft to WHCO, [https://youtu.be/JV\\_0rYYIQLY](https://youtu.be/JV_0rYYIQLY)

**WHCO:**

- WHCO Release Report to OGE and Agency, <https://youtu.be/JdT-vOKTDOE>

**Links to online resources related to the transition:**

OGE's Presidential Transition page:

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

OGE's *Nominee Ethics Guide*:

[https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/\\$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf](https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf)

OGE's online repository of general *Integrity* information: <https://community.max.gov/x/vQApLg> (requires login).

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OFFICE OF GOVERNMENT ETHICS-EXTERNAL  
ABOUT INTEGRITY

Home For Filers For Reviewers For Administrators Integrity User Guide Dates and Deadlines Help Desk Open Houses

**Learn About *Integrity***

*Integrity* provides a secure, web-based system through which individuals may file executive branch public financial disclosure reports. Data entry grids and context-dependent questions help Filers to report their financial interests correctly. *Integrity* also makes it easy for ethics officials to assign, review, and manage the reports electronically.

OGE has developed a set of resources to help familiarize you with *Integrity*. These include the *Integrity* User Guide and the "*Integrity* Overview" video below, as well as resources geared toward filers, reviewers, and administrators. We encourage you to share these resources at your agency as appropriate.

*Integrity* Reviewers and Administrators are encouraged to join the "OGE About *Integrity*" collaboration group by contacting your OGE Desk Officer. After you join, a link to "About *Integrity*" will be displayed on your MAX.gov homepage under "My Collaboration Groups" for convenient access whenever you log in.

**Information for:**

- **Filers:** If your executive branch agency has instructed you to file a public financial disclosure report through *Integrity*, click here to learn more.
- **Reviewers:** If you will review public financial disclosure reports through *Integrity*, click here to learn more.
- **Administrators:** If you have been designated as your agency's Administrator for *Integrity*, click here to learn more.

**General Resources**

- **Integrity User Guide:** To access the *Integrity* User Guide, click here.
- **Program Advisory PA 15-01:** To access PA 15-01: *Implementation of Integrity and New Public Financial Disclosure Report Form*, click here.
- **OGE Form 278/278e Compared:** To view charts mapping the old OGE Form 278 and new OGE Form 278e, click here.
- **Video: *Integrity* Overview:** To view a 14-minute video about *Integrity*'s features, please click below.

INTEGRITY .GOV  
Play your part.  
A conflicts-prevention instrument.

UNITED STATES OFFICE OF  
GOVERNMENT ETHICS  
Preventing Conflicts of Interest  
in the Executive Branch

Almost all of the *Integrity* information a campaign will need is in this binder: PPO actions, WHCO actions, information for nominees.

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**WHCO:**

- WHCO Release Report to OGE and Agency, <https://youtu.be/JdT-vOKTDOE>

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[https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/\\$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf](https://www.oge.gov/Web/OGES.nsf/0/908088E45E5A64778525801B00590DD5/$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf)

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- **Administrators:** If you have been designated as your agency's Administrator for *Integrity*, click here to learn more.

**General Resources**

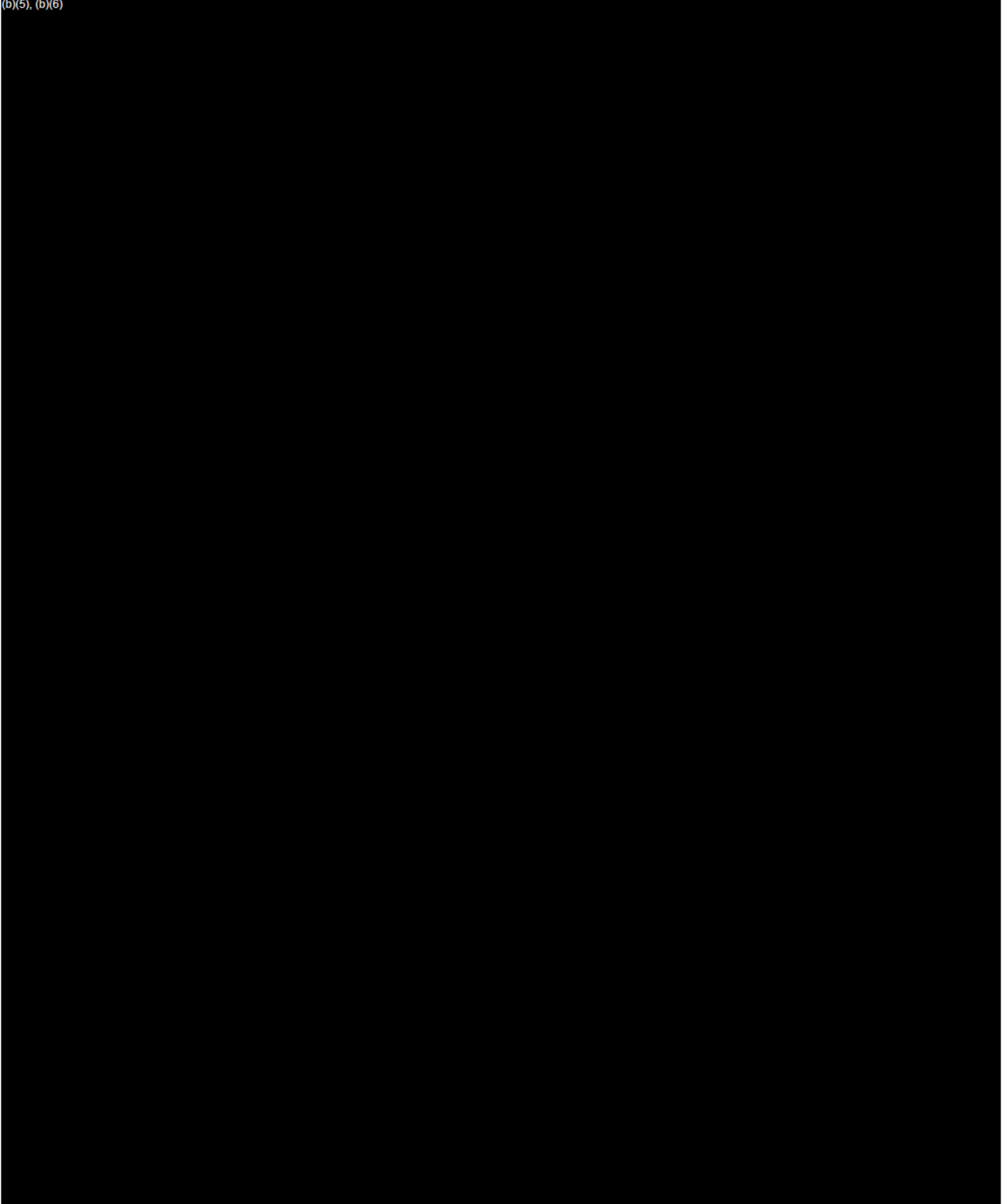
- **Integrity User Guide:** To access the *Integrity* User Guide, click here.
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UNITED STATES OFFICE OF  
GOVERNMENT ETHICS  
Preventing Conflicts of Interest  
in the Executive Branch

**Experienced Government Ethics Attorneys with Financial Disclosure Experience**

(b)(5), (b)(6)







**From:** [Shelley K. Finlayson](#)  
**To:** ["Sean Doocey"](#)  
**Subject:** OGE Integrity training  
**Date:** Tuesday, September 20, 2016 6:00:24 PM  
**Attachments:** [Nominee Agency Staff Information Request Form.xlsx](#)

---

Good afternoon, Sean –

I am writing to see if you have any additional questions regarding completing the requested information in anticipation of our training on Monday. Please don't hesitate to reach out if I can be of assistance.

Regards,  
Shelley

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
U.S. Office of Government Ethics  
1201 New York Avenue NW, Suite 500  
Washington, DC 20005  
(202) 482-9314  
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Shelley K. Finlayson

Chief of Staff and Program Counsel

U.S. Office of Government Ethics

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**From:** [Shelley K. Finlayson](#)  
**To:** "Sean Doocey"  
**Subject:** RE: OGE Integrity training  
**Date:** Tuesday, September 20, 2016 6:09:38 PM

---

Great, thanks, Sean.

I am sorry about the drop down functionality problem.

Please indicate next to the last name, in parentheses, who you would like to have the counsel roles and the leave the role field blank for that individual.

Thanks,  
Shelley

**From:** Sean Doocey [mailto:(b)(6)]  
**Sent:** Tuesday, September 20, 2016 6:03 PM  
**To:** Shelley K. Finlayson  
**Subject:** Re: OGE Integrity training

Hi Shelley,

We're just finalizing who will attend and will send you the completed Excel sheet tomorrow AM. On the drop down options for role it doesn't seem to allow the counsel roles, so is it okay to leave blank?

Thanks for all of your help.

Sean

On Tuesday, September 20, 2016, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:

Good afternoon, Sean –

I am writing to see if you have any additional questions regarding completing the requested information in anticipation of our training on Monday. Please don't hesitate to reach out if I can be of assistance.

Regards,  
Shelley

Shelley K. Finlayson  
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**From:** [Shelley K. Finlayson](#)  
**To:** "[Sean Doocey](#)"  
**Subject:** RE: OGE Integrity training  
**Date:** Wednesday, September 21, 2016 5:50:00 PM

---

Hi Sean –  
Thanks so much for the information.  
We look forward to seeing you all on Monday.  
Regards,  
Shelley

**From:** Sean Doocey [mailto:(b) (6)]  
**Sent:** Wednesday, September 21, 2016 5:01 PM  
**To:** Shelley K. Finlayson  
**Subject:** Re: OGE Integrity training

Hi Shelley,

Sorry for the delay. Excel sheet is attached. (b)(5)

Thanks, Sean

On Tue, Sep 20, 2016 at 6:00 PM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Good afternoon, Sean –  
I am writing to see if you have any additional questions regarding completing the requested information in anticipation of our training on Monday. Please don't hesitate to reach out if I can be of assistance.  
Regards,  
Shelley

Shelley K. Finlayson  
Chief of Staff and Program Counsel  
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**From:** [Shelley K. Finlayson](#)  
**To:** ["Sean Doocey"](#)  
**Cc:** [Tim Petty](#)  
**Subject:** RE: Thanks  
**Date:** Tuesday, September 13, 2016 10:17:15 AM

---

Yes, the PTT roles are equivalent to PPO.

**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Tuesday, September 13, 2016 10:17 AM  
**To:** Shelley K. Finlayson  
**Cc:** Tim Petty  
**Subject:** Re: Thanks

Thank you.

Are the "PTT roles" on the spreadsheet equivalent to PPO?

Sean

On Tue, Sep 13, 2016 at 7:44 AM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Good morning, Sean –

I am happy to hear that we are on for the 26<sup>th</sup> at 1 here at OGE.

In anticipation of the training, I need to gather some basic information from you about those who will attend the training and serve in specific capacities with regard to administering the campaign's instance of our electronic filing system, *Integrity*. A spreadsheet with the explanation of the roles is attached for you to complete and return to me by the 21st. The spreadsheet has two tabs: Staff and Notices. Please review both tabs, but please complete only the Staff tab. We will discuss the Notice tab at the end of the orientation. OGE will need this information for the final setup on the live site for use with actual nominees.

With regard to the training, we will present a full orientation to the system. Specifically, we will demonstrate how to use *Integrity* to collect financial disclosure information from its prospective nominees and, when ready, share that information with OGE and the target agency for review and certification.

We will cover the following topics, in addition to addressing any questions that you may have:

- Create nominee group
- Add staff users
- Add nominees
- Assign nominee a report & notify nominee
- View draft report
- Release report to campaign Counsel agency
- Counsel agency add group, add staff users

- Release draft to OGE & target agency
- Check status of a released draft report
- Next steps - practice and live site setup

Thank you in advance for providing the requested information.

I look forward to seeing you on the 26<sup>th</sup> and continuing to work with you.

Regards,  
Shelley

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**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Thursday, September 08, 2016 2:01 PM  
**To:** Shelley K. Finlayson  
**Cc:** Tim Petty  
**Subject:** Re: Thanks

Shelley,

Thanks for your quick reply. Monday 26 September at 1pm works well for us.

Thanks, Sean

<sup>(b)(6)</sup>

(b) (6)

On Wed, Sep 7, 2016 at 9:54 AM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Good morning –

Yes, Monday the 26<sup>th</sup> at either 10 a.m. or 1 p.m. would work well for our team. The team is also available in the morning of the 27<sup>th</sup> if that is preferable. The orientation and basic training on the system should take just over 2 hours.

Once we have established a date and time that works for you, I will reach back out to collect some specific information about the attendees so that we may provide them access to the system for the session. We encourage you to have at least 4 individuals (2 primary and 2 backup) trained and designated to have ongoing access to the system based on the roles

necessary to process a nominee financial disclosure report.  
We look forward to continuing to work with you.  
Regards,  
Shelley

**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Tuesday, September 06, 2016 4:03 PM  
**To:** Shelley K. Finlayson; Tim Petty  
**Subject:** Re: Thanks

Hi Ms. Finlayson,

Would either Monday, Tuesday, or Wednesday of the week of 26 September work for your team for the Integrity training?

Thanks, Sean

On Thu, Sep 1, 2016 at 4:57 PM, Shelley K. Finlayson <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)> wrote:  
Mr. Doocey,

Thank you for taking the time to attend the briefing here at OGE earlier this week. Attached please find the list of potential ethics detailees that we discussed and, per your team's request, a sample fund manager letter. Also, below is a link to the webpage on OGE's website that contains numerous resources, including all of the materials that we provided to you at the briefing.

<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

We stand ready to provide your team training on *Integrity*, OGE's electronic public financial disclosure filing system. Please let me know what dates would be most convenient.

I look forward to hearing from you.  
Regards,  
Shelley Finlayson

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Follow OGE on Twitter: @OfficeGovEthics

**From:** Sean Doocey [mailto:<sup>(b)(6)</sup>]  
**Sent:** Wednesday, August 31, 2016 2:48 PM

**To:** Shelley K. Finlayson

**Subject:** Thanks

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

(D) (b)

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**From:** [Sean Doocey](#)  
**To:** [Shelley K. Finlayson](#); [Diana Veilleux](#); [George Hancock](#)  
**Cc:** [Emily Mallon](#); [Tim Petty](#)  
**Subject:** Thank you  
**Date:** Monday, September 26, 2016 3:01:44 PM

---

Shelley, George and Diana,

Thank you very much for the Integrity briefing. It was very informative and seems like a much improved process vs. the old paper forms!

We look forward to working with all of you and will be in touch with additional questions and the information George requested.

Sean

(b)(6)

(D) (b)

**From:** [Sean Doocey](#)  
**To:** [Shelley K. Finlayson](#)  
**Subject:** Thanks  
**Date:** Wednesday, August 31, 2016 2:48:00 PM

---

Ms. Finlayson,

Thanks very much for the excellent briefing yesterday. We look forward to working with you and your team to schedule Integrity training in the coming weeks.

Thanks, Sean

Sean Doocey

(b)(6)

A large black rectangular redaction box covers the signature and contact information of Sean Doocey.



**From:** [Walter M. Shaub](#) Rich H. Bagger, Bill Hagerty, Tim J. Petty and Sean E. Doocey  
**To:** "Palatucci, William J.": (b) (6)  
**Cc:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)  
**Subject:** RE: checking in  
**Date:** Thursday, November 10, 2016 11:22:09 AM

---

Rich, Bill, Bill, Tim, and Sean,

Emory and I have a bunch of supplies we would love to deliver to you today if you're settled in enough to receive them. If you're too busy to talk, we won't stay. However, I think you would benefit from having these items:

- A supply of Nominee Ethics Guide books to hand out to prospective nominees who appear in person;
- A supply of Nominee Ethics Guide books in pre-stamped envelopes (which will be charged to OGE) to send via UPS to prospective nominees who will not be visiting the transition office;
- A supply of Transition Ethics Guide books to have enough to share with other members of the transition team;
- A supply of regulation books, which contain OGE's government-wide regulations;
- A supply of statutory books, which contain relevant government ethics statutes; and
- A supply of ethics agreement guide books, which will help you (or at least Emory) in counseling prospective nominees on what steps they may need to take to resolve conflicts of interest (e.g., divestiture, recusal, waiver, etc.).

Let me know if you think we could stop by today with them. (b) (6)

(b) (6) So, if today is not good, we could try to deliver them on Monday if that works better for you.

Walt

---

**From:** Palatucci, William J. [mailto:(b) (6)]  
**Sent:** Wednesday, November 09, 2016 9:08 AM  
**To:** Walter M. Shaub; (b) (6)  
**Cc:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)  
**Subject:** [GRAYMAIL] RE: checking in

Thank you, Walter. I'll give you a call later this morning.

**William J. Palatucci, Esq.**

**Special Counsel**

**Gibbons P.C.**

(b) (6)

<http://www.gibbonslaw.com>

One Gateway Center, Newark, New Jersey 07102-5310

Direct phone: (b) (6) | Cell: (b) (6)

**Newark | New York | Trenton | Philadelphia | Wilmington**

**From:** Walter M. Shaub [<mailto:wmschaub@oge.gov>]

**Sent:** Wednesday, November 09, 2016 9:02 AM

Rich H. Bagger, Bill Hagerty, Tim J. Petty, and Sean E. Doocey

**To:** Palatucci, William J. (b) (6)

(b) (6)

**Cc:** [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)

**Subject:** RE: checking in

Congratulations on the campaign's victory. For your convenience here are our contact numbers, so you'll have them all in one place. We're really looking forward to getting down to work on this Presidential transition –which we're going to make the best one in history! I'll have my blackberry with me around the clock during the transition, so that's probably the best number to call first. I remember getting calls at 10:00 p.m. on a Saturday night and on Christmas during the last transition. So please don't hesitate to call at any time. You can call any member of OGE's leadership team around the clock, too.

**Walt Shaub**

**Director**

**Blackberry:** (b) (6)

**Desk:** 202-482-9302

**Shelley Finlayson**

**Chief of Staff and Program Counsel**

**Blackberry:** (b) (6)

**Desk:** 202-482-9314

**Dave Apol**

**General Counsel**

**Blackberry:** (b) (6)

**Desk:** 202-482-9205

**Deb Bortot**

**Chief, Presidential nominations branch**

**Blackberry:** (b) (6)

**Desk:** 202-482-9227

**Heather Jones**

**Senior Counsel for Financial Disclosure**

**Blackberry:** (b) (6)

**Desk:** 202-482-9316

**From:** Palatucci, William J. [mailto:(b) (6)]

**Sent:** Tuesday, November 08, 2016 10:55 AM

**To:** Walter M. Shaub; (b) (6) (b) (6)

**Cc:** Shelley K. Finlayson

Rich H. Bagger, Bill Hagerty, Tim J. Petty, and Sean E. Doocey

**Subject:** [GRAYMAIL] Re: checking in

Thanks, Walter. I appreciate your time and guidance regardless of the outcome. Your responsiveness has been refreshing. Bill



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**From:** Walter M. Shaub

**Sent:** Tuesday, November 8, 2016 10:51 AM

**To:** (b) (6) Palatucci, William J.; (b) (6)  
(b) (6)

**Cc:** Shelley K. Finlayson

Rich H. Bagger, Bill Hagerty, Tim J. Petty and Sean E. Doocey

**Subject:** checking in

Rich, Bill, Bill, Tim, and Sean,

I hope OGE has served you well in the lead up to the election, but I just wanted to check in to make sure you have everything you need from us. If there's anything more we can do for you, please don't hesitate to let me know. If your candidate prevails today, I'm looking forward to working with you. If the outcome is different, it's been a pleasure working with you and your team. It's been really great to see your folks so focused on building capacity for a smooth and effective transition.

Walt

Walter M. Shaub, Jr.

Director

U.S. Office of Government Ethics

1201 New York Avenue, NW, Suite 500

Washington, DC 20005-3917

Telephone: 202.482.9292

Email: [walter.shaub@oge.gov](mailto:walter.shaub@oge.gov)

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**From:** [Walter M. Shaub](#)  
**To:** (b) (6) Don McGahn  
**Subject:** Can we talk today?  
**Date:** Wednesday, November 30, 2016 10:14:15 AM

---

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** [Ann M Donaldson](#)  
**To:** [George Hancock](#)  
**Cc:** "[Sean Doocey](#)"; [Shelley K. Finlayson](#)  
**Subject:** RE: New Counsel Users For Integrity  
**Date:** Wednesday, November 30, 2016 2:47:14 PM

---

George,  
The best number to reach me directly is (b) (6) (my mobile). If it's going in the system for semi-public (internal) consumption, my direct office line is below.  
Thanks,  
Annie

Ann M. Donaldson  
Associate  
[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

(b) (6)

---

**From:** George Hancock <[ghancock@oge.gov](mailto:ghancock@oge.gov)>  
**To:** 'Sean Doocey' (b) (6)  
**Cc:** Ann M Donaldson (b) (6), "Shelley K. Finlayson" <[skfinlay@oge.gov](mailto:skfinlay@oge.gov)>  
**Date:** 11/30/2016 02:39 PM  
**Subject:** RE: New Counsel Users For Integrity

---

Sure Sean.

I'll need a phone number to register and accomplish the change.

Thank you,

George Hancock  
*Integrity Manager*  
Program Counsel Division  
Legal, External Affairs and Performance Branch  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005

**From:** Sean Doocey [[\(b\) \(6\)](mailto:(b) (6))]  
**Sent:** Wednesday, November 30, 2016 2:10 PM  
**To:** Shelley K. Finlayson; George Hancock  
**Cc:** Ann M Donaldson  
**Subject:** New Counsel Users For Integrity

Hi Shelley and George,

Per Don McGahn, Could we swap (b) (5), (b) (6) in Integrity?

Thanks, Sean

Ann Donaldson (b) (6)

--

**Sean Doocey**

Presidential Transition Team

Email: (b) (6)

Cell: (b) (6)

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=====

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=====

**From:** [George Hancock](#)  
**To:** (b)(6) - Filer's representative  
**Cc:** (b)(6) - Filer's representative; (b)(6) - Filer's representative; [Austin F. King](#); [Keith Labeledz](#); "[Sean Doocey](#)"; "[Emily Mallon](#)"  
**Subject:** Actions After the Nominee Submits the Draft - PPO, New Administration WH  
**Date:** Tuesday, December 06, 2016 3:26:19 PM

---

(b)(6) - Filer's representative

My answers follow your question in [brackets].

Note: OGE imposed strict access limitations so that OGE staff cannot see who has which roles in the PPO and WH agencies. Sean or Emily are best situated to answer the "who" portion of your questions.

1. Once the candidate clicks submit, an email will go to the PPO. Is the PPO Sean (and Emily)? [Yes, Integrity will email the PPO primary reviewer role holder in the PPO Nominee group that the Nominee draft is ready for PPO action. At one time, Emily had that role. I cannot see inside the PPO structure to determine who has that role now. Sean could change.]

2. The PPO will then release the report only to the Transition Team (b)(6) correct? [Correct, in part. PPO releases to the WH agency where A. Donaldson is Lead. I don't know any (b)(6) though. Ms. Donaldson or Sean may have added him without my knowledge. I cannot see inside their Integrity agency as a security measure so I do not know who has the WH agency Nominee group reviewer role. You will have to ask Sean.]

3. Once the Transition Team says go, then the PPO will release the report to the OGE and the target agency, correct? [When ready, the WH agency Nominee group reviewer role holder or alternate releases to OGE and the target agency. I cannot see who has that reviewer role.]

Thank you.

---

**From:** (b)(6) - Filer's representative  
**Sent:** Tuesday, December 06, 2016 12:37 PM  
**To:** George Hancock  
**Cc:** (b)(6) - Filer's representative; Austin F. King; Keith Labeledz; 'Sean Doocey'  
**Subject:** RE: Actually "Filing" the Form 278 - Nominee Submits Draft

George,

A couple of clarifying questions as we get ready to file:

1. Once the candidate clicks submit, an email will go to the PPO. Is the PPO Sean (and Emily)?

2. The PPO will then release the report only to the Transition Team (Jim Carroll), correct?

3. Once the Transition Team says go, then the PPO will release the report to the OGE and the target agency, correct?

Thanks for the further guidance.

(b)(6)

**From:** George Hancock [<mailto:ghancock@oge.gov>]

**Sent:** Monday, December 5, 2016 7:16 PM

**To:** (b)(6) - Filer's representative; (b)(6)

**Cc:** (b)(6) - Filer's representative

Austin F. King <[afking@oge.gov](mailto:afking@oge.gov)>; Keith Labeledz



<[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>; 'Sean Doocey' (b)(6)

**Subject:** RE: Actually "Filing" the Form 278 - Nominee Submits Draft

(b)(6) -  
Filer's

To submit the report to PPO in Integrity, the Nominee logs in to Integrity, <https://integrity.gov>, and goes on the My Tasks home page.

At the right side of the row with the draft, the Nominee clicks "Update" to open the report. On the left-side navigation, the Nominee clicks on Report Data(Summary) to advance/review the data by scrolling to the bottom or clicks the Submit button (on the left, below "Report Data(Summary)") to go direct to the submit screen. Once there, the Nominee checks the certification accuracy check box and clicks Submit. Only the Nominee can submit the draft. Integrity will email the PPO reviewer who can view/release to the Trump-Pence WH. There the reviewer can view/release to OGE and the target agency.

Once released to OGE and the target agency, their reviewers as well as the Nominee and your team can continue to edit the draft as you have.

Thank you.

**From:** (b)(6) - Filer's representative

**Sent:** Monday, December 05, 2016 4:11 PM

**To:** George Hancock

**Cc:** (b)(6) - Filer's representative; Austin F. King; Keith Labeledz; 'Sean Doocey'

**Subject:** Actually "Filing" the Form 278

George,

We anticipate giving the Trump Transition Team the initial draft of the report tomorrow morning. Is that the point that we "file" the draft and how is that done? Once the draft is filed, how do we continue to make changes?

Happy to discuss by phone if that is helpful.

Thanks,

(b)(6)

Filer's  
repres  
entativ  
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**From:** [Ann M Donaldson](#)  
**To:** [Shelley K. Finlayson](#)  
**Subject:** Call  
**Date:** Monday, December 05, 2016 2:39:57 PM

---

Shelley,

We are happy to set up a call for this week. Matthew should be hearing from (b)(6) shortly to confirm a time.

Thanks,  
Annie

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

51 Louisiana Avenue, NW

Washington, DC 20001

Office (b)(6)

=====

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=====

**From:** [George Hancock](#)  
**To:** (b)(6) - Emily  
**Cc:** "Sean Doocey"  
**Subject:** FW: Assistance for Nominee Filer -- Edit Filer Name  
**Date:** Friday, December 02, 2016 4:56:06 PM  
**Attachments:** [image003.png](#)

Emily:

As you see below, (b)(6), filer designee for (b)(6) asked for a name change: (b)(6) instead of just (b)(6) on the filing.

Only someone with access to the report before it is submitted can make that change. Here is how to make the change if you want to do so:

Login as usual. Click Admin, then Find User on the left side. Search for the filer's name, then click on it to open the profile. Use the **Update Profile** feature to change the name.



Profile Roles & Groups Update Profile

FIRST NAME Update

(b)(6)

MIDDLE INITIAL

LAST NAME

(b)(6)

SUFFIX

Please Select

Paste in (b)(6) after her first name, click Update (right side) when finished. Thank you.

**From:** (b)(6) - Filer's representative (b)(6) ]  
**Sent:** Friday, December 02, 2016 4:04 PM  
**To:** George Hancock  
**Cc:** (b)(6) - Filer's representative; Austin F. King; Keith Labeledz; 'Sean Doocey'  
**Subject:** RE: Assistance for Nominee Filer Designee

Gentlemen,

Thank you again for your time this morning. It made for a much more productive day for me! Since (b)(6) goes by (b)(6) and we refer to her as such throughout the report, would it be possible to have the entry in the first name block to be (b)(6) instead of just (b)(6)? I don't believe we can change this ourselves.

Please advise.

Thanks!

(b)(6)

**From:** George Hancock [<mailto:ghancock@oge.gov>]

**Sent:** Friday, December 2, 2016 9:44 AM

**To:** (b)(6) - Filer's representative >

**Cc:** (b)(6) - Filer's representative

Austin F. King <[afking@oge.gov](mailto:afking@oge.gov)>; Keith Labeledz <[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>;

'Sean Doocey' <(b)(6)>

**Subject:** Assistance for Nominee Filer Designee

(b)(6) - Filer's

Conference call information for a 10 am call: (b)(6)

I asked Keith Labeledz from the OGE Presidential Nominations Branch (PNB) to join us. PNB staff review the Nominee reports once they arrive at OGE.

Have you seen OGE's online Financial Disclosure Guide, <https://www2.oge.gov/Web/278eGuide.nsf>? It is a web-based set of instructions for completing and reviewing the Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e). It offers helpful instructions, illustrations of sample language, definitions, and answers to frequently asked questions. It is organized in parts corresponding to the OGE Form 278e.

Thank you.

**From:** George Hancock

**Sent:** Friday, December 02, 2016 9:20 AM

**To:** 'Sean Doocey'; (b)(6) - Filer's representative

**Cc:** (b)(6) - Filer's representative; Austin F. King

**Subject:** RE: Form Difficulties - Assistance for Filer Designee

Sean (b)(6) - Filer's

I added Austin King, our Help Desk Lead. He was coordinating a response to (b)(6) - Filer's representative.

How about a call at 10 am to discuss details? To assist us assess the best way forward, does (b)(6) see the "Position-Related Interests" link on the left side menu? If so, what happens when he clicks it? If he doesn't see it we'll provide information on how best to proceed.

Thank you.

**From:** Sean Doocey (b)(6)

**Sent:** Friday, December 02, 2016 9:08 AM

**To:** (b)(6) - Filer's representative; George Hancock

**Cc:** (b)(6) - Filer's representative

**Subject:** Re: Form Difficulties

Hi George,

Do you have any guidance for (b)(6) and team who are assisting (b)(6) - Emily with completing her OGE278 reference the below error? (b)(6)

(b)(6) - George is OGE's subject matter expert on Integrity and developed the system.

--Sean

On Thu, Dec 1, 2016 at 6:42 PM, (b)(6) (b)(6) wrote:

Sean,

It's a system input issue. I have been working through the Positions section and the system is now skipping from the positions list to Section 2 when I hit "next steps" rather than letting me input additional company data on an interim page that was accessible before. I would like instruction as to how to get back to the input pages.

Thanks,

(b)(6)

**From:** (b)(6) - Filer's representative

**Sent:** Thursday, December 1, 2016 6:37 PM

**To:** (b)(6) - Filer's representative

**Cc:** Doocey Sean (b)(6)

**Subject:** Fwd: Form Difficulties

(b)(6) - Filer's (b)(6) representative ) - thoughts?

Sent from iPhone

Begin forwarded message:

**From:** Sean Doocey (b)(6)

**Date:** December 1, 2016 at 18:35:45 EST

**To:** (b)(6) - Filer's representative

**Subject:** Re: Form Difficulties

Any more details on the difficulty? I can direct you to the right person if I know a little more.

On Thu, Dec 1, 2016 at 6:23 PM (b)(6) - Filer's representative (b)(6) wrote:  
Thoughts? This is for 278

Sent from iPhone

Begin forwarded message:

**From:** (b)(6) - Filer's representative  
**Date:** December 1, 2016 at 18:20:59 EST  
**To:** (b)(6) - Filer's representative  
**Subject: Form Difficulties**

We are having some input issues and Integrity says that we are to contact the departments ethics official to get help. Do we have a contact for that person?

--

**Sean Doocey**  
Presidential Transition Team

(b)(6)  
(b)(6)

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**From:** [George Hancock](#)  
**To:** "Emily Mallon"  
**Subject:** FW: Integrity - no filing task - filer designee - Update  
**Date:** Tuesday, December 06, 2016 8:42:39 AM

---

Emily:

We did more investigation on this. We think the designee logged in to MAX.gov (perhaps after setting the password) and not Integrity. The designee needs to click through the Integrity login page, <https://integrity.gov>, and continue into Integrity. The My Tasks screen should appear with the assigned Nominee filing task.

Thank you.

---

**From:** George Hancock  
**Sent:** Monday, December 05, 2016 6:37 PM  
**To:** 'Emily Mallon'  
**Subject:** RE: Integrity - no filing task - filer designee

Emily:

I was out this afternoon. Just now seeing your email.

If you assigned the Nominee a filing task, the filer designee should see it after logging in to Integrity, <https://integrity.gov>. There will be a Start (or Update) button on the right side of the "My Tasks" page after successful login. Did the filer designee set a password and then get to the My Tasks screen?

Could the filer designee send a screen shot so we can investigate?

Thank you.

**From:** Emily Mallon (b)(6)  
**Sent:** Monday, December 05, 2016 4:52 PM  
**To:** George Hancock  
**Subject:** Integrity - no tasks

George,

Thanks for all of your help thus far. I have a quick question from one of our Integrity users. One of our nominee's designated fillers says that her page is showing a "no task loaded" message on her Max profile.

Was wondering if you knew why that would be happening if I assigned a report to the profile already.

Thanks!

Emily

--

Emily Mallon  
Presidential Transition Team

(b)(6)

**From:** [Shelley K. Finlayson](#)  
**To:** [Don McGahn](#) (b)(6); [Ann M. Donaldson](#) (b)(6)  
**Subject:** (b)(5)  
**Date:** Monday, December 05, 2016 11:35:35 AM

---

Good morning –

Walt is having technical difficulties and wanted to send you the message below, so I am forwarding it to you.

Regards,

Shelley

---

**From:** [wmschaub@oge.gov](mailto:wmschaub@oge.gov)  
**Sent:** Monday, December 5, 2016 11:15 AM  
**To:** (b)(6) - Donald; (b)(6) - Ann Donaldson's  
**Cc:** Shelley K. Finlayson; David Apol  
**Subject:** (b)(5)

Don and Annie,

(b)(5)  
[Redacted]

Walt  
Walter M. Shaub, Jr.  
Director

U.S. Office of Government Ethics  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917  
Telephone: [202.482.9292](tel:202.482.9292)  
Email: [walter.schaub@oge.gov](mailto:walter.schaub@oge.gov)

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** [Emily Mallon](#)  
**To:** [George Hancock](#)  
**Subject:** Integrity - no tasks  
**Date:** Monday, December 05, 2016 4:52:06 PM

---

George,

Thanks for all of your help thus far. I have a quick question from one of our Integrity users.

One of our nominee's designated fillers says that her page is showing a "no task loaded" message on her Max profile.

Was wondering if you knew why that would be happening if I assigned a report to the profile already.

Thanks!

Emily

--

Emily Mallon  
Presidential Transition Team

(b)(6)

(D)(o)



**From:** (b)(6) - Filer's Representative  
**To:** [George Hancock](mailto:George.Hancock@oge.gov)  
**Cc:** (b)(6) - Filer's Representative ; [Austin F. King](#); [Keith Labeledz](#); ["Sean Doocey"](#); ["Emily Mallon"](#)  
**Subject:** RE: Actions After the Nominee Submits the Draft - PPO, New Administration WH  
**Date:** Tuesday, December 06, 2016 3:32:24 PM

---

Thanks, George!

**From:** George Hancock [mailto:ghancock@oge.gov]  
**Sent:** Tuesday, December 6, 2016 3:26 PM  
**To:** (b)(6) - Filer's Representative  
[REDACTED] Austin F. King ; Keith Labeledz ; 'Sean Doocey' ; 'Emily Mallon'  
**Subject:** Actions After the Nominee Submits the Draft - PPO, New Administration WH

(b)(6)

My answers follow your question in [brackets].

Note: OGE imposed strict access limitations so that OGE staff cannot see who has which roles in the PPO and WH agencies. Sean or Emily are best situated to answer the “who” portion of your questions.

1. Once the candidate clicks submit, an email will go to the PPO. Is the PPO Sean (and Emily)? [Yes, Integrity will email the PPO primary reviewer role holder in the PPO Nominee group that the Nominee draft is ready for PPO action. At one time, Emily had that role. I cannot see inside the PPO structure to determine who has that role now. Sean could change.]

2. The PPO will then release the report only to the Transition Team (Jim Carroll), correct? [Correct, in part. PPO releases to the WH agency where A. Donaldson is Lead. I don't know any “Jim Carroll” though. Ms. Donaldson or Sean may have added him without my knowledge. I cannot see inside their Integrity agency as a security measure so I do not know who has the WH agency Nominee group reviewer role. You will have to ask Sean.]

3. Once the Transition Team says go, then the PPO will release the report to the OGE and the target agency, correct? [When ready, the WH agency Nominee group reviewer role holder or alternate releases to OGE and the target agency. I cannot see who has that reviewer role.]

Thank you.

**From:** (b)(6) - Filer's Representative ; (b)(6)  
**Sent:** Tuesday, December 06, 2016 12:37 PM  
**To:** George Hancock  
**Cc:** (b)(6) - Filer's Representative ; Austin F. King; Keith Labeledz; 'Sean Doocey'  
**Subject:** RE: Actually "Filing" the Form 278 - Nominee Submits Draft

George,

A couple of clarifying questions as we get ready to file:

1. Once the candidate clicks submit, an email will go to the PPO. Is the PPO Sean (and

Emily)?

2. The PPO will then release the report only to the Transition Team (Jim Carroll), correct?
3. Once the Transition Team says go, then the PPO will release the report to the OGE and the target agency, correct?

Thanks for the further guidance.

(b)(6)

**From:** George Hancock [<mailto:ghancock@oge.gov>]

**Sent:** Monday, December 5, 2016 7:16 PM

**To:** (b)(6) - Filer's Representative (b)(6) >

**Cc:** (b)(6) - Filer's Representative

(b)(6) <[ustin.f.king@oge.gov](mailto:ustin.f.king@oge.gov)>; Keith Labeledz <[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>; 'Sean Doocey' (b)(6)

**Subject:** RE: Actually "Filing" the Form 278 - Nominee Submits Draft

(b)(6) - Filer's

To submit the report to PPO in Integrity, the Nominee logs in to Integrity, <https://integrity.gov>, and goes on the My Tasks home page.

At the right side of the row with the draft, the Nominee clicks "Update" to open the report.

On the left-side navigation, the Nominee clicks on Report Data(Summary) to advance/review the data by scrolling to the bottom or clicks the Submit button (on the left, below "Report Data(Summary)") to go direct to the submit screen. Once there, the Nominee checks the certification accuracy check box and clicks Submit. Only the Nominee can submit the draft.

Integrity will email the PPO reviewer who can view/release to the Trump-Pence WH. There the reviewer can view/release to OGE and the target agency.

Once released to OGE and the target agency, their reviewers as well as the Nominee and your team can continue to edit the draft as you have.

Thank you.

**From:** (b)(6) - Filer's Representative (b)(6)

**Sent:** Monday, December 05, 2016 4:11 PM

**To:** George Hancock

**Cc:** (b)(6) - Filer's Representative; Austin F. King; Keith Labeledz; 'Sean Doocey'

**Subject:** Actually "Filing" the Form 278

George,

We anticipate giving the Trump Transition Team the initial draft of the report tomorrow morning. Is that the point that we "file" the draft and how is that done? Once the draft is filed, how do we continue to make changes?

Happy to discuss by phone if that is helpful.

Thanks,

(b)(6)

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(b)(6)

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**From:** (b)(6) - Filer's Representative  
**To:** [George Hancock](#)  
**Cc:** (b)(6) - Filer's Representative ; [Austin F. King](#); [Keith Labeledz](#); ["Sean Doocey"](#)  
**Subject:** RE: Actually "Filing" the Form 278 - Nominee Submits Draft  
**Date:** Monday, December 05, 2016 7:24:10 PM

---

Thanks, George. Much appreciate the directions!

(b)(6)

**From:** George Hancock [mailto:[ghancock@oge.gov](mailto:ghancock@oge.gov)]  
**Sent:** Monday, December 5, 2016 7:16 PM  
**To:** (b)(6) - Filer's Representative ; Austin F. King ; Keith Labeledz ; 'Sean Doocey'  
**Subject:** RE: Actually "Filing" the Form 278 - Nominee Submits Draft

(b)(6) - Filer's

To submit the report to PPO in Integrity, the Nominee logs in to Integrity, <https://integrity.gov>, and goes on the My Tasks home page.

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Integrity will email the PPO reviewer who can view/release to the Trump-Pence WH. There the reviewer can view/release to OGE and the target agency.

Once released to OGE and the target agency, their reviewers as well as the Nominee and your team can continue to edit the draft as you have.

Thank you.

**From:** (b)(6) - Filer's Representative (b)(6)  
**Sent:** Monday, December 05, 2016 4:11 PM  
**To:** George Hancock  
**Cc:** (b)(6) - Filer's Representative ; Austin F. King; Keith Labeledz; 'Sean Doocey'  
**Subject:** Actually "Filing" the Form 278

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We anticipate giving the Trump Transition Team the initial draft of the report tomorrow morning. Is that the point that we "file" the draft and how is that done? Once the draft is filed, how do we continue to make changes?

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(b)(6)

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(b)(6)

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**From:** (b)(6) - Filer's Representative  
**To:** [George Hancock](#)  
**Cc:** (b)(6) - Filer's Representative ; [Austin F. King](#); [Keith Labeledz](#); "[Sean Doocey](#)"  
**Subject:** RE: Assistance for Nominee Filer Designee  
**Date:** Friday, December 02, 2016 9:47:35 AM

---

Thanks, George. I will talk to you soon.

(b)(6)

**From:** George Hancock [mailto:[ghancock@oge.gov](mailto:ghancock@oge.gov)]  
**Sent:** Friday, December 2, 2016 9:44 AM

**To:** (b)(6) - Filer's Representative

(b)(6) Austin F. King ; Keith Labeledz ; 'Sean Doocey'

**Subject:** Assistance for Nominee Filer Designee

(b)(6) - Filer's

Conference call information for a 10 am call: (b)(6)

I asked Keith Labeledz from the OGE Presidential Nominations Branch (PNB) to join us. PNB staff review the Nominee reports once they arrive at OGE.

Have you seen OGE's online Financial Disclosure Guide, <https://www2.oge.gov/Web/278eGuide.nsf>? It is a web-based set of instructions for completing and reviewing the Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e). It offers helpful instructions, illustrations of sample language, definitions, and answers to frequently asked questions. It is organized in parts corresponding to the OGE Form 278e.

Thank you.

**From:** George Hancock  
**Sent:** Friday, December 02, 2016 9:20 AM  
**To:** 'Sean Doocey'; (b)(6) - Filer's Representative  
(b)(6) ; Austin F. King  
**Subject:** RE: Form Difficulties - Assistance for Filer Designee

Sean (b)(6) - Filer's

I added Austin King, our Help Desk Lead. He was coordinating a response to (b)(6) - Filer's Representative.

How about a call at 10 am to discuss details? To assist us assess the best way forward, does (b)(6) see the "Position-Related Interests" link on the left side menu? If so, what happens when he clicks it? If he doesn't see it we'll provide information on how best to proceed.

Thank you.

**From:** Sean Doocey (b)(6)  
**Sent:** Friday, December 02, 2016 9:08 AM

**To:** (b)(6) - Filer's Representative; George Hancock  
**Cc:** (b)(6) - Filer's Representative  
**Subject:** Re: Form Difficulties

Hi George,

Do you have any guidance for (b)(6) and team who are assisting (b)(6) - Emily with completing her OGE278 reference the below error?

(b)(6) - Filer's - George is OGE's subject matter expert on Integrity and developed the system.

--Sean

On Thu, Dec 1, 2016 at 6:42 PM, (b)(6) - Filer's Representative (b)(6) wrote:

Sean,

It's a system input issue. I have been working through the Positions section and the system is now skipping from the positions list to Section 2 when I hit "next steps" rather than letting me input additional company data on an interim page that was accessible before. I would like instruction as to how to get back to the input pages.

Thanks,

(b)(6)

**From:** (b)(6) - Filer's Representative  
**Sent:** Thursday, December 1, 2016 6:37 PM  
**To:** (b)(6) - Filer's Representative  
**Cc:** Doocey Sean (o)(o)  
**Subject:** Fwd: Form Difficulties

(b)(6) - Filer's Representative - thoughts?

Sent from iPhone

Begin forwarded message:

**From:** Sean Doocey (b)(6)  
**Date:** December 1, 2016 at 18:35:45 EST  
**To:** (b)(6) - Filer's Representative (b)(6)  
**Subject:** Re: Form Difficulties

Any more details on the difficulty? I can direct you to the right person if I know a little more.

On Thu, Dec 1, 2016 at 6:23 PM, (b)(6) - Filer's Representative (b)(6) wrote:

Thoughts? This is for 278

Sent from iPhone

Begin forwarded message:

**From:** (b)(6) - Filer's Representative )(6)  
**Date:** December 1, 2016 at 18:20:59 EST  
**To:** (b)(6) - Filer's Representative  
**Subject:** Form Difficulties

We are having some input issues and Integrity says that we are to contact the departments ethics official to get help. Do we have a contact for that person?

--

**Sean Doocey**

Presidential Transition Team

(b)(6)

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**From:** (b)(6) - Filer's Representative  
**To:** George Hancock; (b)(6)  
**Cc:** Greg McNeilly; (b)(6); Austin F. King; Keith Labeledz; "Sean Doocey"  
**Subject:** RE: Assistance for Nominee Filer Designee; Filer Name Change in Integrity  
**Date:** Friday, December 02, 2016 4:55:43 PM

---

Sean and Emily,

Please see our request below for the name change on the 278 report. It will better align with the reporting we are doing.

Please let us know if you have any questions.

Thanks!

(b)(6)

**From:** George Hancock [mailto:ghancock@oge.gov]

**Sent:** Friday, December 2, 2016 4:51 PM

**To:** (b)(6) - Filer's Representative

(b)(6) Austin F. King ; Keith Labeledz ; 'Sean Doocey'

**Subject:** RE: Assistance for Nominee Filer Designee; Filer Name Change in Integrity

You are welcome (b)(6) - Filer's

Regarding the name change: Only a PPO user can change the name shown on the draft and only before (b)(6) - (b)(6) Emily submits it. I recommend you email Sean or Emily Mallon, (b)(6) to request the change. I'll send them information on how to make the change.

I wanted to remind you about the scheduled Sunday maintenance times when Integrity will be unavailable (shown on the Integrity landing page). Integrity performs weekly server restarts on Sunday mornings between 3 and 3:15 am. The authentication service provider performs maintenance on Sunday mornings between 2 and 8 am. In addition the agency that hosts Integrity does weekly maintenance on Sunday evenings from 5 pm to 3 am.

Finally, we did some additional testing on multiple users simultaneously entering data this afternoon. Our results indicate that there is a non-zero risk if the users work in the same data grid at the same time. Consequently, we recommend only one person entering data in a grid at a time.

Thank you.

**From:** (b)(6) - Filer's Representative

**Sent:** Friday, December 02, 2016 4:04 PM

**To:** George Hancock

**Cc:** (b)(6) - Filer's Representative; Austin F. King; Keith Labeledz; 'Sean Doocey'

**Subject:** RE: Assistance for Nominee Filer Designee

Gentlemen,

Thank you again for your time this morning. It made for a much more productive day for me!

Since (b)(6) goes by (b)(6) and we refer to her as such throughout the report, would it be possible to have the entry in the first name block to be (b)(6) instead of just (b)(6) I don't believe we can change this ourselves.

Please advise.

Thanks!

(b)(6)

**From:** George Hancock [<mailto:ghancock@oge.gov>]

**Sent:** Friday, December 2, 2016 9:44 AM

**To:** (b)(6) - Filer's Representative

(b)(6)  
Austin F. King <[afking@oge.gov](mailto:afking@oge.gov)>; Keith Labeledz <[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>; 'Sean Doocey' (b)(6)

**Subject:** Assistance for Nominee Filer Designee

(b)(6) - Filer's

Conference call information for a 10 am call: (b)(6)

I asked Keith Labeledz from the OGE Presidential Nominations Branch (PNB) to join us. PNB staff review the Nominee reports once they arrive at OGE.

Have you seen OGE's online Financial Disclosure Guide, <https://www2.oge.gov/Web/278eGuide.nsf>? It is a web-based set of instructions for completing and reviewing the Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e). It offers helpful instructions, illustrations of sample language, definitions, and answers to frequently asked questions. It is organized in parts corresponding to the OGE Form 278e.

Thank you.

**From:** George Hancock

**Sent:** Friday, December 02, 2016 9:20 AM

**To:** 'Sean Doocey'; (b)(6) - Filer's Representative

**Cc:** (b)(6) - Filer's Representative; Austin F. King

**Subject:** RE: Form Difficulties - Assistance for Filer Designee

Sean (b)(6) - Filer's

I added Austin King, our Help Desk Lead. He was coordinating a response to (b)(6) - Filer's Representative.

How about a call at 10 am to discuss details? To assist us assess the best way forward, does (b)(6) see the "Position-Related Interests" link on the left side menu? If so, what happens when he clicks it? If he doesn't see it we'll provide information on how best to proceed.

Thank you.

**From:** Sean Doocey (b)(6)  
**Sent:** Friday, December 02, 2016 9:08 AM  
**To:** (b)(6) - Filer's Representative; George Hancock  
**Cc:** (b)(6) - Filer's Representative  
**Subject:** Re: Form Difficulties

Hi George,

Do you have any guidance for (b)(6) and team who are assisting (b)(6) with completing her OGE278 reference the below error?

(b)(6) - George is OGE's subject matter expert on Integrity and developed the system.

--Sean

On Thu, Dec 1, 2016 at 6:42 PM, (b)(6) - Filer's Representative (b)(6) > wrote:

Sean,

It's a system input issue. I have been working through the Positions section and the system is now skipping from the positions list to Section 2 when I hit "next steps" rather than letting me input additional company data on an interim page that was accessible before. I would like instruction as to how to get back to the input pages.

Thanks,

(b)(6)

**From:** (b)(6) - Filer's Representative  
**Sent:** Thursday, December 1, 2016 6:37 PM  
**To:** (b)(6) - Filer's Representative  
**Cc:** Doocey Sean (b)(6)  
**Subject:** Fwd: Form Difficulties

(b)(6) - Filer's Representative (b)(6) - thoughts?

Sent from iPhone

Begin forwarded message:

**From:** Sean Doocey (b)(6)  
**Date:** December 1, 2016 at 18:35:45 EST  
**To:** (b)(6) - Filer's Representative (b)(6)  
**Subject:** Re: Form Difficulties

Any more details on the difficulty? I can direct you to the right person if I know a little more.

On Thu, Dec 1, 2016 at 6:23 PM (b)(6) - Filer's Representative (b)(6) wrote:

Thoughts? This is for 278

Sent from iPhone

Begin forwarded message:

**From:** (b)(6) - Filer's Representative (b)(6)  
**Date:** December 1, 2016 at 18:20:59 EST  
**To:** (b)(6) - Filer's Representative  
**Subject:** Form Difficulties

We are having some input issues and Integrity says that we are to contact the departments ethics official to get help. Do we have a contact for that person?

--

**Sean Doocey**

Presidential Transition Team

(b)(6)  
[Redacted]

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**From:** (b)(6) - Filer's Representative  
**To:** George Hancock; (b)(6) - Emily  
**Cc:** (b)(6) - Filer's Representative; Austin F. King; Keith Labeledz; "Sean Doocey"  
**Subject:** RE: Assistance for Nominee Filer Designee; Filer Name Change in Integrity  
**Date:** Friday, December 02, 2016 5:00:38 PM

---

Small Change. In order for the name on the report to show up like we would like it, which is (b)(6) should actually be added in the middle name input box after the (b)(6)

Sorry for the confusion!

(b)(6)

Representative

(b)(6)

**From:** (b)(6) - Filer's Representative  
**Sent:** Friday, December 2, 2016 4:56 PM  
**To:** 'George Hancock'; (b)(6)  
**Cc:** (b)(6) - Filer's Representative; Austin F. King; Keith Labeledz; 'Sean Doocey'  
**Subject:** RE: Assistance for Nominee Filer Designee; Filer Name Change in Integrity

Sean and Emily,

Please see our request below for the name change on the 278 report. It will better align with the reporting we are doing.

Please let us know if you have any questions.

Thanks!

(b)(6)

**From:** George Hancock [<mailto:ghancock@oge.gov>]  
**Sent:** Friday, December 2, 2016 4:51 PM  
**To:** (b)(6) - Filer's Representative; Austin F. King <[afking@oge.gov](mailto:afking@oge.gov)>; Keith Labeledz <[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>; 'Sean Doocey' (b)(6)  
**Subject:** RE: Assistance for Nominee Filer Designee; Filer Name Change in Integrity

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Thank you.

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**Sent:** Friday, December 02, 2016 4:04 PM  
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(b)(6)

**From:** George Hancock [<mailto:ghancock@oge.gov>]  
**Sent:** Friday, December 2, 2016 9:44 AM  
**To:** (b)(6) - Filer's Representative  
(b)(6); Austin F. King <[afking@oge.gov](mailto:afking@oge.gov)>; Keith Labeledz <[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>; 'Sean Doocey' (b)(6)  
**Subject:** Assistance for Nominee Filer Designee

(b)(6) - Filer's

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Thank you.

**From:** George Hancock  
**Sent:** Friday, December 02, 2016 9:20 AM  
**To:** 'Sean Doocey'; (b)(6) - Filer's Representative  
[REDACTED]; Austin F. King  
**Subject:** RE: Form Difficulties - Assistance for Filer Designee

Sean (b)(6) - Filer's

I added Austin King, our Help Desk Lead. He was coordinating a response to (b)(6) - Filer's Rep .

How about a call at 10 am to discuss details? To assist us assess the best way forward, does (b)(6) see the "Position-Related Interests" link on the left side menu? If so, what happens when he clicks it? If he doesn't see it we'll provide information on how best to proceed.

Thank you.

**From:** Sean Doocey (b)(6)  
**Sent:** Friday, December 02, 2016 9:08 AM  
**To:** (b)(6) - Filer's Rep; George Hancock  
**Cc:** (b)(6) - Filer's Rep  
**Subject:** Re: Form Difficulties

Hi George,

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(b)(6) - George is OGE's subject matter expert on Integrity and developed the system.

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Thanks,

(b)(6)



**From:** (b)(6) - Filer's Rep  
**Sent:** Thursday, December 1, 2016 6:37 PM  
**To:** (b)(6) - Filer's Rep  
**Cc:** Doocey Sean (b)(6)  
**Subject:** Fwd: Form Difficulties

(b)(6) (b)(6) - Filer's Rep - thoughts?

Sent from iPhone

Begin forwarded message:

**From:** Sean Doocey (b)(6)  
**Date:** December 1, 2016 at 18:35:45 EST  
**To:** (b)(6) - Filer's Rep  
**Subject:** Re: Form Difficulties

Any more details on the difficulty? I can direct you to the right person if I know a little more.

On Thu, Dec 1, 2016 at 6:23 PM (b)(6) - Filer's Rep (b)(6) wrote:

Thoughts? This is for 278

Sent from iPhone

Begin forwarded message:

**From:** (b)(6) - Filer's Rep (b)(6)  
**Date:** December 1, 2016 at 18:20:59 EST  
**To:** (b)(6) - Filer's Rep  
**Subject:** Form Difficulties

We are having some input issues and Integrity says that we are to contact the departments ethics official to get help. Do we have a contact for that person?

--

**Sean Doocey**

Presidential Transition Team

(b)(6)

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**From:** (b)(6) - Filer's Rep  
**To:** Sean Doocey; George Hancock  
**Cc:** (b)(6) - Filer's Rep  
**Subject:** RE: Form Difficulties  
**Date:** Friday, December 02, 2016 9:08:23 AM

---

George,

If it is helpful, I would be happy to be in the system if we could have a call to let you know what is happening.

Thanks,

(b)(6)

Rep  
[Redacted]

[Redacted]

[Redacted]

(b)(6)

**From:** Sean Doocey (b)(6)  
**Sent:** Friday, December 2, 2016 9:08 AM  
**To:** (b)(6) - Filer's Rep; G Hancock  
**Cc:** (b)(6) - Filer's Rep  
**Subject:** Re: Form Difficulties

Hi George,

Do you have any guidance for (b)(6) and team who are assisting (b)(6) with completing her OGE278 reference the below error?

(b)(6) - Filer's Rep  
George is OGE's subject matter expert on Integrity and developed the system.

--Sean

On Thu, Dec 1, 2016 at 6:42 PM, (b)(6) - Filer's Rep (b)(6) > wrote:

Sean,

It's a system input issue. I have been working through the Positions section and the system is now skipping from the positions list to Section 2 when I hit "next steps" rather than letting me input additional company data on an interim page that was accessible before. I would like instruction as to how to get back to the input pages.

Thanks,

(b)(6)

**From:** (b)(6) - Filer's Rep  
**Sent:** Thursday, December 1, 2016 6:37 PM  
**To:** (b)(6) - Filer's Rep  
**Cc:** Doocey Sean (b)(6)  
**Subject:** Fwd: Form Difficulties

(b)(6) - Filer's Rep n - thoughts?

Sent from iPhone

Begin forwarded message:

**From:** Sean Doocey (b)(6)  
**Date:** December 1, 2016 at 18:35:45 EST  
**To:** (b)(6) - Filer's Rep (b)(6)  
**Subject:** Re: Form Difficulties

Any more details on the difficulty? I can direct you to the right person if I know a little more.

On Thu, Dec 1, 2016 at 6:23 PM (b)(6) - Filer's Rep (b)(6) wrote:

Thoughts? This is for 278

Sent from iPhone

Begin forwarded message:

**From:** (b)(6) - Filer's Rep (b)(6)  
**Date:** December 1, 2016 at 18:20:59 EST  
**To:** (b)(6) - Filer's Rep  
**Subject:** Form Difficulties

We are having some input issues and Integrity says that we are to contact the departments ethics official to get help. Do we have a contact for that person?

--

Sean Doocey

Presidential Transition Team

(b)(6) [Redacted]

[Redacted]

**From:** (b)(6) - Filer's Rep  
**To:** [George Hancock](#)  
**Subject:** RE: Part 6 Alphabetical Sort  
**Date:** Monday, December 05, 2016 9:29:24 AM

---

Thanks, George. Much appreciate the quick response!

**From:** George Hancock [mailto:[ghancock@oge.gov](mailto:ghancock@oge.gov)]  
**Sent:** Monday, December 5, 2016 9:22 AM

**To:** (b)(6) - Filer's Rep  
[REDACTED]; Austin F. King; Keith Labeledz  
& 'Sean Doocey'  
**Subject:** Part 6 Alphabetical Sort

(b)(6) - Filer's Rep

Correct: Integrity outputs the data in the order entered, except for listing "child" assets with the associated "parent" holding.

Note: you can temporarily sort part 6 to see items in alphabetical order by clicking on the Description header in the table. That will display the items alphabetically, but will not preserve or that display order. It will not affect the exportable pdf.

Thank you.

**From:** (b)(6) - Filer's Rep (b)(6)  
**Sent:** Monday, December 05, 2016 9:10 AM  
**To:** George Hancock  
**Cc:** (b)(6) - Filer's Rep Austin F. King; Keith Labeledz; 'Sean Doocey'  
**Subject:** RE: Assistance for Nominee Filer Designee

Good morning, George. I hope you had a great weekend!

Just to confirm, in Part 6 (and probably in all parts), once data is entered it cannot be resorted for presentation, correct? For example, could we do a global resort in alphabetic order?

Thanks for your consideration.

(b)(6)

**From:** George Hancock [mailto:[ghancock@oge.gov](mailto:ghancock@oge.gov)]  
**Sent:** Friday, December 2, 2016 9:44 AM

**To:** (b)(6) - Filer's Rep  
[REDACTED]  
(b)(6) Austin F. King <[afking@oge.gov](mailto:afking@oge.gov)>; Keith Labeledz <[klabeledz@oge.gov](mailto:klabeledz@oge.gov)>; 'Sean Doocey' (b)(6)  
**Subject:** Assistance for Nominee Filer Designee

(b)(6)

Conference call information for a 10 am call: 1.866.718.6045, passcode 92861600.

I asked Keith Labeledz from the OGE Presidential Nominations Branch (PNB) to join us. PNB staff review the Nominee reports once they arrive at OGE.

Have you seen OGE's online Financial Disclosure Guide, <https://www2.oge.gov/Web/278eGuide.nsf>? It is a web-based set of instructions for completing and reviewing the Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e). It offers helpful instructions, illustrations of sample language, definitions, and answers to frequently asked questions. It is organized in parts corresponding to the OGE Form 278e.

Thank you.

**From:** George Hancock  
**Sent:** Friday, December 02, 2016 9:20 AM  
**To:** 'Sean Doocey'; (b)(6) - Filer's Rep  
Austin F. King  
**Subject:** RE: Form Difficulties - Assistance for Filer Designee

Sean (b)(6) - Filer's

I added Austin King, our Help Desk Lead. He was coordinating a response to (b)(6) - Filer's Rep.

How about a call at 10 am to discuss details? To assist us assess the best way forward, does (b)(6) see the "Position-Related Interests" link on the left side menu? If so, what happens when he clicks it? If he doesn't see it we'll provide information on how best to proceed.

Thank you.

**From:** Sean Doocey (b)(6)  
**Sent:** Friday, December 02, 2016 9:08 AM  
**To:** (b)(6) - Filer's Rep George Hancock  
**Cc:**  
**Subject:** Re: Form Difficulties

Hi George,

Do you have any guidance for (b)(6) and team who are assisting (b)(6) with completing her OGE278 reference the below error?

(b)(6) - George is OGE's subject matter expert on Integrity and developed the system.

--Sean

On Thu, Dec 1, 2016 at 6:42 PM, (b)(6) - Filer's Rep (b)(6) wrote:

Sean,

It's a system input issue. I have been working through the Positions section and the system is now skipping from the positions list to Section 2 when I hit "next steps" rather than letting me input additional company data on an interim page that was accessible before. I would like instruction as to how to get back to the input pages.

Thanks,

(b)(6)

**From:** (b)(6) - Filer's Rep  
**Sent:** Thursday, December 1, 2016 6:37 PM  
**To:** (b)(6) - Filer's Rep  
**Cc:** Doocey Sean (D)(b)  
**Subject:** Fwd: Form Difficulties

(b)(6) - Filer's Rep - thoughts?

Sent from iPhone

Begin forwarded message:

**From:** Sean Doocey (b)(6)  
**Date:** December 1, 2016 at 18:35:45 EST  
**To:** (b)(6) - Filer's Rep (b)(6)  
**Subject:** Re: Form Difficulties

Any more details on the difficulty? I can direct you to the right person if I know a little more.

On Thu, Dec 1, 2016 at 6:23 PM (b)(6) - Filer's Rep (b)(6) wrote:

Thoughts? This is for 278

Sent from iPhone

Begin forwarded message:

**From:** "Lambert, Jeff" (b)(6)  
**Date:** December 1, 2016 at 18:20:59 EST  
**To:** (b)(6) - Filer's Rep  
**Subject:** Form Difficulties

We are having some input issues and Integrity says that we are to contact the departments ethics official to get help. Do we have a contact for that person?

--



**Sean Doocey**

Presidential Transition Team

(b)(6)

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**From:** [George Hancock](#)  
**To:** "Sean Doocey"; (b)(6) - Filer's Rep  
**Subject:** RE: sf86 tech help!!!  
**Date:** Friday, December 02, 2016 3:14:36 PM

---

I can only answer questions about Integrity, <https://integrity.gov>, for the OGE Form 278. The email subject indicates "sf86 tech help". I cannot answer questions about that form/process. I recommend you contact whoever informed about filing that form. OPM has a website, <https://www.opm.gov/investigations/e-qip-application/>, that may be useful to check.

Thank you,  
George Hancock  
*Integrity Manager*  
Program Counsel Division  
Legal, External Affairs and Performance Branch  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005

**From:** Sean Doocey (b)(6)  
**Sent:** Friday, December 02, 2016 3:09 PM  
**To:** George Hancock; (b)(6) - Filer's Rep  
**Subject:** Re: sf86 tech help!!!

+George

On Fri, Dec 2, 2016 at 3:07 PM (b)(6) - Filer's Rep (b)(6) wrote:

Sean -

Can we have an issue hitting submit because of incomplete data... can you connect (b)(6) - Filer's (copied) to a help desk?

(b)(6) - Filer's

**From:** [George Hancock](#)  
**To:** (b)(6) - Emily  
**Subject:** Time for a Check-in call?  
**Date:** Friday, December 02, 2016 12:40:17 PM

---

Emily:

How is it going with Integrity? Have time for a check in call this afternoon, maybe 1:30? I have contact from 2 filer designees on basic navigation, but they seem to be doing fine entering data.

I see that there are some names for other than PAS Nominee positions. I can create a WH agency in Integrity to collect their filings if desired. To do so, I'd need some information.

Who should I contact to discuss those specifics?

Thank you.

From: [George Hancock](#)  
To: [Sean Dooney](#), [Ann M Donaldson](#)  
Subject: WHO Agency n Integrity - Workflow Options: Role Holders  
Date: Friday, December 02, 2016 2:06:57 PM

Sean/Annie:

I saw several names mentioned for non-PAS positions. There is a way to get them into Integrity separate from the Nominee functionality (which is only for the PAS positions, see a list on the OGE Presidential Transition site, <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>, or at [https://www.oge.gov/Web/OGE.nsf/0/228DD3FD3D8808525801B0058B0E1/\\$FILE/\(Unofficial\)%20Excel%20Workbook%20listing%20positions%20for%20which%20OGE%20reviews%20nominees.xlsx](https://www.oge.gov/Web/OGE.nsf/0/228DD3FD3D8808525801B0058B0E1/$FILE/(Unofficial)%20Excel%20Workbook%20listing%20positions%20for%20which%20OGE%20reviews%20nominees.xlsx)). I need some specific information to create a new White House Office (WHO) agency where they can be added and assigned New Entrant filing tasks. (b)(5)

The information I need pertains to how the new WHO will process those reports and which staff should have roles in managing those filings. I am available to discuss in a phone call if you prefer. Here are the basic questions.

(b)(5)

[Redacted text block]

[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]

Thank you,  
George  
202.482.9309

**From:** [Heather A. Jones](#)  
**To:** ["Ann M. Donaldson"](#)  
**Subject:** Revised Gift Rule and Ethics Program Rule  
**Date:** Tuesday, December 06, 2016 9:14:12 AM  
**Attachments:** [2016-27036.pdf](#)  
[2016-26418.pdf](#)

---

Annie-

Attached are the revised gift rule and the Executive Branch ethics program rule. I think the ethics program rule may be helpful as you set up the White House ethics office.

Best,

Heather

Heather Jones

(202) 482-9316

Office of Government Ethics

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# Rules and Regulations

Federal Register

Vol. 81, No. 223

Friday, November 18, 2016

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2635

RIN 3209-AA04

#### Standards of Ethical Conduct for Employees of the Executive Branch; Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Government Ethics is issuing a final rule revising the portions of the Standards of Ethical Conduct for Executive Branch Employees that govern the solicitation and acceptance of gifts from outside sources. The final rule modifies the existing regulations to more effectively advance public confidence in the integrity of Federal officials. The final rule also incorporates past interpretive guidance, adds and updates regulatory examples, improves clarity, updates citations, and makes technical corrections.

**DATES:** This final rule is effective January 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Leigh J. Francis, Assistant Counsel, or Christopher J. Swartz, Assistant Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; Telephone: 202-482-9300; TTY: 800-877-8339; FAX: 202-482-9237.

#### SUPPLEMENTARY INFORMATION:

##### I. Rulemaking History

On November 27, 2015, the U.S. Office of Government Ethics (OGE) published for public comment a proposed rule setting forth comprehensive revisions to subpart B of the Standards of Ethical Conduct for Employees of the Executive Branch

(Standards of Ethical Conduct), 5 CFR part 2635. 80 FR 74004 (Nov. 27, 2015). Subpart B of part 2635 contains the regulations governing the solicitation and acceptance of gifts from outside sources by officers and employees of the Executive Branch. These regulations implement the gift restrictions set forth in 5 U.S.C. 7353 and section 101(d) of Executive Order 12674, as modified by Executive Order 12731. The proposed rule was issued following OGE's retrospective review of the regulations found in subpart B, pursuant to section 402(b)(12) of the Ethics in Government Act of 1978, Public Law 95-521, codified at 5 U.S.C. Appendix IV, sec. 402(b)(12). Prior to publishing the proposed rule, OGE consulted with the Office of Personnel Management and the Department of Justice in accordance with section 402(b) of the Ethics in Government Act and section 201(a) of Executive Order 12674, as modified by Executive Order 12731, and with other officials throughout the Federal Government.

The proposed rule provided a 60-day comment period, which ended on January 26, 2016. OGE received ten timely and responsive comments, which were submitted by four individuals, three professional associations, two Federal agencies, and a law firm. After carefully considering all comments and making appropriate modifications, and for the reasons set forth below and in the preamble to the proposed rule at <https://www.gpo.gov/fdsys/pkg/FR-2015-11-27/pdf/2015-29208.pdf>, OGE is publishing this final rule.

##### II. Summary of Comments and Changes to Proposed Rule

###### General Comments

OGE received one comment from an individual observing that various references to spousal and dating relationships in the examples used dual-gendered relationships and gender-specific pronouns. The commenter expressed concern that such examples could be read as excluding same-sex marriages or relationships. OGE treats same-sex spouses the same as opposite-sex spouses for the purposes of all of its regulations. OGE Legal Advisory LA-13-10 (Aug. 19, 2013). OGE has therefore reviewed the examples highlighted by the commenter and has replaced the terms “husband” and

“wife” with the gender-neutral term “spouse.”

Various commenters suggested that one or more of the proposed amendments to the rule might negatively impact the ability of the public to interact with Federal employees. These commenters pointed out the beneficial impact of this interaction and encouraged OGE to consider this equity in drafting gift regulations. As a general matter, OGE agrees with the commenters' proposition that communication between the Government and the public is vital to ensuring that Government decisions are responsive to citizen needs. Public interaction done in a non-preferential manner may: (1) Provide executive branch decisionmakers with information and data they may not otherwise possess; (2) identify policy options and alternatives that may not have been raised internally; and (3) produce better and more thoughtful decisions. These interactions must, however, occur in an environment that promotes the public's confidence in the integrity of Government decisionmaking. When Federal employees accept or solicit gifts from members of the public who have interests that are affected by the employee's agency, the public's confidence can be eroded as “[s]uch gifts may well provide a source of illicit influence over the government official; in any case they create a suspicious and unhealthy appearance.” *The Association of the Bar of the City of New York, Conflict of Interest and Federal Service* 219 (1960). When drafting this final rule, OGE has carefully considered the commenters' concerns in light of the important objective of promoting the public's confidence in the impartial administration of the Government.

###### § 2635.201 Overview and Considerations for Declining Otherwise Permissible Gifts

OGE received comments from three sources on proposed § 2635.201(b)(1). Section 2635.201(b)(1) establishes a non-binding standard that can assist employees in considering whether to decline an otherwise permissible gift. The standard encourages employees to consider whether their acceptance of a gift that would otherwise be permissible to accept would nonetheless create the appearance that their integrity or ability

to act impartially may be compromised. The duty to avoid such appearances is a responsibility of all executive branch employees. See 5 CFR 2635.101(b)(1); (14).

Based on past experience with executive branch agencies applying subpart B of part 2635, OGE is concerned that employees and ethics officials may not be sufficiently analyzing appearance concerns and, instead, may be focusing exclusively on whether a gift can be accepted under a regulatory gift exception. This kind of analysis may unintentionally overlook other important considerations, such as “whether acceptance of the gift could affect the perceived integrity of the employee or the credibility and legitimacy of [an] agency’s programs.” 80 FR 74004, 74004 (Nov. 27, 2015). The non-binding standard in § 2635.201(b)(1) was explicitly included in subpart B to correct for this tendency and to enhance the overall quality of employees’ ethical decisionmaking.

Commenters on this section raised concerns with the new standard and the factors for applying the standard. OGE appreciates the concerns raised by commenters, which are examined in detail below. OGE has addressed these concerns by making appropriate adjustments to the standard, rather than adopting some of the commenters’ requests for the outright removal of this section. The changes make the standard easier for employees to understand and apply.

A few commenters suggested that ethics training would be more effective than a regulatory change in ensuring that employees consider appearance issues before accepting gifts. OGE fully agrees with the commenters’ suggestions that ethics education is important. Without this amendment of the regulation, however, there would not be a uniform standard upon which to base ethics training regarding appearance issues in connection with gifts. Prior to this amendment, the regulation cautioned only that “it is never inappropriate and frequently prudent for an employee to decline a gift,” but the regulation did not articulate an applicable standard or any factors for employees to use in identifying the frequently arising circumstances when it would be prudent to decline a gift. OGE believes it is imperative that the regulatory framework itself enable and encourage employees to meaningfully consider the appearances of accepting gifts. By articulating the standard and relevant factors, the amended § 2635.201(b)(1) will increase the value and uniformity of agency ethics training

because that standard and those factors will become a focus of ethics training.

One commenter believed that the proposed standard creates confusion because it moves away from the previous system of bright-line rules regarding gift acceptance. Specifically, the commenter requested that OGE amend the regulation in a way that sets out definitive rules as to whether “a gift is simply permissible or impermissible, without further parsing the permissible gifts into additional categories, *i.e.*, technically permissible and actually permissible.” OGE does not believe that the non-binding standard will create confusion because OGE has maintained the clear, uniform, and objective rules that are found in the current regulation. Section 2635.201(b)(1) augments those rules by encouraging employees to consider the appearances of their actions. The posited distinction between “technically permissible” and “actually permissible” is inaccurate because an employee will not face disciplinary action in the event that someone later subjectively disagrees with the employee’s analysis. The bright-line rules provide a floor for ethical behavior, and the appearance analysis under § 2635.201(b) provides a mechanism with which to reach for a stronger, values-based ethical culture. This framework provides the certainty and uniformity of the existing rules, while furthering the underlying objective of increasing public trust by improving the ethical decisionmaking of employees.

The commenters also suggested that employees will feel compelled by this non-binding standard to always decline legally permissible gifts. OGE does not agree that the standard creates a presumption that all legally permissible gifts should be declined. Although some employees will decline legally permissible gifts after carefully analyzing them under the standard that § 2635.201(b)(1) establishes, the standard does not change the fact that the determination as to whether a legally permissible gift should be accepted is the employee’s to make. Section 2635.201(b)(1) is designed to increase uniformity and promote public trust by articulating factors, which are informed by the ethical values consistent with the executive branch’s Principles of Ethical Conduct, in order to guide the employee’s decisionmaking process. This section provides employees an effective means of adequately assessing whether, notwithstanding a gift exception, the specific factual circumstances may raise appearance concerns weighing against acceptance of a gift.

In light of the comments referenced above, however, OGE has streamlined the language of § 2635.201(b). OGE has also clarified the overarching objective of that provision by placing the emphasis in § 2635.201(b)(1) on an assessment as to whether “a reasonable person with knowledge of the relevant facts would question the employee’s integrity or impartiality.” In the proposed rule, substantially similar language appeared in the list of factors in § 2635.201(b)(2). Because this language articulates the standard to be applied, however, it is more appropriately included in paragraph (b)(1), which establishes the standard, than in paragraph (b)(2), which provides factors for determining whether the standard has been met. Using this “reasonable person” language in the articulated standard has the added benefit of addressing a commenter’s concern regarding the potential for confusion, as executive branch employees have extensive experience applying this particular standard, which has long been used to address appearance concerns under § 2635.502. At the end of § 2635.201(b)(1), OGE has also added “as a result of accepting the gift” in order to tie the appearance concerns to the specific action giving rise to them.

As a final note, one commenter was concerned that the application of the reasonable person standard could vary, resulting in the “unequal application” of the standard. Reliance on a reasonable person standard, however, is not a novel approach in Government ethics. The Standards of Ethical Conduct at part 2635 have successfully employed the reasonable person standard for over two decades. See 5 CFR 2635.101(b)(14); 2635.502(a); *cf.* 2635.702(b) (“that could reasonably be construed”). In fact, when OGE first proposed the Standards of Ethical Conduct in 1991, OGE noted that the use of the reasonable person standard reflected both “case law and longstanding practice,” which “temper the appearance standard by reference to the perspective of a reasonable person with knowledge of the relevant facts.” 56 FR 33778, 33779 (July 23, 1991). OGE explained that the use of the reasonable person standard “is intended to ensure that the conduct of employees is judged by a standard of reasonableness.” *Id.* That reasoning continues to hold today.

#### *Factors for Applying the § 2635.201(b)(1) Standard*

Two commenters requested that OGE remove § 2635.201(b)(2), which sets out factors that employees may consider when determining whether to decline

an otherwise permissible gift. These commenters requested the factors be removed because of their concern that the factors listed in § 2635.201(b)(2) are too complex and confusing, and will inevitably lead employees to decline permissible gifts. OGE is sensitive to these concerns and has revised the language to address them.

OGE reviewed each of the proposed factors closely to determine whether any could be removed, streamlined, or changed to eliminate unnecessary complexity or confusion. OGE removed several factors that appeared in the proposed rule on the basis that clarification of the reasonable person standard in § 2635.201(b)(1) in the final rule has rendered them unnecessary:

- Whether acceptance of the gift would lead the employee to feel a sense of obligation to the donor;
- Whether acceptance of the gift would cause a reasonable person to question the employee's ability to act impartially; and
- Whether acceptance of the gift would interfere with the employee's conscientious performance of official duties.

See 80 FR 74004, 74010 (Nov. 27, 2015). At the same time, OGE has added a straightforward factor focusing on whether “[t]he timing of the gift creates the appearance that the donor is seeking to influence an official action,” in order to provide a concrete example intended to remind employees that the timing of a gift can create the appearance that a person is seeking to influence the decisionmaking process.

OGE has also revised the factor articulated at § 2635.201(b)(2)(iv). The proposed language read: “Whether acceptance of the gift would reasonably create an appearance that the employee is providing the donor with preferential treatment or access to the Government.” OGE's intent was that the word “preferential” would be read to modify both “treatment” and “access.” In light of concerns the commenters expressed regarding the clarity of § 2635.201(b)(2) generally, OGE has determined that the proposed language could have been clearer in this respect. In reviewing this language, OGE also noted that the phrase “preferential treatment” is redundant of the phrase “preferential . . . access to the Government,” in that the specific preferential treatment at issue is the preferential access that the donor may be perceived as having received. The concern is that a donor may offer a gift that, by its nature, would provide the donor with significantly disproportionate access to the employee. This concern can arise in connection with gifts such as frequent

lunches, trips, social invitations, free attendance at widely attended gatherings, and other items. If such gifts were to result in an employee spending considerable time with a donor, the donor may appear to have inordinate opportunities to discuss matters of interest to the donor and, thereby, unduly influence the employee. Accordingly, OGE has simplified this language and made it more specific. The language at § 2635.201(b)(2)(iv) now reads: “Acceptance of the gift would provide the donor with significantly disproportionate access.” This language should not be read as discouraging employees from attending events merely because they present opportunities to discuss official business. There is no requirement to provide exact parity in all cases with regard to the level of access afforded to those with competing viewpoints, but there is a value in guarding against any person, or multiple persons with a common interest or viewpoint, from enjoying significantly disproportionate access as a result of having given gifts to employees. An employee who is concerned about the level of access provided to those with a particular viewpoint may choose to decline the offered gifts or may take steps to ensure that those with different viewpoints are able to communicate with the employee, such as by taking their telephone calls, agreeing to meet with them in the employee's office, or convening a public forum.

OGE has also removed the following two factors:

- With regard to a gift of free attendance at an event, whether the Government is also providing persons with views or interests that differ from those of the donor with access to the Government;
- With regard to a gift of free attendance at an event, whether the event is open to interested members of the public or representatives of the news media.

80 FR 74004, 74010 (Nov. 27, 2015). Although OGE continues to believe these factors are important when an employee considers any gift of free attendance, their inclusion in § 2635.201(b)(2) is unnecessary given their more limited application. Furthermore, these factors often are most relevant to free attendance at widely attended gatherings under § 2635.204(g), where similar factors already exist.

OGE believes that these changes to § 2635.201(b)(2) diminish the potential for confusion created by the longer list of factors included in the proposed rule while continuing to provide guidance as

to how employees should apply the standard in § 2635.201(b)(1) in the areas that OGE believes raise the greatest potential for appearance problems.

#### *Receipt of Independent Advice From an Ethics Official Under § 2635.201(b)(4)*

One commenter raised a concern about the language OGE used in § 2635.201(b)(4), which reminds employees to contact an appropriate agency ethics official if they have questions regarding whether acceptance of a gift is permissible and advisable. The commenter was concerned that the statement “[e]mployees who have questions regarding . . . whether the employee *should* decline a gift that would otherwise be permitted under an exception [emphasis in original],” seemed to indicate that there are “right and wrong” conclusions. OGE has not deleted the reference to advice from an ethics official because the regulation is sufficiently clear that the decision to decline or accept an otherwise permissible gift is the employee's to make. Although consulting an ethics official may assist the employee in making that decision, the regulation does not require such consultation. Section 2635.201(b)(3) explicitly states that an employee who does not decline a permissible gift under § 2635.201(b) has not violated the Standards of Ethical Conduct. At the same time, OGE believes that the reminder as to the availability of ethics advice will prove helpful to employees. Ethics officials can provide employees with valuable insights and guidance in assessing the reasonable person standard in individual cases because they possess experience in Government ethics, awareness as to how the Standards of Ethical Conduct are applied across the agency and across the executive branch, and knowledge of circumstances relevant to evaluating the effect on the public's trust of accepting certain gifts.

Nevertheless, to partly address the commenter's concern, OGE has deleted the reference to § 2635.107(b) at the end of § 2635.201(b)(4). After considering the commenter's concern, OGE recognized that the reference to § 2635.107(b) was potentially confusing because that section provides a safe harbor against disciplinary action in certain circumstances when an employee has consulted an agency ethics official. As § 2635.201(b)(3) makes clear, however, employees may not be disciplined under this provision and have no need for the safe harbor provision in connection with the appearance analysis under § 2635.201(b).



### Examples to § 2635.201(b)

One commenter suggested that OGE should add examples to the regulation to indicate how to apply new § 2635.201(b). OGE has added Example 1 to paragraph (b) in order to illustrate how an employee may use the standard and factors found in § 2635.201(b). The same commenter also suggested that OGE provide additional guidance documents to further assist agency officials and employees in understanding how to apply the standard found in § 2635.201(b). OGE intends to provide additional guidance and training as needed on an ongoing basis.

### 5 CFR 2635.202 General Prohibition on Solicitation or Acceptance of Gifts

OGE received no comments on § 2635.202. OGE is adopting the amendments to this section as proposed for the reasons described in the preamble to the proposed rule. A small change to Example 1 to paragraph (c) was made after the Supreme Court's recent decision in *McDonnell v. United States*, 579 U.S. \_\_\_, 135 S. Ct. 1133 (2016), which limited the scope of the term "official act" as used in 18 U.S.C. 201(a)(3).

### 5 CFR 2635.203 Definitions

OGE received a number of comments on the definitions of the terms "gift," "market value," "indirectly solicited or accepted," and "free attendance." In regard to the definition of "gift," all comments focused on the exclusions to the definition. The comments for these terms are separately addressed in greater detail below.

### Definition of "Gift": Exclusion for Modest Items of Food and Refreshment

OGE received three comments on proposed Example 1 to § 2635.203(b)(1). Section 2635.203(b)(1) explains that the definition of "gift" for purposes of subpart B excludes "[m]odest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal." Proposed Example 1 to paragraph (b)(1) was included for the purpose of making explicit OGE's longstanding interpretation that alcohol is not a modest item of refreshment under § 2635.203(b)(1). Because none of the beverages currently listed in the regulation are alcoholic and the exclusion specifically refers to "soft," meaning non-alcoholic drinks, OGE has long treated alcoholic beverages as not being part of the class of modest refreshments covered by the exclusion.

All three of the commenters were concerned that the example seemed to

indicate that attendance at an event where alcohol is served is *per se* "improper." To address this concern, OGE has removed the example altogether and amended the regulatory text of § 2635.203(b)(1) to exclude from the definition of "gift" "[m]odest items of food and non-alcoholic refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal." This amendment codifies the interpretation that was previously set out in the proposed example. Although the carve-out from the definition of "gift" at § 2635.203(b)(1) for modest refreshments is limited to non-alcoholic beverages, this limitation does not impact the gift exceptions at 5 CFR 2635.204.

### Definition of "Gift": Exclusion for Greeting Cards and Presentation Items With Little Intrinsic Value

OGE received two comments on the proposed revisions to § 2635.203(b)(2). The first comment, from a professional association, was in favor of the proposal to modify the exclusion for presentation items. The second comment, from an individual, requested that OGE further amend the regulation to state that "items with little intrinsic value . . . intended primarily for presentation" are excluded from the definition of "gift" only if they "do not have significant independent use." The individual noted that OGE used this phrase in proposed Example 2 to paragraph (b)(2) when explaining why a \$25 portable music player would not be excluded from the definition of "gift" under this provision. OGE has decided not to adopt this change. As evidenced by the example, the fact that an item lacks other uses is a legitimate consideration in support of a finding that the item is intended "primarily for presentation." The regulation does not, however, require that an item lack any potential other use in order to qualify as an item intended "primarily for presentation."

### Definition of "Gift": Exclusion for Items Purchased by the Government or Secured Under Government Contract

OGE received one comment on the proposed example to § 2635.203(b)(7), which states that Federal employees may retain certain "travel promotional items, such as frequent flyer miles, received as a result of [] official travel, if done in accordance with 5 U.S.C. 5702, note, and 41 CFR part 301-53." The commenter explained: (1) That employees who receive such frequent flyer miles should be encouraged to use such frequent flyer miles for subsequent official travel; and (2) that no personal use should be allowed for employees of

the Federal Aviation Administration. OGE has not changed the substance of this example. As explained in the example, Congress passed a statute specifically permitting employees to accept these types of travel-related benefits. The General Services Administration (GSA) has primary authority for implementing that statute, and has done so through regulations found at 41 CFR part 301-53. To partly address the commenter's concern, however, OGE revised the language "if done in accordance with 5 U.S.C. 5702, note, and 41 CFR part 301-53," to read "to the extent permitted by 5 U.S.C. 5702, note, and 41 CFR part 301-53," in order to clarify that OGE's regulation does not create any new authority for accepting these travel related benefits beyond what Congress and GSA provided for in the statute and the regulation.

### Definition of "Gift": Exclusion for Free Attendance Provided to Employees Speaking in Their Official Capacity and Extension to Personal Capacity Speaking Events

One commenter requested that OGE expand § 2635.203(b)(8) to exclude from the definition of "gift" free attendance at events where employees are speaking in their personal capacity on matters that are unrelated to their duties. The commenter noted that § 2635.203(b)(8) excludes free attendance in connection with official speaking engagements and requested a parallel exclusion for personal speaking engagements. OGE has not adopted this change. Normally, the Standards of Ethical Conduct would not prohibit an employee from accepting free attendance at an event at which the employee has a *bona fide* arrangement to speak in a personal capacity. This subject is addressed in § 2635.807(a)(2)(iii)(B), which permits employees to accept a waiver of attendance fees for speeches related to their official duties, and OGE has traditionally applied § 2635.202 consistently with that provision of § 2635.807 for speeches unrelated to official duties.

### Definition of "Market Value"

OGE received two comments on the proposed amendments to the definition of "market value," as used throughout the regulation, as well as the examples following the definition. OGE proposed to amend "market value" to mean "the cost that a member of the general public would reasonably expect to incur to purchase the gift." One commenter was generally in favor of the amendment, as well as the examples illustrating how the definition would be applied in

various circumstances. The other commenter noted that Example 4 to paragraph (c) did not explicitly state that the tickets offered to the employee lacked a face value. OGE has amended Example 4 to indicate that the tickets provided to the employee in the example do not have a face value, and therefore the general rule used for calculating the market value of a ticket would not apply. OGE also amended Example 4 to further clarify the method of calculating the market value of such tickets.

#### *Definition of “Indirectly Solicited or Accepted”*

OGE received one comment on § 2635.203(f), which establishes when a gift will be deemed to have been accepted or solicited indirectly. The commenter was in favor of OGE’s amendment at § 2635.203(f)(2). OGE has adopted the language as proposed for the reasons set forth in the preamble to the proposed rule.

#### *Definition of “Free Attendance”*

OGE received two comments in favor of the proposed subpart-wide definition of “free attendance” at § 2635.203(g). Both commenters supported OGE’s amendment allowing employees who are presenting at an event to accept attendance at “speakers’ meals” provided by the sponsor of the event. OGE has adopted the language as proposed for the reasons set forth in the preamble to the proposed rule.

#### *§ 2635.204 Exceptions to the Prohibition for the Acceptance of Certain Gifts*

Although OGE did not receive a specific comment on the title of the regulation, OGE has made a technical change to the title of this section for clarity and to more closely track the substance of the regulation.

OGE has also revised the introductory text to remind employees to consider the standard found in § 2635.201(b) when determining whether to rely on an exception. The revised language is modeled on the introductory text found in the current version of § 2635.204, but cross-references § 2635.201(b).

#### *Gifts of \$20 or Less*

OGE received two comments requesting that OGE raise the regulatory dollar thresholds found in the gift exception at § 2635.204(a). Pursuant to § 2635.204(a), an employee may accept otherwise prohibited gifts not exceeding \$20 per occasion so long as he or she does not accept more than \$50 worth of gifts from the same person per year. In support of this request, one commenter

pointed out the effect that inflation has had on the value of this *de minimis* threshold.

OGE carefully considered these commenters’ suggestions. As OGE explained when it issued the final gift regulations, the *de minimis* exception was included to remove the need for a “laundry list of exceptions for small, unobjectionable gifts.” 57 FR 35006, 35016 (Aug. 7, 1992). The *de minimis* exception was intended to provide a uniform means for employees to accept only inexpensive and innocuous gifts on an infrequent basis. *Id.* OGE believes that the current dollar threshold continues to meet that narrow objective. OGE is concerned that raising the *de minimis* would encourage employees to accept, and private citizens to give, more expensive and more frequent gifts than employees are currently able to accept. Although some gifts that once fell at the higher end of the spectrum may now be precluded, OGE believes that the \$20 threshold continues to be workable, permitting employees to accept on an infrequent basis most of the types of items that can be characterized as inexpensive and innocuous. In addition, the existing exclusions and exceptions from the gift rules permit employees to accept targeted items that are over \$20 in carefully restricted circumstances (*e.g.*, a gift from an employee’s spouse). See 5 CFR 2635.204(b). Although \$20 may not buy the sort of lunch that it bought in 1992 when the regulation was issued, no compelling argument has been made to support a conclusion that raising the cap on the blanket *de minimis* exception, in order to allow employees to accept more expensive and more frequent gifts, would strengthen the integrity of the executive branch’s operations. Accordingly, OGE has decided not to adopt the commenters’ suggestions to increase the cap.

#### *Gifts Based on a Personal Relationship*

OGE received one comment in support of the new Example 3 to § 2635.204(b), which provides guidance on assessing whether a gift provided by a social media contact falls within the bounds of the gift exception. OGE has adopted the text of § 2635.204(b) substantially as proposed for the reasons set forth in the preamble to the proposed rule.

#### *Awards and Honorary Degrees*

OGE did not make changes based on comments received from two individuals on proposed § 2635.204(d). Section 2635.204(d) permits employees to accept gifts of certain awards and honorary degrees, including items

incident to such awards and degrees. The first commenter suggested that OGE relocate the two examples following paragraph (d)(1) so that they would appear after paragraph (d)(2). OGE has not adopted the suggestion. These examples address paragraph (d)(1), which establishes the several requirements for accepting awards, and do not specifically address paragraph (d)(2), which defines the term “established program of recognition.”

The second commenter addressed the acceptance of qualifying honorary degrees from certain “foreign institution[s] of higher education.” See 80 FR 74004, 74007 (Nov. 27, 2015). The commenter suggested that OGE clarify the basis of the Government’s concerns regarding the acceptance of emoluments from foreign governments. OGE has not adopted this change because the prohibition stems from the Emoluments Clause of the United States Constitution. See U.S. Const., art. 1, sec. 9, cl. 8. OGE is not the appropriate authority to delineate the basis for specific provisions of the Constitution.

#### *Gifts Based on Outside Business or Employment Relationships*

OGE received one comment on the proposed amendments to § 2635.204(e), which sets forth various exceptions to the general prohibitions on accepting and soliciting gifts when such gifts are offered as a result of an outside business or employment relationship. The commenter was generally in favor of the amendments. OGE has retained the exception as proposed for the reasons set out in the preamble to the proposed rule.

#### *Gifts of Free Attendance to Widely Attended Gatherings*

OGE received a number of comments related to the exception at § 2635.204(g), permitting employees to accept offers of free attendance to widely attended gatherings (WAGs) if certain criteria are met. In the proposed rule, OGE presented a number of amendments to the WAG, including changes to: (1) Make it clear that an event does not qualify as a WAG if it does not present “an opportunity to exchange ideas and views among invited persons”; (2) require employees to obtain written authorizations before accepting gifts of free attendance at WAGs; and (3) require agency designees to weigh the agency’s interest in employees’ attendance at WAGs against the possibility that acceptance of gifts of free attendance will influence their decisionmaking or create the appearance that they will be influenced in their decisionmaking.

One commenter expressed concern about the proposed amendment to the definition of “widely attended gatherings.” The proposed language clarifies that events do not qualify as WAGs unless there is “an opportunity to exchange ideas and views among invited persons.” The commenter suggested that this language would narrow the rule to apply to only “panel or roundtable events.” OGE believes that this is a mischaracterization of the regulatory amendment. Nothing in the amendment would narrow the definition exclusively to roundtable or panel events. The amendment reflects only OGE’s longstanding interpretation that the event must present an opportunity for an “exchange” or “interchange” of ideas among attendees. See OGE Informal Advisory Opinion 07 x 14 (Dec. 5, 2007).

Several commenters objected to the change requiring written authorizations because it might increase the workload of ethics officials. Three commenters raised workload concerns in connection with the requirement that an employee obtain a written authorization from an agency designee prior to accepting free attendance to a WAG, though one commenter acknowledged that a requirement to obtain written authorization “protects both the employee and the private sector sponsors.” OGE has not eliminated the requirement to obtain written authorization before an employee attends a WAG. Any additional burden on ethics officials will not be so substantial as to outweigh the potential benefits of recording WAG authorizations. In this regard, it is worth noting that agency ethics officials have long been required to make several of the findings required by § 2635.204(g)(3), as proposed. In addition, some agencies have already adopted the practice of recording all WAG authorizations in writing. In any case, most of the work required of ethics officials under the amended regulation will stem from the requirement to make a number of determinations that have always been required under the regulation. After making these determinations, ethics officials have discretion to determine the level of detail to include in the written authorization. The amended regulation does not, however, require a “formal written opinion” as one commenter suggested.

One commenter noted that the amended rule requires agencies to determine in all cases whether “[t]he agency’s interest in the employee’s attendance outweighs the concern that the employee may be, or may appear to

be, improperly influenced in the performance of [his or her] official duties.” The regulation did not previously require this determination in every case, but agency officials have always been charged with evaluating “all the relevant circumstances of any proposed WAG before an employee is authorized to accept free attendance.” OGE Informal Advisory Opinion 07 x 14 (Dec. 5, 2007). The determination now required in all cases is consistent with this preexisting requirement, inasmuch as improper influence, or the appearance of improper influence, would necessarily have been a relevant circumstance to be analyzed under the regulation even prior to the current amendment.

Two commenters expressed concern that ethics officials will approve attendance at fewer events for substantive reasons. However, the new regulation does not significantly change the substantive analysis, which remains focused, as it always has been, on the potential for improper influence and the appearance of improper influence. Disapproval of a gift of free attendance, when an agency has determined that an employee’s acceptance of the gift would result in improper influence or the appearance of improper influence, is a proper outcome under any responsible ethics regime.

OGE received two additional comments related to § 2635.204(g). One commenter posited a hypothetical case under § 2635.204(g)(1). OGE is not in a position to assess the interests of a hypothetical agency or other relevant factual circumstances not specified in the commenter’s hypothetical. At the request of the other commenter, however, OGE has inserted a reference to the written determination requirement in proposed Example 4 to paragraph (g).

#### *Social Invitations*

OGE received one comment from an agency on proposed § 2635.204(h), which permits an employee and accompanying guests to accept certain benefits that are provided at a “social event” so long as the person extending the invitation is not a prohibited source. The proposed rule added a requirement that employees receive a written determination that such attendance would not cause a reasonable person to question the employee’s integrity if the event is sponsored by, or the invitation is from, an organization. The commenting agency questioned the purpose of this amendment and suggested that it could increase the workload of agency ethics officials.

Although OGE understands the programmatic consideration raised by the commenter, OGE does not believe that those concerns weigh significantly against the written determination requirement. In many cases, OGE believes that the analysis as to whether a reasonable person would question the employee’s integrity or impartiality in attending will be relatively easy to assess, particularly given that the offeror cannot be a prohibited source. Likewise, the standard should be easier to meet if the circumstances indicate that the event is for purely social reasons or is open to a wide variety of attendees. Moreover, ethics officials have discretion to determine the level of detail to include in the written authorization and to choose an appropriate means, such as email, for transmitting the authorization. OGE does not, therefore, believe that the amended regulation will substantially increase the burden on ethics officials. At the same time, there is a heightened risk for, at a minimum, an appearance that the motivation for the gift is to advance a business objective when the sponsor of the event, or offeror of the invitation, is an organization. For this reason, OGE believes that the additional requirement with regard to organizations is warranted.

OGE has made three technical changes to the language of this exception for consistency with other sections and for clarity. First, OGE added the phrase “with knowledge of the relevant facts” to the language in § 2635.204(h)(3), which establishes a reasonable person standard for consistency with the wording of the reasonable person standard in § 2635.201(b) and elsewhere in the Standards of Ethical Conduct. See 5 CFR 2635.101(b)(14); 2635.501; 2635.502(a); 2635.502(c). Second, OGE changed “makes” to “has made” in § 2635.204(h)(3) in order to clarify that the determination to allow an employee to attend the social event must be made before the employee actually attends the event. Third, OGE replaced the legal citation to § 2635.201(b) at the end of the social invitations exception with the following plain language phrase: “consistent with § 2635.201(b).” None of these three technical changes alters what OGE intended to be the substantive meaning of the regulation.

#### *Gifts Accepted Under Specific Statutory Authority*

OGE has made a technical correction to § 2635.204(l)(1) so that the language tracks the interpreting regulation for 5 U.S.C. 4111 at part 410 of this title.

### Informational Materials

Two professional associations and an individual commented on the new exception at § 2635.204(m). The exception permits employees to accept qualifying gifts of informational materials. The exception also sets out certain procedural safeguards and defines what constitutes “informational materials” for the purposes of this provision.

One professional association welcomed the addition of the new exception on the basis that it will allow a flow of useful information to employees. The second professional association also supported the new exception, but requested that OGE amend the rule in two ways: (1) Clarify that the rule would permit the acceptance of “marketing and promotional materials”; and (2) clarify that when a gift of informational materials exceeds \$100, an agency may authorize the employee to accept the gift on behalf of the agency if the agency has separate statutory authority. OGE has decided not to revise the proposed exception to include “marketing and promotional materials” as a specific category of acceptable informational materials. Whether an item qualifies for the exception will depend on whether the factual circumstances support a determination that the item offered meets the specific criteria set forth in § 2635.204(m). OGE has likewise decided not to amend the regulatory text to clarify that agencies may accept gifts of informational materials when the gift exceeds \$100. Agencies with gift acceptance authorities have established their own procedures and policies regarding the acceptance of such gifts consistent with their interpretations of those authorities, and OGE is not in a position to direct another agency on the use of its gift acceptance authority.

Another commenter raised two general concerns with the regulatory exception. The first concern is that employees who accept informational materials might sell them. Although it might prove somewhat difficult to sell used informational materials, OGE is generally sensitive to the underlying concern expressed by the commenter. To address this concern, OGE has amended the regulation to add an additional limitation on the use of this exception. As revised, the exception will now require employees to obtain written authorization from the agency designee before accepting informational materials from a single person that in the aggregate exceed \$100 in a calendar year. The commenter’s other concern is that gifts relating to an employee’s

official duties, the agency’s mission, or a subject matter of interest to the agency “ought to be a gift to the Agency.” The commenter questions whether such gifts might be construed as augmenting an agency’s appropriations. Such gifts would not implicate augmentation concerns, however, because, as with all of OGE’s regulatory gift exceptions, the items accepted are for personal use, not the agency’s use.

Following careful review of the regulation, OGE has also reorganized § 2635.204(m) to move the limitations on what constitutes permissible “informational materials” to § 2635.204(m)(2), which contains the definition of “informational materials.” OGE refined the language indicating that, to qualify as “informational material,” an item must be “primarily provided for educational or instructive purposes,” changing it to state more clearly that the item must be “educational or instructive in nature.” As previously written, the regulation could have been misconstrued as requiring employees to ascertain the donor’s intent in offering an item. As modified, the regulation now makes clear that the focus is on the objective nature of the gift, and not the subjective intent of the donor. A corresponding change replaces “not including,” with “Are not primarily,” at the beginning of the phrase “Are not primarily created for entertainment, display, or decoration.” This change is intended to avoid excluding items that are clearly educational or instructive in nature but may have some tangential or incidental qualities that could arguably be characterized as entertaining or visually attractive. OGE believes this modification will make the rule easier to understand and apply.

OGE further reorganized the exception to reduce its structural complexity. As proposed, § 2635.204(m) had several tiers, including: a first tier denoted by numbers, such as the number “(2)”; a second tier denoted by lowercase roman numerals, such as the numeral “(ii)”; a third tier denoted by capital letters, such as the letter “(B)”; and a fourth tier denoted again by numbers, such as the number “(2).” By reorganizing the language of this section, OGE was able to eliminate the fourth tier.

OGE has made four other technical changes for consistency and clarity. First, OGE used the word “person” in paragraphs (m)(1)(i) and (ii) to be consistent with the language in § 2635.204(a), when aggregating gifts. Second, OGE changed the language “an agency designee makes a written determination that,” at

§ 2635.204(m)(1)(ii)(B) of the proposed rule, to “an agency designee has made a written determination after finding that,” now at § 2635.204(m)(1)(ii). The change makes the language of this paragraph consistent with the language used in § 2635.204(g)(3) and § 2635.204(h)(3). Third, OGE has added “provided that” to the opening language of § 2635.204(m)(1) in order to clarify that the \$100 limit in § 2635.204(m)(1)(i) applies in every case unless an employee first obtains a written determination under § 2635.204(m)(1)(ii). Fourth, OGE has revised the reference to “programs and operations” of the agency so that it reads “programs or operations” of the agency. It was not OGE’s intention to require that the subject matter relate to both a program and an operation, or to require that employees somehow distinguish “programs” from “operations.”

### 5 CFR 2635.205 Limitations on Use of Exceptions

OGE received no comments on § 2635.205. OGE is adopting the amendments to this section as proposed for the reasons set forth in the preamble to the proposed rule. OGE, however, has replaced the period with a semi-colon in the phrase: “Accept a gift in violation of any statute; relevant statutes applicable to all employees include, but are not limited to,” found at § 2635.205(d). OGE has made this change for clarity because paragraph (d) in that section is part of a longer list that is connected by a semi-colon and the word “or” after paragraph (e) in that same section. By eliminating the period, OGE seeks to ensure that the period is not misconstrued as invalidating paragraphs (e) and (f) in the remainder of that list.

### 5 CFR 2635.206 Proper Disposition of Prohibited Gifts

OGE received four comments on § 2635.206, which explains what steps an employee must take to properly dispose of a prohibited gift. OGE amended this section to provide additional guidance on what steps are required to comply with the disposition authorities. One commenter was generally supportive of the additional guidance provided by OGE. Three commenters expressed concern that OGE’s amendment of § 2635.206(a)(1) to allow employees to destroy prohibited tangible gifts worth \$100 or less was wasteful. These three commenters also recommended that OGE amend § 2635.206(a)(1) to permit employees to donate prohibited tangible gifts worth \$100 or less to charity.

For the following reasons, OGE has not accepted the commenters' suggestions. Allowing the destruction of relatively low-value, tangible gifts provides useful flexibility, while continuing to prohibit employees from retaining impermissible gifts. Setting the value threshold at \$100 establishes a reasonable range that imposes minimal administrative burden in determining whether most low value items qualify for destruction. Setting the threshold far below that level would increase transaction costs because official time would necessarily have to be expended researching the precise market value of inexpensive items in order to determine whether they could be destroyed. It bears noting that, as is explained in § 2635.206(a), an employee is not required to destroy prohibited gifts; destruction is only one of several authorized options for disposition. Other options include returning the gift to the donor, paying the donor the gift's market value, or not accepting the gift in the first instance. Whenever the value of an item approaches the higher end of the \$100 range, employees and agency ethics officials may be disinclined to destroy the item; in fact, the administrative burden of researching the item's precise market value in order to avoid exceeding the permissible value threshold creates a natural incentive to choose another option for disposition of more expensive items.

Authorizing donations to charity in lieu of destruction would present other problems. OGE has considered and rejected this option in the past. *See* 57 FR 35006, 35015 (Aug. 7, 1992). Allowing an employee to direct that a gift be donated to a charity of the employee's choosing would be tantamount to permitting constructive receipt of the gift by the employee. OGE is concerned that employees may be able to claim tax deductions under the Internal Revenue Code for gifts donated to charity, in essence receiving the "gift" of a tax deduction in lieu of the original gift. OGE has also explained in the past that permitting donations "would create an incentive for donors to offer employees items they cannot accept and, in the case of highly visible employees, might result in their favorite charities profiting from their official positions." *Id.* OGE remains concerned that authorizing donations to charity as a means to dispose of impermissible gifts could incentivize some employees to intentionally accept impermissible gifts for the purpose of donating them to their favorite charities.

OGE has, however, revised § 2635.206(a)(1) for clarity. In the proposed regulation, the first sentence

read: "The employee must promptly return any tangible item to the donor, or pay the donor its market value, or, in the case that the tangible item has a market value not in excess of \$100, the employee may destroy the item." In the final regulation, that sentence now reads: "The employee must promptly return any tangible item to the donor or pay the donor its market value; or, in the case of a tangible item with a market value of \$100 or less, the employee may destroy the item." The meaning of the sentence is unchanged, but the revised sentence is easier to understand. In addition, OGE has removed the legal citation at the end of that paragraph, which referred to the definition of "market value" at § 2635.203(c), because the cross reference was unnecessary and potentially confusing to the reader.

### III. Matters of Regulatory Procedure

#### *Regulatory Flexibility Act*

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final rule would not have a significant economic impact on a substantial number of small entities because it primarily affects current Federal executive branch employees.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require approval of the Office of Management and Budget.

#### *Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 5, subchapter II), this final rule would not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

#### *Executive Order 13563 and Executive Order 12866*

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select the regulatory approaches that maximize net benefits (including economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been

designated as a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget.

#### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

#### **List of Subjects in 5 CFR Part 2635**

Conflict of interests, Executive Branch standards of ethical conduct, Government employees.

Approved: November 3, 2016.

**Walter M. Shaub, Jr.,**

*Director, Office of Government Ethics.*

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2635, as set forth below:

### **PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH**

■ 1. The authority citation for part 2635 continues to read as follows:

**Authority:** 5 U.S.C. 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

■ 2. Revise subpart B of part 2635 to read as follows:

#### **Subpart B—Gifts From Outside Sources**

Sec.

- 2635.201 Overview and considerations for declining otherwise permissible gifts.
- 2635.202 General prohibition on solicitation or acceptance of gifts.
- 2635.203 Definitions.
- 2635.204 Exceptions to the prohibition for acceptance of certain gifts.
- 2635.205 Limitations on use of exceptions.
- 2635.206 Proper disposition of prohibited gifts.

#### **Subpart B—Gifts From Outside Sources**

##### **§ 2635.201 Overview and considerations for declining otherwise permissible gifts.**

(a) *Overview.* This subpart contains standards that prohibit an employee from soliciting or accepting any gift from a prohibited source or any gift given because of the employee's official position, unless the item is excluded from the definition of a gift or falls within one of the exceptions set forth in this subpart.

(b) *Considerations for declining otherwise permissible gifts.* (1) Every

employee has a fundamental responsibility to the United States and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gain. An employee's actions should promote the public's trust that this responsibility is being met. For this reason, employees should consider declining otherwise permissible gifts if they believe that a reasonable person with knowledge of the relevant facts would question the employee's integrity or impartiality as a result of accepting the gift.

(2) An employee who is considering whether acceptance of a gift would lead a reasonable person with knowledge of the relevant facts to question his or her integrity or impartiality may consider, among other relevant factors, whether:

- (i) The gift has a high market value;
- (ii) The timing of the gift creates the appearance that the donor is seeking to influence an official action;
- (iii) The gift was provided by a person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; and
- (iv) Acceptance of the gift would provide the donor with significantly disproportionate access.

(3) Notwithstanding paragraph (b)(1) of this section, an employee who accepts a gift that qualifies for an exception under § 2635.204 does not violate this subpart or the Principles of Ethical Conduct set forth in § 2635.101(b).

(4) Employees who have questions regarding this subpart, including whether the employee should decline a gift that would otherwise be permitted under an exception found in § 2635.204, should seek advice from an agency ethics official.

*Example 1 to paragraph (b):* An employee of the Peace Corps is in charge of making routine purchases of office supplies. After a promotional presentation to highlight several new products, a vendor offers to buy the employee lunch, which costs less than \$20. The employee is concerned that a reasonable person may question her impartiality in accepting the free lunch, as the timing of the offer indicates that the donor may be seeking to influence an official action and the company has interests that may be substantially affected by the performance or nonperformance of the employee's duties. As such, although acceptance of the gift may be permissible under § 2635.204(a), the employee decides to decline the gift.

#### **§ 2635.202 General prohibition on solicitation or acceptance of gifts.**

(a) *Prohibition on soliciting gifts.* Except as provided in this subpart, an employee may not, directly or indirectly:

(1) Solicit a gift from a prohibited source; or

(2) Solicit a gift to be given because of the employee's official position.

(b) *Prohibition on accepting gifts.* Except as provided in this subpart, an employee may not, directly or indirectly:

(1) Accept a gift from a prohibited source; or

(2) Accept a gift given because of the employee's official position.

(c) *Relationship to illegal gratuities statute.* A gift accepted pursuant to an exception found in this subpart will not constitute an illegal gratuity otherwise prohibited by 18 U.S.C. 201(c)(1)(B), unless it is accepted in return for being influenced in the performance of an official act. As more fully described in § 2635.205(d)(1), an employee may not solicit or accept a gift if to do so would be prohibited by the Federal bribery statute, 18 U.S.C. 201(b).

*Example 1 to paragraph (c):* A Government contractor who specializes in information technology software has offered an employee of the Department of Energy's information technology acquisition division a \$15 gift card to a local restaurant if the employee will recommend to the agency's contracting officer that she select the contractor's products during the next acquisition. Even though the gift card is less than \$20, the employee may not accept the gift under § 2635.204(a) because it is conditional upon official action by the employee. Pursuant to §§ 2635.202(c) and 2635.205(a), notwithstanding any exception to the rule, an employee may not accept a gift in return for being influenced in the performance of an official act.

#### **§ 2635.203 Definitions.**

For purposes of this subpart, the following definitions apply:

(a) *Agency* has the meaning set forth in § 2635.102(a). However, for purposes of this subpart, an executive department, as defined in 5 U.S.C. 101, may, by supplemental agency regulation, designate as a separate agency any component of that department which the department determines exercises distinct and separate functions.

(b) *Gift* includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. The term excludes the following:

(1) Modest items of food and non-alcoholic refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal;

(2) Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended primarily for presentation;

*Example 1 to paragraph (b)(2):* After giving a speech at the facility of a pharmaceutical company, a Government employee is presented with a glass paperweight in the shape of a pill capsule with the name of the company's latest drug and the date of the speech imprinted on the side. The employee may accept the paperweight because it is an item with little intrinsic value which is intended primarily for presentation.

*Example 2 to paragraph (b)(2):* After participating in a panel discussion hosted by an international media company, a Government employee is presented with an inexpensive portable music player emblazoned with the media company's logo. The portable music player has a market value of \$25. The employee may not accept the portable music player as it has a significant independent use as a music player rather than being intended primarily for presentation.

*Example 3 to paragraph (b)(2):* After giving a speech at a conference held by a national association of miners, a Department of Commerce employee is presented with a block of granite that is engraved with the association's logo, a picture of the Appalachian Mountains, the date of the speech, and the employee's name. The employee may accept this item because it is similar to a plaque, is designed primarily for presentation, and has little intrinsic value.

(3) Loans from banks and other financial institutions on terms generally available to the public;

(4) Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all Government employees or all uniformed military personnel, whether or not restricted on the basis of geographic considerations;

(5) Rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the employee's entry into the contest or event is required as part of the employee's official duties;

*Example 1 to paragraph (b)(5):* A Government employee is attending a free trade show on official time. The trade show is held in a public shopping area adjacent to the employee's office building. The employee voluntarily enters a drawing at an individual vendor's booth which is open to the public. She fills in an entry form on the vendor's display table and drops it into the contest box. The employee may accept the resulting prize because entry into the contest was not required by or related to her official duties.

*Example 2 to paragraph (b)(5):* Attendees at a conference, which is not open to the public, are entered in a drawing for a weekend getaway to Bermuda as a result of being registered for the conference. A Government employee who attends the

conference in his official capacity could not accept the prize under paragraph (b)(5) of this section, as the event is not open to the public.

(6) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a current or former employer;

(7) Anything which is paid for by the Government or secured by the Government under Government contract;

*Example 1 to paragraph (b)(7):* An employee at the Occupational Safety and Health Administration is assigned to travel away from her duty station to conduct an investigation of a collapse at a construction site. The employee's agency is paying for her travel expenses, including her airfare. The employee may accept and retain travel promotional items, such as frequent flyer miles, received as a result of her official travel, to the extent permitted by 5 U.S.C. 5702, note, and 41 CFR part 301-53.

(8) Free attendance to an event provided by the sponsor of the event to:

(i) An employee who is assigned to present information on behalf of the agency at the event on any day when the employee is presenting;

(ii) An employee whose presence on any day of the event is deemed to be essential by the agency to the presenting employee's participation in the event, provided that the employee is accompanying the presenting employee; and

(iii) The spouse or one other guest of the presenting employee on any day when the employee is presenting, provided that others in attendance will generally be accompanied by a spouse or other guest, the offer of free attendance for the spouse or other guest is unsolicited, and the agency designee, orally or in writing, has authorized the presenting employee to accept;

*Example 1 to paragraph (b)(8):* An employee of the Department of the Treasury who is assigned to participate in a panel discussion of economic issues as part of a one-day conference may accept the sponsor's waiver of the conference fee. Under the separate authority of § 2635.204(a), the employee may accept a token of appreciation that has a market value of \$20 or less.

*Example 2 to paragraph (b)(8):* An employee of the Securities and Exchange Commission is assigned to present the agency's views at a roundtable discussion of an ongoing working group. The employee may accept free attendance to the meeting under paragraph (b)(8) of this section because the employee has been assigned to present information at the meeting on behalf of the agency. If it is determined by the agency that it is essential that another employee accompany the presenting employee to the roundtable discussion, the accompanying employee may also accept free attendance to

the meeting under paragraph (b)(8)(ii) of this section.

*Example 3 to paragraph (b)(8):* An employee of the United States Trade and Development Agency is invited to attend a cocktail party hosted by a prohibited source. The employee believes that he will have an opportunity to discuss official matters with other attendees while at the event. Although the employee may voluntarily discuss official matters with other attendees, the employee has not been assigned to present information on behalf of the agency. The employee may not accept free attendance to the event under paragraph (b)(8) of this section.

(9) Any gift accepted by the Government under specific statutory authority, including:

(i) Travel, subsistence, and related expenses accepted by an agency under the authority of 31 U.S.C. 1353 in connection with an employee's attendance at a meeting or similar function relating to the employee's official duties which take place away from the employee's duty station, provided that the agency's acceptance is in accordance with the implementing regulations at 41 CFR chapter 304; and

(ii) Other gifts provided in-kind which have been accepted by an agency under its agency gift acceptance statute; and

(10) Anything for which market value is paid by the employee.

(c) *Market value* means the cost that a member of the general public would reasonably expect to incur to purchase the gift. An employee who cannot ascertain the market value of a gift may estimate its market value by reference to the retail cost of similar items of like quality. The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is deemed to be the face value of the ticket.

*Example 1 to paragraph (c):* An employee who has been given a watch inscribed with the corporate logo of a prohibited source may determine its market value based on her observation that a comparable watch, not inscribed with a logo, generally sells for about \$50.

*Example 2 to paragraph (c):* During an official visit to a factory operated by a well-known athletic footwear manufacturer, an employee of the Department of Labor is offered a commemorative pair of athletic shoes manufactured at the factory. Although the cost incurred by the donor to manufacture the shoes was \$17, the market value of the shoes would be the \$100 that the employee would have to pay for the shoes on the open market.

*Example 3 to paragraph (c):* A prohibited source has offered a Government employee a ticket to a charitable event consisting of a cocktail reception to be followed by an evening of chamber music. Even though the food, refreshments, and entertainment provided at the event may be worth only \$20,

the market value of the ticket is its \$250 face value.

*Example 4 to paragraph (c):* A company offers an employee of the Federal Communication Commission (FCC) free attendance for two to a private skybox at a ballpark to watch a major league baseball game. The skybox is leased annually by the company, which has business pending before the FCC. The skybox tickets provided to the employee do not have a face value. To determine the market value of the tickets, the employee must add the face value of two of the most expensive publicly available tickets to the game and the market value of any food, parking or other tangible benefits provided in connection with the gift of attendance that are not already included in the cost of the most expensive publicly available tickets.

*Example 5 to paragraph (c):* An employee of the Department of Agriculture is invited to a reception held by a prohibited source. There is no entrance fee to the reception event or to the venue. To determine the market value of the gift, the employee must add the market value of any entertainment, food, beverages, or other tangible benefit provided to attendees in connection with the reception, but need not consider the cost incurred by the sponsor to rent or maintain the venue where the event is held. The employee may rely on a per-person cost estimate provided by the sponsor of the event, unless the employee or an agency designee has determined that a reasonable person would find that the estimate is clearly implausible.

(d) *Prohibited source* means any person who:

(1) Is seeking official action by the employee's agency;

(2) Does business or seeks to do business with the employee's agency;

(3) Conducts activities regulated by the employee's agency;

(4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or

(5) Is an organization a majority of whose members are described in paragraphs (d)(1) through (4) of this section.

(e) *Given because of the employee's official position.* A gift is given because of the employee's official position if the gift is from a person other than an employee and would not have been given had the employee not held the status, authority, or duties associated with the employee's Federal position.

**Note to paragraph (e):** Gifts between employees are subject to the limitations set forth in subpart C of this part.

*Example 1 to paragraph (e):* Where free season tickets are offered by an opera guild to all members of the Cabinet, the gift is offered because of their official positions.

*Example 2 to paragraph (e):* Employees at a regional office of the Department of Justice (DOJ) work in Government-leased space at a private office building, along with various

private business tenants. A major fire in the building during normal office hours causes a traumatic experience for all occupants of the building in making their escape, and it is the subject of widespread news coverage. A corporate hotel chain, which does not meet the definition of a prohibited source for DOJ, seizes the moment and announces that it will give a free night's lodging to all building occupants and their families, as a public goodwill gesture. Employees of DOJ may accept, as this gift is not being given because of their Government positions. The donor's motivation for offering this gift is unrelated to the DOJ employees' status, authority, or duties associated with their Federal position, but instead is based on their mere presence in the building as occupants at the time of the fire.

(f) *Indirectly solicited or accepted.* A gift which is solicited or accepted indirectly includes a gift:

(1) Given with the employee's knowledge and acquiescence to the employee's parent, sibling, spouse, child, dependent relative, or a member of the employee's household because of that person's relationship to the employee; or

(2) Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee, except the employee has not indirectly solicited or accepted a gift by the raising of funds or other support for a charitable organization if done in accordance with § 2635.808.

*Example 1 to paragraph (f)(2):* An employee who must decline a gift of a personal computer pursuant to this subpart may not suggest that the gift be given instead to one of five charitable organizations whose names are provided by the employee.

(g) *Free attendance* includes waiver of all or part of the fee for an event or the provision of food, refreshments, entertainment, instruction or materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, or entertainment collateral to the event. It does not include meals taken other than in a group setting with all other attendees, unless the employee is a presenter at the event and is invited to a separate meal for participating presenters that is hosted by the sponsor of the event. Where the offer of free attendance has been extended to an accompanying spouse or other guest, the market value of the gift of free attendance includes the market value of free attendance by both the employee and the spouse or other guest.

**§ 2635.204 Exceptions to the prohibition for acceptance of certain gifts.**

Subject to the limitations in § 2635.205, this section establishes

exceptions to the prohibitions set forth in § 2635.202(a) and (b). Even though acceptance of a gift may be permitted by one of the exceptions contained in this section, it is never inappropriate and frequently prudent for an employee to decline a gift if acceptance would cause a reasonable person to question the employee's integrity or impartiality. Section 2635.201(b) identifies considerations for declining otherwise permissible gifts.

(a) *Gifts of \$20 or less.* An employee may accept unsolicited gifts having an aggregate market value of \$20 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person under the authority of this paragraph (a) does not exceed \$50 in a calendar year. This exception does not apply to gifts of cash or of investment interests such as stock, bonds, or certificates of deposit. Where the market value of a gift or the aggregate market value of gifts offered on any single occasion exceeds \$20, the employee may not pay the excess value over \$20 in order to accept that portion of the gift or those gifts worth \$20. Where the aggregate value of tangible items offered on a single occasion exceeds \$20, the employee may decline any distinct and separate item in order to accept those items aggregating \$20 or less.

*Example 1 to paragraph (a):* An employee of the Securities and Exchange Commission and his spouse have been invited by a representative of a regulated entity to a community theater production, tickets to which have a face value of \$30 each. The aggregate market value of the gifts offered on this single occasion is \$60, \$40 more than the \$20 amount that may be accepted for a single event or presentation. The employee may not accept the gift of the evening of entertainment. He and his spouse may attend the play only if he pays the full \$60 value of the two tickets.

*Example 2 to paragraph (a):* An employee of the National Geospatial-Intelligence Agency has been invited by an association of cartographers to speak about her agency's role in the evolution of missile technology. At the conclusion of her speech, the association presents the employee a framed map with a market value of \$18 and a ceramic mug that has a market value of \$15. The employee may accept the map or the mug, but not both, because the aggregate value of these two tangible items exceeds \$20.

*Example 3 to paragraph (a):* On four occasions during the calendar year, an employee of the Defense Logistics Agency (DLA) was given gifts worth \$10 each by four employees of a corporation that is a DLA contractor. For purposes of applying the yearly \$50 limitation on gifts of \$20 or less from any one person, the four gifts must be aggregated because a person is defined at § 2635.102(k) to mean not only the corporate

entity, but its officers and employees as well. However, for purposes of applying the \$50 aggregate limitation, the employee would not have to include the value of a birthday present received from his cousin, who is employed by the same corporation, if he can accept the birthday present under the exception at paragraph (b) of this section for gifts based on a personal relationship.

*Example 4 to paragraph (a):* Under the authority of 31 U.S.C. 1353 for agencies to accept payments from non-Federal sources in connection with attendance at certain meetings or similar functions, the Environmental Protection Agency (EPA) has accepted an association's gift of travel expenses and conference fees for an employee to attend a conference on the long-term effect of radon exposure. While at the conference, the employee may accept a gift of \$20 or less from the association or from another person attending the conference even though it was not approved in advance by the EPA. Although 31 U.S.C. 1353 is the authority under which the EPA accepted the gift to the agency of travel expenses and conference fees, a gift of \$20 or less accepted under paragraph (a) of this section is a gift to the employee rather than to her employing agency.

*Example 5 to paragraph (a):* During off-duty time, an employee of the Department of Defense (DoD) attends a trade show involving companies that are DoD contractors. He is offered software worth \$15 at X Company's booth, a calendar worth \$12 at Y Company's booth, and a deli lunch worth \$8 from Z Company. The employee may accept all three of these items because they do not exceed \$20 per source, even though they total more than \$20 at this single occasion.

*Example 6 to paragraph (a):* An employee of the Department of Defense (DoD) is being promoted to a higher level position in another DoD office. Six individuals, each employed by a different defense contractor, who have worked with the DoD employee over the years, decide to act in concert to pool their resources to buy her a nicer gift than each could buy her separately. Each defense contractor employee contributes \$20 to buy a desk clock for the DoD employee that has a market value of \$120. Although each of the contributions does not exceed the \$20 limit, the employee may not accept the \$120 gift because it is a single gift that has a market value in excess of \$20.

*Example 7 to paragraph (a):* During a holiday party, an employee of the Department of State is given a \$15 store gift card to a national coffee chain by an agency contractor. The employee may accept the card as the market value is less than \$20. The employee could not, however, accept a gift card that is issued by a credit card company or other financial institution, because such a card is equivalent to a gift of cash.

(b) *Gifts based on a personal relationship.* An employee may accept a gift given by an individual under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. Relevant factors in making



such a determination include the history and nature of the relationship and whether the family member or friend personally pays for the gift.

*Example 1 to paragraph (b):* An employee of the Federal Deposit Insurance Corporation (FDIC) has been dating an accountant employed by a member bank. As part of its "Work-Life Balance" program, the bank has given each employee in the accountant's division two tickets to a professional basketball game and has urged each to invite a family member or friend to share the evening of entertainment. Under the circumstances, the FDIC employee may accept the invitation to attend the game. Even though the tickets were initially purchased by the member bank, they were given without reservation to the accountant to use as she wished, and her invitation to the employee was motivated by their personal friendship.

*Example 2 to paragraph (b):* Three partners in a law firm that handles corporate mergers have invited an employee of the Federal Trade Commission (FTC) to join them in a golf tournament at a private club at the firm's expense. The entry fee is \$500 per foursome. The employee cannot accept the gift of one-quarter of the entry fee even though he and the three partners have developed an amicable relationship as a result of the firm's dealings with the FTC. As evidenced in part by the fact that the fees are to be paid by the firm, it is not a personal friendship but a business relationship that is the motivation behind the partners' gift.

*Example 3 to paragraph (b):* A Peace Corps employee enjoys using a social media site on the internet in his personal capacity outside of work. He has used the site to keep in touch with friends, neighbors, coworkers, professional contacts, and other individuals he has met over the years through both work and personal activities. One of these individuals works for a contractor that provides language services to the Peace Corps. The employee was acting in his official capacity when he met the individual at a meeting to discuss a matter related to the contract between their respective employers. Thereafter, the two communicated occasionally regarding contract matters. They later also granted one another access to join their social media networks through their respective social media accounts. However, they did not communicate further in their personal capacities, carry on extensive personal interactions, or meet socially outside of work. One day, the individual, whose employer continues to serve as a Peace Corps contractor, contacts the employee to offer him a pair of concert tickets worth \$30 apiece. Although the employee and the individual are connected through social media, the circumstances do not demonstrate that the gift was clearly motivated by a personal relationship, rather than the position of the employee, and therefore the employee may not accept the gift pursuant to paragraph (b) of this section.

(c) *Discounts and similar benefits.* In addition to those opportunities and benefits excluded from the definition of

a gift by § 2635.203(b)(4), an employee may accept:

(1) A reduction or waiver of the fees for membership or other fees for participation in organization activities offered to all Government employees or all uniformed military personnel by professional organizations if the only restrictions on membership relate to professional qualifications; and

(2) Opportunities and benefits, including favorable rates, commercial discounts, and free attendance or participation not precluded by paragraph (c)(3) of this section:

(i) Offered to members of a group or class in which membership is unrelated to Government employment;

(ii) Offered to members of an organization, such as an employees' association or agency credit union, in which membership is related to Government employment if the same offer is broadly available to large segments of the public through organizations of similar size; or

(iii) Offered by a person who is not a prohibited source to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of type of official responsibility or on a basis that favors those of higher rank or rate of pay.

*Example 1 to paragraph (c)(2):* A computer company offers a discount on the purchase of computer equipment to all public and private sector computer procurement officials who work in organizations with over 300 employees. An employee who works as the computer procurement official for a Government agency could not accept the discount to purchase the personal computer under the exception in paragraph (c)(2)(i) of this section. Her membership in the group to which the discount is offered is related to Government employment because her membership is based on her status as a procurement official with the Government.

*Example 2 to paragraph (c)(2):* An employee of the Consumer Product Safety Commission (CPSC) may accept a discount of \$50 on a microwave oven offered by the manufacturer to all members of the CPSC employees' association. Even though the CPSC is currently conducting studies on the safety of microwave ovens, the \$50 discount is a standard offer that the manufacturer has made broadly available through a number of employee associations and similar organizations to large segments of the public.

*Example 3 to paragraph (c)(2):* An Assistant Secretary may not accept a local country club's offer of membership to all members of Department Secretariats which includes a waiver of its \$5,000 membership initiation fee. Even though the country club is not a prohibited source, the offer discriminates in favor of higher ranking officials.

(3) An employee may not accept for personal use any benefit to which the Government is entitled as the result of an expenditure of Government funds, unless authorized by statute or regulation (e.g., 5 U.S.C. 5702, note, regarding frequent flyer miles).

*Example 1 to paragraph (c)(3):* The administrative officer for a field office of U.S. Immigration and Customs Enforcement (ICE) has signed an order to purchase 50 boxes of photocopy paper from a supplier whose literature advertises that it will give a free briefcase to anyone who purchases 50 or more boxes. Because the paper was purchased with ICE funds, the administrative officer cannot keep the briefcase which, if claimed and received, is Government property.

(d) *Awards and honorary degrees*—(1) *Awards.* An employee may accept a *bona fide* award for meritorious public service or achievement and any item incident to the award, provided that:

(i) The award and any item incident to the award are not from a person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties, or from an association or other organization if a majority of its members have such interests; and

(ii) If the award or any item incident to the award is in the form of cash or an investment interest, or if the aggregate value of the award and any item incident to the award, other than free attendance to the event provided to the employee and to members of the employee's family by the sponsor of the event, exceeds \$200, the agency ethics official has made a written determination that the award is made as part of an established program of recognition.

*Example 1 to paragraph (d)(1):* Based on a written determination by an agency ethics official that the prize meets the criteria set forth in paragraph (d)(2) of this section, an employee of the National Institutes of Health (NIH) may accept the Nobel Prize for Medicine, including the cash award which accompanies the prize, even though the prize was conferred on the basis of laboratory work performed at NIH.

*Example 2 to paragraph (d)(1):* A defense contractor, ABC Systems, has an annual award program for the outstanding public employee of the year. The award includes a cash payment of \$1,000. The award program is wholly funded to ensure its continuation on a regular basis for the next twenty years and selection of award recipients is made pursuant to written standards. An employee of the Department of the Air Force, who has duties that include overseeing contract performance by ABC Systems, is selected to receive the award. The employee may not accept the cash award because ABC Systems has interests that may be substantially affected by the performance or

nonperformance of the employee's official duties.

*Example 3 to paragraph (d)(1):* An ambassador selected by a nonprofit organization as a recipient of its annual award for distinguished service in the interest of world peace may, together with his spouse and children, attend the awards ceremony dinner and accept a crystal bowl worth \$200 presented during the ceremony. However, where the organization has also offered airline tickets for the ambassador and his family to travel to the city where the awards ceremony is to be held, the aggregate value of the tickets and the crystal bowl exceeds \$200, and he may accept only upon a written determination by the agency ethics official that the award is made as part of an established program of recognition.

(2) *Established program of recognition.* An award and an item incident to the award are made pursuant to an established program of recognition if:

(i) Awards have been made on a regular basis or, if the program is new, there is a reasonable basis for concluding that awards will be made on a regular basis based on funding or funding commitments; and

(ii) Selection of award recipients is made pursuant to written standards.

(3) *Honorary degrees.* An employee may accept an honorary degree from an institution of higher education, as defined at 20 U.S.C. 1001, or from a similar foreign institution of higher education, based on a written determination by an agency ethics official that the timing of the award of the degree would not cause a reasonable person to question the employee's impartiality in a matter affecting the institution.

**Note to paragraph (d)(3):** When the honorary degree is offered by a foreign institution of higher education, the agency may need to make a separate determination as to whether the institution of higher education is a foreign government for purposes of the Emoluments Clause of the U.S. Constitution (U.S. Const., art. I, sec. 9, cl. 8), which forbids employees from accepting emoluments, presents, offices, or titles from foreign governments, without the consent of Congress. The Foreign Gifts and Decorations Act, 5 U.S.C. 7342, however, may permit the acceptance of honorary degrees in some circumstances.

*Example 1 to paragraph (d)(3):* A well-known university located in the United States wishes to give an honorary degree to the Secretary of Labor. The Secretary may accept the honorary degree only if an agency ethics official determines in writing that the timing of the award of the degree would not cause a reasonable person to question the Secretary's impartiality in a matter affecting the university.

(4) *Presentation events.* An employee who may accept an award or honorary

degree pursuant to paragraph (d)(1) or (3) of this section may also accept free attendance to the event provided to the employee and to members of the employee's family by the sponsor of an event. In addition, the employee may also accept unsolicited offers of travel to and from the event provided to the employee and to members of the employee's family by the sponsor of the event. Travel expenses accepted under this paragraph (d)(4) must be added to the value of the award for purposes of determining whether the aggregate value of the award exceeds \$200.

(e) *Gifts based on outside business or employment relationships.* An employee may accept meals, lodgings, transportation and other benefits:

(1) Resulting from the business or employment activities of an employee's spouse when it is clear that such benefits have not been offered or enhanced because of the employee's official position;

*Example 1 to paragraph (e)(1):* A Department of Agriculture employee whose spouse is a computer programmer employed by a Department of Agriculture contractor may attend the company's annual retreat for all of its employees and their families held at a resort facility. However, under § 2635.502, the employee may be disqualified from performing official duties affecting her spouse's employer.

*Example 2 to paragraph (e)(1):* Where the spouses of other clerical personnel have not been invited, an employee of the Defense Contract Audit Agency whose spouse is a clerical worker at a defense contractor may not attend the contractor's annual retreat in Hawaii for corporate officers and members of the board of directors, even though his spouse received a special invitation for herself and the employee.

(2) Resulting from the employee's outside business or employment activities when it is clear that such benefits are based on the outside business or employment activities and have not been offered or enhanced because of the employee's official status;

*Example 1 to paragraph (e)(2):* The members of an Army Corps of Engineers environmental advisory committee that meets six times per year are special Government employees. A member who has a consulting business may accept an invitation to a \$50 dinner from her corporate client, an Army construction contractor, unless, for example, the invitation was extended in order to discuss the activities of the advisory committee.

(3) Customarily provided by a prospective employer in connection with *bona fide* employment discussions. If the prospective employer has interests that could be affected by performance or nonperformance of the employee's duties, acceptance is permitted only if

the employee first has complied with the disqualification requirements of subpart F of this part applicable when seeking employment; or

*Example 1 to paragraph (e)(3):* An employee of the Federal Communications Commission with responsibility for drafting regulations affecting all cable television companies wishes to apply for a job opening with a cable television holding company. Once she has properly disqualified herself from further work on the regulations as required by subpart F of this part, she may enter into employment discussions with the company and may accept the company's offer to pay for her airfare, hotel, and meals in connection with an interview trip.

(4) Provided by a former employer to attend a reception or similar event when other former employees have been invited to attend, the invitation and benefits are based on the former employment relationship, and it is clear that such benefits have not been offered or enhanced because of the employee's official position.

*Example 1 to paragraph (e)(4):* An employee of the Department of the Army is invited by her former employer, an Army contractor, to attend its annual holiday dinner party. The former employer traditionally invites both its current and former employees to the holiday dinner regardless of their current employment activities. Under these circumstances, the employee may attend the dinner because the dinner invitation is a result of the employee's former outside employment activities, other former employees have been asked to attend, and the gift is not offered because of the employee's official position.

(5) For purposes of paragraphs (e)(1) through (4) of this section, "employment" means any form of non-Federal employment or business relationship involving the provision of personal services.

(f) *Gifts in connection with political activities permitted by the Hatch Act Reform Amendments.* An employee who, in accordance with the Hatch Act Reform Amendments of 1993, at 5 U.S.C. 7323, may take an active part in political management or in political campaigns, may accept meals, lodgings, transportation, and other benefits, including free attendance at events, for the employee and an accompanying spouse or other guests, when provided, in connection with such active participation, by a political organization described in 26 U.S.C. 527(e). Any other employee, such as a security officer, whose official duties require him or her to accompany an employee to a political event, may accept meals, free attendance, and entertainment provided at the event by such an organization.

*Example 1 to paragraph (f):* The Secretary of the Department of Health and Human

Services may accept an airline ticket and hotel accommodations furnished by the campaign committee of a candidate for the United States Senate in order to give a speech in support of the candidate.

(g) *Gifts of free attendance at widely attended gatherings*—(1) *Authorization*. When authorized in writing by the agency designee pursuant to paragraph (g)(3) of this section, an employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering. For an employee who is subject to a leave system, attendance at the event will be on the employee's own time or, if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account.

(2) *Widely attended gatherings*. A gathering is widely attended if it is expected that a large number of persons will attend, that persons with a diversity of views or interests will be present, for example, if it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter, and that there will be an opportunity to exchange ideas and views among invited persons.

(3) *Written authorization by the agency designee*. The agency designee may authorize an employee or employees to accept a gift of free attendance at all or appropriate parts of a widely attended gathering only if the agency designee issues a written determination after finding that:

(i) The event is a widely attended gathering, as set forth in paragraph (g)(2) of this section;

(ii) The employee's attendance at the event is in the agency's interest because it will further agency programs or operations;

(iii) The agency's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties; and

(iv) If a person other than the sponsor of the event invites or designates the employee as the recipient of the gift of free attendance and bears the cost of that gift, the event is expected to be attended by more than 100 persons and the value of the gift of free attendance does not exceed \$375.

(4) *Determination of agency interest*. In determining whether the agency's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties, the

agency designee may consider relevant factors including:

(i) The importance of the event to the agency;

(ii) The nature and sensitivity of any pending matter affecting the interests of the person who extended the invitation and the significance of the employee's role in any such matter;

(iii) The purpose of the event;

(iv) The identity of other expected participants;

(v) Whether acceptance would reasonably create the appearance that the donor is receiving preferential treatment;

(vi) Whether the Government is also providing persons with views or interests that differ from those of the donor with access to the Government; and

(vii) The market value of the gift of free attendance.

(5) *Cost provided by person other than the sponsor of the event*. The cost of the employee's attendance will be considered to be provided by a person other than the sponsor of the event where such person designates the employee to be invited and bears the cost of the employee's attendance through a contribution or other payment intended to facilitate the employee's attendance. Payment of dues or a similar assessment to a sponsoring organization does not constitute a payment intended to facilitate a particular employee's attendance.

(6) *Accompanying spouse or other guest*. When others in attendance will generally be accompanied by a spouse or other guest, and where the invitation is from the same person who has invited the employee, the agency designee may authorize an employee to accept an unsolicited invitation of free attendance to an accompanying spouse or one other accompanying guest to participate in all or a portion of the event at which the employee's free attendance is permitted under paragraph (g)(1) this section. The authorization required by this paragraph (g)(6) must be provided in writing.

*Example 1 to paragraph (g)*: An aerospace industry association that is a prohibited source sponsors an industry-wide, two-day seminar for which it charges a fee of \$800 and anticipates attendance of approximately 400. An Air Force contractor pays \$4,000 to the association so that the association can extend free invitations to five Air Force officials designated by the contractor. The Air Force officials may not accept the gifts of free attendance because (a) the contractor, rather than the association, provided the cost of their attendance; (b) the contractor designated the specific employees to receive the gift of free attendance; and (c) the value of the gift exceeds \$375 per employee.

*Example 2 to paragraph (g)*: An aerospace industry association that is a prohibited

source sponsors an industry-wide, two-day seminar for which it charges a fee of \$25 and anticipates attendance of approximately 50. An Air Force contractor pays \$125 to the association so that the association can extend free invitations to five Air Force officials designated by the contractor. The Air Force officials may not accept the gifts of free attendance because (a) the contractor, rather than the association, provided the cost of their attendance; (b) the contractor designated the specific employees to receive the gift of free attendance; and (c) the event was not expected to be attended by more than 100 persons.

*Example 3 to paragraph (g)*: An aerospace industry association that is a prohibited source sponsors an industry-wide, two-day seminar for which it charges a fee of \$800 and anticipates attendance of approximately 400. An Air Force contractor pays \$4,000 in order that the association might invite any five Federal employees. An Air Force official to whom the sponsoring association, rather than the contractor, extended one of the five invitations could attend if the employee's participation were determined to be in the interest of the agency and he received a written authorization.

*Example 4 to paragraph (g)*: An employee of the Department of Transportation is invited by a news organization to an annual press dinner sponsored by an association of press organizations. Tickets for the event cost \$375 per person and attendance is limited to 400 representatives of press organizations and their guests. If the employee's attendance is determined to be in the interest of the agency and she receives a written authorization from the agency designee, she may accept the invitation from the news organization because more than 100 persons will attend and the cost of the ticket does not exceed \$375. However, if the invitation were extended to the employee and an accompanying guest, the employee's guest could not be authorized to attend for free because the market value of the gift of free attendance would exceed \$375.

*Example 5 to paragraph (g)*: An employee of the Department of Energy (DOE) and his spouse have been invited by a major utility executive to a small dinner party. A few other officials of the utility and their spouses or other guests are also invited, as is a representative of a consumer group concerned with utility rates and her spouse. The DOE official believes the dinner party will provide him an opportunity to socialize with and get to know those in attendance. The employee may not accept the free invitation under this exception, even if his attendance could be determined to be in the interest of the agency. The small dinner party is not a widely attended gathering. Nor could the employee be authorized to accept even if the event were instead a corporate banquet to which forty company officials and their spouses or other guests were invited. In this second case, notwithstanding the larger number of persons expected (as opposed to the small dinner party just noted) and despite the presence of the consumer group representative and her spouse who are not officials of the utility, those in attendance would still not represent a diversity of views

or interests. Thus, the company banquet would not qualify as a widely attended gathering under those circumstances either.

*Example 6 to paragraph (g):* An Assistant U.S. Attorney is invited to attend a luncheon meeting of a local bar association to hear a distinguished judge lecture on cross-examining expert witnesses. Although members of the bar association are assessed a \$15 fee for the meeting, the Assistant U.S. Attorney may accept the bar association's offer to attend for free, even without a determination of agency interest. The gift can be accepted under the \$20 gift exception at paragraph (a) of this section.

*Example 7 to paragraph (g):* An employee of the Department of the Interior authorized to speak on the first day of a four-day conference on endangered species may accept the sponsor's waiver of the conference fee for the first day of the conference under § 2635.203(b)(8). If the conference is widely attended, the employee may be authorized to accept the sponsor's offer to waive the attendance fee for the remainder of the conference if the agency designee has made a written determination that attendance is in the agency's interest.

*Example 8 to paragraph (g):* A military officer has been approved to attend a widely attended gathering, pursuant to paragraph (g) of this section, that will be held in the same city as the officer's duty station. The defense contractor sponsoring the event has offered to transport the officer in a limousine to the event. The officer may not accept the offer of transportation because the definition of "free attendance" set forth in § 2635.203(g) excludes travel, and the market value of the transportation would exceed \$20.

(h) *Social invitations.* An employee may accept food, refreshments, and entertainment, not including travel or lodgings, for the employee and an accompanying spouse or other guests, at a social event attended by several persons if:

(1) The invitation is unsolicited and is from a person who is not a prohibited source;

(2) No fee is charged to any person in attendance; and

(3) If either the sponsor of the event or the person extending the invitation to the employee is not an individual, the agency designee has made a written determination after finding that the employee's attendance would not cause a reasonable person with knowledge of the relevant facts to question the employee's integrity or impartiality, consistent with § 2635.201(b).

*Example 1 to paragraph (h):* An employee of the White House Press Office has been invited to a social dinner for current and former White House Press Officers at the home of an individual who is not a prohibited source. The employee may attend even if she is being invited because of her official position.

(i) *Meals, refreshments, and entertainment in foreign areas.* An

employee assigned to duty in, or on official travel to, a foreign area as defined in 41 CFR 300–3.1 may accept unsolicited food, refreshments, or entertainment in the course of a breakfast, luncheon, dinner, or other meeting or event provided:

(1) The market value in the foreign area of the food, refreshments or entertainment provided at the meeting or event, as converted to U.S. dollars, does not exceed the per diem rate for the foreign area specified in the U.S. Department of State's Maximum Per Diem Allowances for Foreign Areas, Per Diem Supplement Section 925 to the Standardized Regulations (GC–FA), available on the Internet at [www.state.gov](http://www.state.gov);

(2) There is participation in the meeting or event by non-U.S. citizens or by representatives of foreign governments or other foreign entities;

(3) Attendance at the meeting or event is part of the employee's official duties to obtain information, disseminate information, promote the export of U.S. goods and services, represent the United States, or otherwise further programs or operations of the agency or the U.S. mission in the foreign area; and

(4) The gift of meals, refreshments, or entertainment is from a person other than a foreign government as defined in 5 U.S.C. 7342(a)(2).

*Example 1 to paragraph (i):* A number of local business owners in a developing country are eager for a U.S. company to locate a manufacturing facility in their province. An official of the Overseas Private Investment Corporation may accompany the visiting vice president of the U.S. company to a dinner meeting hosted by the business owners at a province restaurant where the market value of the food and refreshments does not exceed the per diem rate for that country.

(j) *Gifts to the President or Vice President.* Because of considerations relating to the conduct of their offices, including those of protocol and etiquette, the President or the Vice President may accept any gift on his or her own behalf or on behalf of any family member, provided that such acceptance does not violate § 2635.205(a) or (b), 18 U.S.C. 201(b) or 201(c)(3), or the Constitution of the United States.

(k) *Gifts authorized by supplemental agency regulation.* An employee may accept any gift when acceptance of the gift is specifically authorized by a supplemental agency regulation issued with the concurrence of the Office of Government Ethics, pursuant to § 2635.105.

(l) *Gifts accepted under specific statutory authority.* The prohibitions on

acceptance of gifts from outside sources contained in this subpart do not apply to any item which a statute specifically authorizes an employee to accept. Gifts which may be accepted by an employee under the authority of specific statutes include, but are not limited to:

(1) Free attendance, course or meeting materials, transportation, lodgings, food and refreshments or reimbursements therefor incident to training or meetings when accepted by the employee under the authority of 5 U.S.C. 4111. The employee's acceptance must be approved by the agency in accordance with part 410 of this title; or

(2) Gifts from a foreign government or international or multinational organization, or its representative, when accepted by the employee under the authority of the Foreign Gifts and Decorations Act, 5 U.S.C. 7342. As a condition of acceptance, an employee must comply with requirements imposed by the agency's regulations or procedures implementing that Act.

(m) *Gifts of informational materials.*

(1) An employee may accept unsolicited gifts of informational materials, provided that:

(i) The aggregate market value of all informational materials received from any one person does not exceed \$100 in a calendar year; or

(ii) If the aggregate market value of all informational materials from the same person exceeds \$100 in a calendar year, an agency designee has made a written determination after finding that acceptance by the employee would not be inconsistent with the standard set forth in § 2635.201(b).

(2) *Informational materials* are writings, recordings, documents, records, or other items that:

(i) Are educational or instructive in nature;

(ii) Are not primarily created for entertainment, display, or decoration; and

(iii) Contain information that relates in whole or in part to the following categories:

(A) The employee's official duties or position, profession, or field of study;

(B) A general subject matter area, industry, or economic sector affected by or involved in the programs or operations of the agency; or

(C) Another topic of interest to the agency or its mission.

*Example 1 to paragraph (m):* An analyst at the Agricultural Research Service receives an edition of an agricultural research journal in the mail from a consortium of private farming operations concerned with soil toxicity. The journal edition has a market value of \$75. The analyst may accept the gift.

*Example 2 to paragraph (m):* An inspector at the Mine Safety and Health Administration

receives a popular novel with a market value of \$25 from a mine operator. Because the novel is primarily for entertainment purposes, the inspector may not accept the gift.

*Example 3 to paragraph (m):* An employee at the Department of the Army is offered an encyclopedia on cyberwarfare from a prohibited source. The cost of the encyclopedia is far in excess of \$100. The agency designee determines that acceptance of the gift would be inconsistent with the standard set out in § 2635.201(b). The employee may not accept the gift under paragraph (m) of this section.

#### **§ 2635.205 Limitations on use of exceptions.**

Notwithstanding any exception provided in this subpart, other than § 2635.204(j), an employee may not:

(a) Accept a gift in return for being influenced in the performance of an official act;

(b) Use, or permit the use of, the employee's Government position, or any authority associated with public office, to solicit or coerce the offering of a gift;

(c) Accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using the employee's public office for private gain;

*Example 1 to paragraph (c):* A purchasing agent for a Department of Veterans Affairs medical center routinely deals with representatives of pharmaceutical manufacturers who provide information about new company products. Because of his crowded calendar, the purchasing agent has offered to meet with manufacturer representatives during his lunch hours Tuesdays through Thursdays, and the representatives routinely arrive at the employee's office bringing a sandwich and a soft drink for the employee. Even though the market value of each of the lunches is less than \$6 and the aggregate value from any one manufacturer does not exceed the \$50 aggregate limitation in § 2635.204(a) on gifts of \$20 or less, the practice of accepting even these modest gifts on a recurring basis is improper.

(d) Accept a gift in violation of any statute; relevant statutes applicable to all employees include, but are not limited to:

(1) 18 U.S.C. 201(b), which prohibits a public official from, directly or indirectly, corruptly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value personally or for any other person or entity in return for being influenced in the performance of an official act; being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or for being induced to do or omit to do any action in violation of his

or her official duty. As used in 18 U.S.C. 201(b), the term "public official" is broadly construed and includes regular and special Government employees as well as all other Government officials; and

(2) 18 U.S.C. 209, which prohibits an employee, other than a special Government employee, from receiving any salary or any contribution to or supplementation of salary from any source other than the United States as compensation for services as a Government employee. The statute contains several specific exceptions to this general prohibition, including an exception for contributions made from the treasury of a State, county, or municipality;

(e) Accept a gift in violation of any Executive Order; or

(f) Accept any gift when acceptance of the gift is specifically prohibited by a supplemental agency regulation issued with the concurrence of the Office of Government Ethics, pursuant to § 2635.105.

#### **§ 2635.206 Proper disposition of prohibited gifts.**

(a) Unless a gift is accepted by an agency acting under specific statutory authority, an employee who has received a gift that cannot be accepted under this subpart must dispose of the gift in accordance with the procedures set forth in this section. The employee must promptly complete the authorized disposition of the gift. The obligation to dispose of a gift that cannot be accepted under this subpart is independent of an agency's decision regarding corrective or disciplinary action under § 2635.106.

(1) *Gifts of tangible items.* The employee must promptly return any tangible item to the donor or pay the donor its market value; or, in the case of a tangible item with a market value of \$100 or less, the employee may destroy the item. An employee who cannot ascertain the actual market value of an item may estimate its market value by reference to the retail cost of similar items of like quality.

*Example 1 to paragraph (a)(1):* A Department of Commerce employee received a \$25 T-shirt from a prohibited source after providing training at a conference. Because the gift would not be permissible under an exception to this subpart, the employee must either return or destroy the T-shirt or promptly reimburse the donor \$25. Destruction may be carried out by physical destruction or by permanently discarding the T-shirt by placing it in the trash.

*Example 2 to paragraph (a)(1):* To avoid public embarrassment to the seminar sponsor, an employee of the National Park Service did not decline a barometer worth \$200 given at the conclusion of his speech on

Federal lands policy. To comply with this section, the employee must either promptly return the barometer or pay the donor the market value of the gift. Alternatively, the National Park Service may choose to accept the gift if permitted under specific statutory gift acceptance authority. The employee may not destroy this gift, as the market value is in excess of \$100.

(2) *Gifts of perishable items.* When it is not practical to return a tangible item in accordance with paragraph (a)(1) of this section because the item is perishable, the employee may, at the discretion of the employee's supervisor or the agency designee, give the item to an appropriate charity, share the item within the recipient's office, or destroy the item.

*Example 1 to paragraph (a)(2):* With approval by the recipient's supervisor, a floral arrangement sent by a disability claimant to a helpful employee of the Social Security Administration may be placed in the office's reception area.

(3) *Gifts of intangibles.* The employee must promptly reimburse the donor the market value for any entertainment, favor, service, benefit or other intangible. Subsequent reciprocation by the employee does not constitute reimbursement.

*Example 1 to paragraph (a)(3):* A Department of Defense employee wishes to attend a charitable event to which he has been offered a \$300 ticket by a prohibited source. Although his attendance is not in the interest of the agency under § 2635.204(g), he may attend if he reimburses the donor the \$300 face value of the ticket.

(4) *Gifts from foreign governments or international organizations.* The employee must dispose of gifts from foreign governments or international organizations in accordance with 41 CFR part 102-42.

(b) An agency may authorize disposition or return of gifts at Government expense. Employees may use penalty mail to forward reimbursements required or permitted by this section.

(c) An employee who, on his or her own initiative, promptly complies with the requirements of this section will not be deemed to have improperly accepted an unsolicited gift. An employee who promptly consults his or her agency ethics official to determine whether acceptance of an unsolicited gift is proper and who, upon the advice of the ethics official, returns the gift or otherwise disposes of the gift in accordance with this section, will be considered to have complied with the requirements of this section on the employee's own initiative.

(d) Employees are encouraged to record any actions they have taken to

properly dispose of gifts that cannot be accepted under this subpart, such as by sending an electronic mail message to the appropriate agency ethics official or the employee's supervisor.

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1471

RIN 0551-AA90

#### Pima Agriculture Cotton Trust Fund and Agriculture Wool Apparel Manufacturers Trust Fund

**AGENCY:** Foreign Agricultural Service and Commodity Credit Corporation (CCC), USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes amendments to the final rule, with request for comments, published in the *Federal Register* on March 9, 2015, that established regulations for the Pima Agriculture Cotton Trust Fund (Agriculture Pima Trust) and the Agriculture Wool Apparel Manufacturers Trust Fund (Agriculture Wool Trust) programs. This final rule is amended based on comments received and to add details for the Refund of Duties Paid on Imports of Certain Wool Products (Wool Duty Refund) payment. The administration of the Wool Duty Refund payment was transferred to the United States Department of Agriculture (USDA) beginning in calendar year (CY) 2016 and assigned to the Foreign Agricultural Service (FAS). It was previously administered by the Customs and Border Protection Agency of the Department of Homeland Security.

**DATES:** This final rule is effective November 18, 2016.

**FOR FURTHER INFORMATION CONTACT:** Peter W. Burr, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, USDA; email: [pimawool@fas.usda.gov](mailto:pimawool@fas.usda.gov), 202-720-3274.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 9, 2015, FAS published a final rule, with request for comments, in the *Federal Register* (80 FR 12321) for the Agriculture Pima Trust and the Agriculture Wool Trust programs. The final rule, with request for comments, was published under RIN 0551-AA86. The final rule, with request for comments, established regulations and

sought comments for the Agriculture Pima Trust program and for three of the four payments under the Agriculture Wool Trust program. The Agriculture Pima Trust and Agriculture Wool Trust programs were established in the Agricultural Act of 2014 (Farm Bill). The Farm Bill transferred to USDA the responsibility for administering the Agriculture Pima Trust and three of the four payments under the Agriculture Wool Trust beginning in 2015, but transferred the fourth payment, the Wool Duty Refund, beginning in 2016.

#### Discussion of Comments

The following is a summary and discussion of the comments received relative to the Agriculture Pima Trust and the Agriculture Wool Trust programs along with the reasoning for the revisions made.

##### General

A commenter suggested that applicants not be required as noted in § 1471.1(b)(3)(iii), § 1471.1(b)(4), § 1471.10(b)(3)(iii), and § 1471.10(b)(4), to annually file IRS forms W-9 (U.S. person or resident alien) or the 1199A (direct deposit) with an application for either the Agriculture Pima Trust or Agriculture Wool Trust programs unless a change in the applicant's W-9 or 1199A information had occurred when compared to their previous year's application. This was deemed to be reasonable. Beginning in 2017, IRS forms W-9 and 1199A will only need to be filed if changes in the information have occurred.

A commenter noted that a technical correction is necessary in paragraphs (1) and (2) of § 1471.2(c) by closing the parentheses after the word "insurance." This correction will be made.

##### Payments to Manufacturers of Certain Worsted Wool Fabrics

A commenter identified an error common to paragraphs (b)(1)(ii) and (b)(2)(ii) of § 1471.11, Payments to manufacturers of certain worsted wool fabrics. The payment formula for payments to eligible persons is provided for under this section. The payment formula mistakenly states in paragraph (ii) that payments will be calculated based on the eligible person's production in the preceding year. However, the payments are actually based on the eligible person's production of qualifying worsted wool fabric during calendar years 1999, 2000, and 2001. This correction will be made.

##### Free Trade Zones

A commenter suggested that the scope of the monetization of the wool tariff rate quota payment as noted under § 1471.13(a)(2)(i) be expanded to include eligible entities, that are manufacturers and would otherwise be eligible for monetization payments, that import qualifying worsted wool into a free trade zone (FTZ), cut the wool and use it to make worsted wool suits for men and boys within the FTZ.

The monetization payment requires that the eligible entities receiving a monetization payment (1) import into the Customs territory of the United States the qualifying worsted wool directly or indirectly; (2) manufacture in the United States the qualifying worsted wool into worsted wool suits for men and boys; and (3) own the worsted wool at the time it's cut and manufactured.

An entity that manufactures the suits in an FTZ and does not export from the FTZ into the Customs territory of the United States the qualifying worsted wool directly or indirectly, does not qualify for this benefit because by definition the entity avoided paying the import duty on the qualifying worsted wool. However, an eligible entity that manufactures the suits in an FTZ and exports into the Customs territory of the United States the qualifying worsted wool directly or indirectly and thus pays the import duty on the qualifying worsted wool, does qualify for this benefit. For the purpose of the monetization payment, the worsted wool suits for men and boys are manufactured in the U.S. and all environmental, worker safety, and wage protection laws, etc., would apply to this manufacturer.

USDA will also broaden the scope of eligible entities as it pertains to the wool yarn, wool fiber, and wool top compensation payment found at § 1471.14(a)(2)(i) to include those operating within a FTZ.

##### Definition of Eligible Person

A commenter suggested that the definition of an eligible person found at § 1471.13(a)(2)(i) in the monetization of the wool tariff rate quota payment be modified to allow an eligible person to claim the annual dollar value and quantity of imported qualifying worsted wool fabric cut and sewn if the eligible person owned the wool at the time it was cut and sewn, whether the person actually cut and sewed the imported qualifying worsted wool or another person cut and sewed the wool on behalf of the eligible person. This was deemed reasonable and is already

# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2638

RIN 3209-AA42

#### Executive Branch Ethics Program Amendments

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Government Ethics is issuing a final rule amending the regulation that sets forth the elements and procedures of the executive branch ethics program. This comprehensive revision is informed by the experience gained over the last several decades administering the program, and was developed in consultation with agency ethics officials, the federal inspector general community, the Office of Personnel Management, and the Department of Justice. The final rule defines and describes the executive branch ethics program, delineates the responsibilities of various stakeholders, and enumerates key executive branch ethics procedures.

**DATES:** This final rule is effective January 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Monica Ashar, Assistant Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; Telephone: (202) 482-9300; TTY: (800) 877-8339; FAX: (202) 482-9237.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The U.S. Office of Government Ethics (OGE) published a proposed rule in the *Federal Register*, 81 FR 36193, June 6, 2016, proposing to amend 5 CFR part 2638, The Executive Branch Ethics Program. Part 2638 sets forth the mission of the executive branch ethics program, the responsibilities of key

participants, and the procedures of the executive branch ethics program, as well as the procedures for government ethics education, correction of executive branch agency ethics programs, and corrective action involving individual employees.

These amendments, which are described in the preamble to the proposed rule, draw upon the collective experience of agency ethics officials across the executive branch and OGE as the supervising ethics office. They reflect extensive input from the executive branch ethics community and the inspector general community, as well as OGE's consultation with the Department of Justice (DOJ) and the Office of Personnel Management pursuant to 5 U.S.C. app. 402(b)(1). In short, they present a comprehensive picture of the executive branch ethics program, its responsibilities and its procedures, as reflected through nearly 40 years of interpreting and implementing the Ethics in Government Act of 1978, as amended (the Act), as well as other applicable statutes, regulations, Executive orders, and authorities.

The proposed rule provided a 60-day comment period, which ended on August 5, 2016. OGE received one set of timely and responsive comments, which were submitted by an individual. OGE also received one set of timely comments from an executive branch agency, but the agency withdrew its comments prior to the deadline. After carefully considering the individual's comments and making appropriate modifications, and for the reasons set forth below and in the preamble to the proposed rule, OGE is publishing this final rule.

OGE plans to issue several pieces of guidance to the executive branch ethics community in order to provide assistance and instruction regarding the implementation of these amendments. Additionally, OGE Desk Officers are available to answer questions from their respective agencies.

##### II. Summary of Comments and Changes to the Proposed Rule

###### *General Comments*

As noted above, OGE received one set of comments on the proposed rule. In several instances, the commenter proposed minor, largely technical changes in wording. These proposed

changes pertained to §§ 2638.107(g) and (h) (adding the words "payment for" before "travel"), 2638.202 (deleting the citation to section 402 of the Act), and 2638.204 (adding the words "filed with or" before "transmitted"). For various reasons, OGE has not adopted these recommendations. OGE did, however, adopt the commenter's recommendation at § 2638.207(a) to change "the" agency to "an" agency. The more substantive changes proposed by the commenter are discussed in further detail below.

Additionally, as described below, OGE is making several technical changes to provisions involving Inspectors General. OGE is making these changes based on its continuing collaboration with the federal inspector general community and with the Council of the Inspectors General on Integrity and Efficiency (CIGIE), of which the Director of OGE (Director) is a statutory member. OGE has taken into consideration the views of CIGIE, as expressed both in CIGIE meetings and in various communications with individual members of CIGIE and CIGIE's leadership. OGE believes the changes will increase the effectiveness of its ongoing coordination with CIGIE. These changes are intended to align the regulation more closely with the Act and the Inspector General Act of 1978, as amended (the Inspector General Act).

###### Subpart A—Mission and Responsibilities

Section 2638.101 sets forth the mission of the executive branch ethics program, which is to prevent conflicts of interest on the part of executive branch employees. The one commenter recommended revising the second sentence of § 2638.101(b), which describes the sources of potential conflicts of interest, so as to make the language clearer and to broaden the discussion of the mission to reference helping employees uphold their ethical responsibilities. Although OGE has revised this language for clarity consistent with the general aim of this comment, OGE has not adopted the specific recommendation to reference assistance to employees. Section 2638.101 is intended to articulate overarching, program-level principles, rather than focus on assisting employees individually.

OGE made several technical changes to § 2638.106, which describes the

government ethics responsibilities of Inspectors General. These changes were made to more accurately reflect their authority as set forth in section 6 of the Inspector General Act.

#### Subpart B—Procedures of the Executive Branch Ethics Program

Section 2638.206 establishes the requirement to provide the Director with notice of referrals made to DOJ regarding potential violations of criminal conflict of interest laws. OGE made several technical changes to this section to delete references to “agencies” in order to avoid potential confusion as to the appropriate channel for making required notifications. OGE sought neither to limit the independence of Inspectors General nor to exclude them from this regulatory requirement. OGE is, however, sensitive to general concerns about Inspector General independence and has eliminated the reference to “agencies” as a prophylactic measure to avoid creating any perception that Inspectors General would need to act in concert with various agency offices when filing the required notifications. Additionally, the one commenter suggested deleting the citation to section 402 of the Act from the undesignated paragraph of § 2638.206. As a result of the technical changes described above, the citation has been removed.

Related technical changes include deleting from § 2638.206(a) the 30-day deadline by which the Director must be notified of a referral to DOJ. This change aligns the regulation with the statutory language of 5 U.S.C. app. 402(e)(2), which requires notification “upon referral.” Accordingly, OGE also deleted the corresponding reference to the 30-day deadline from § 2638.604(n). Other technical changes include deleting the language at § 2638.206(b), which required the referring agency to provide the Director with certain information, because the provision was redundant of § 2638.202, “furnishing records and information generally.” In its place, OGE has added language committing that it will obtain the concurrence of CIGIE’s Chairperson before implementing substantive changes to the OGE Form 202. With this self-imposed requirement, OGE is choosing to institutionalize its current collaboration with CIGIE as to the processes and procedures related to referrals to DOJ for prosecution. This language is not intended to require formal action other than agreement between OGE’s Director and CIGIE’s Chairperson. Further, concurrence would not be required when merely updating references to telephone

numbers, email addresses, or similarly non-substantive information contained in the form. Finally, OGE deleted the language in § 2638.206(c) that recommended that an Inspector General, when making a covered referral to DOJ, provide the DAEO with copies of documents that are also provided to the Director. Because this provision offered only a recommendation, and would not have established a binding requirement, OGE found this language superfluous. The deletion of this language would not prevent an Inspector General from providing a DAEO with copies of documents, unless such disclosure were prohibited by law, and there may in fact be instances when OGE would encourage such sharing of documents in order to ensure that appropriate corrective action is taken.

Section 2638.209 sets forth the procedures for OGE’s formal advisory opinion service, including the criteria that the Director will consider when determining whether to issue a formal advisory opinion. The sole commenter suggested replacing the fifth criterion, “the interests of the executive branch ethics program” at § 2638.209(b)(5), with “the importance of the question to upholding the ethics responsibilities of employees, as listed in § 2638.102.” OGE has not adopted this recommendation. The fifth criterion could already reasonably encompass the standard the commenter proposed. As currently drafted, the fifth criterion has the advantage of supplementing the first four criteria, which are unchanged from the prior regulation.

#### Subpart C—Government Ethics Education

Section 2638.302 contains the definitions for the two training formats prescribed in subpart C. Regarding the definition of “live training” at § 2638.302(a), which requires that “the presenter personally communicate[] a substantial portion of the material at the same time as the employees being trained are receiving [it],” the sole commenter requested additional guidance on the minimum for satisfying the “substantial portion” criteria. He cites example 5, in which OGE demonstrates that the “substantial portion” standard can be met with at least a 20-minute discussion following a 40-minute video. Although the 40-minute video or other non-live material alone would not satisfy this criterion, coupling the non-live material with at least a 20-minute phone call would bring the training into compliance with the minimum standard. Further, the phone call and the video presentation are not required

to occur on the same day. Although OGE did not adopt the commenter’s recommendation, OGE emphasizes that the default, as illustrated in examples 1 through 4, will be for the presenter to personally communicate the material for the full duration or nearly the full duration of the training, except when to do so is impracticable.

Section 2638.304 sets forth the requirements for administering initial ethics training to new agency employees. The sole commenter observed that the deadlines for completion at § 2638.304(b) and (b)(1) are expressed in months, while the deadline at § 2638.304(a)(2)(iii) is expressed in days. He suggested that the deadlines in this section should be expressed consistently. In response, OGE is making the deadlines consistent by changing the deadline at § 2638.304(a)(2)(iii) from 90 days to 3 months. OGE selected 3 months rather than 90 days because a 3-month deadline would allow agencies to offer initial ethics training four times a year, whereas four 90-day periods would fall slightly short of a full year. The commenter also addressed the 60-day period pertaining to special Government employees at § 2638.304(b)(2), mistakenly characterizing it as a deadline. The 60-day period tracks provisions in the Act, 5 U.S.C. app. 101(d), and in criminal conflict of interest statutes, 18 U.S.C. 203 and 205, that modify certain requirements for employees who serve no more than 60 days in a year. OGE has not adopted the recommendation, which was based on an incorrect reading of the proposed rule. In considering this comment, however, OGE identified an error in its proposed language and made a technical correction at § 2638.304(b)(2), changing “less than 60 days” to “no more than 60 days” so as to conform to the statutory time frame. OGE also made the same technical correction at § 2638.305(b)(2)(ii).

OGE made a similar technical correction at § 2638.305(a) to remedy an inconsistency. In the proposed rule, OGE stated that this section, with some exceptions, “applies to public filers who are Senate-confirmed Presidential nominees and appointees.” At the same time, § 2638.305(b)(2)(ii) prescribes procedures for certain special Government employees who are “expected to serve for less than 60 days in a calendar year.” Because these individuals are not public filers, OGE deleted the words “public filers who are” in § 2638.305(a).



### Subpart E—Corrective Action Involving Individual Employees

Subpart E implements the limited authority of the Director to take certain actions against individual employees. The commenter challenged the authority of Inspectors General to investigate matters within DOJ's authority and recommended deleting language in §§ 2638.501 and 2638.502 authorizing referrals to Inspectors General. OGE has not adopted this recommendation. As noted above, OGE consulted with DOJ prior to submitting the proposed rule for publication, and DOJ did not object to this provision.

Section 2638.504 contains the procedures that OGE may use when the Director has reason to believe that an executive branch employee is violating or has violated a noncriminal government ethics law or regulation. OGE made two technical changes to this section. First, in § 2638.504(a), OGE is clarifying that, consistent with 5 U.S.C. app. 402(f)(2)(A)(ii)(II), the Presidential notification procedure is triggered only in connection with investigations to be initiated by agency heads. Second, in § 2638.504(b), OGE is clarifying that OGE may close only its own involvement in the matter. This provision was not intended to suggest that any other office would necessarily close its involvement.

### Subpart F—General Provisions

The sole commenter also raised a question regarding the definition of disciplinary action at § 2638.603 with respect to military officers. He asserted that the phrase “comparable provisions may include those in the Uniform Code of Military Justice” was “overly vague and largely beside the point.” In response to this comment and to avoid any confusion, OGE has deleted examples of disciplinary actions, as well as examples of provisions that may apply to employees who are not subject to title 5 of the United States Code. Because agencies interpret the authority under which they administer disciplinary actions, as well as determine specific disciplinary actions, OGE does not want this provision to be misconstrued as seeking to limit the authority of agencies.

As noted above in the discussion of § 2638.206(a), OGE has also deleted the language of § 2638.604(n) in the proposed regulation, which reiterated a deadline that has since been removed. As a result, OGE has also renumbered the subsequent paragraphs.

### III. Matters of Regulatory Procedure

#### *Regulatory Flexibility Act*

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final rule would not have a significant economic impact on a substantial number of small entities because it primarily affects current and former federal executive branch employees.

#### *Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require approval of the Office of Management and Budget.

#### *Unfunded Mandates Reform Act*

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 5, subchapter II), this final rule would not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year.

#### *Executive Order 13563 and Executive Order 12866*

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select the regulatory approaches that maximize net benefits (including economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking has been designated as a “significant regulatory action” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this final rule has been reviewed by the Office of Management and Budget.

#### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

#### List of Subjects in 5 CFR Part 2638

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Approved: October 27, 2016.

**Walter M. Shaub, Jr.,**

*Director, Office of Government Ethics.*

■ Accordingly, the Office of Government Ethics is revising 5 CFR part 2638 as set forth below:

### **PART 2638—EXECUTIVE BRANCH ETHICS PROGRAM**

#### **Subpart A—Mission and Responsibilities**

Sec.

- 2638.101 Mission.
- 2638.102 Government ethics responsibilities of employees.
- 2638.103 Government ethics responsibilities of supervisors.
- 2638.104 Government ethics responsibilities of agency ethics officials.
- 2638.105 Government ethics responsibilities of lead human resources officials.
- 2638.106 Government ethics responsibilities of Inspectors General.
- 2638.107 Government ethics responsibilities of agency heads.
- 2638.108 Government ethics responsibilities of the Office of Government Ethics.

#### **Subpart B—Procedures of the Executive Branch Ethics Program**

- 2638.201 In general.
- 2638.202 Furnishing records and information generally.
- 2638.203 Collection of public financial disclosure reports required to be submitted to the Office of Government Ethics.
- 2638.204 Collection of other public financial disclosure reports.
- 2638.205 Collection of confidential financial disclosure reports.
- 2638.206 Notice to the Director of certain referrals to the Department of Justice.
- 2638.207 Annual report on the agency's ethics program.
- 2638.208 Written guidance on the executive branch ethics program.
- 2638.209 Formal advisory opinions.
- 2638.210 Presidential transition planning.

#### **Subpart C—Government Ethics Education**

- 2638.301 In general.
- 2638.302 Definitions.
- 2638.303 Notice to prospective employees.
- 2638.304 Initial ethics training.
- 2638.305 Additional ethics briefing for certain agency leaders.
- 2638.306 Notice to new supervisors.
- 2638.307 Annual ethics training for confidential filers and certain other employees.
- 2638.308 Annual ethics training for public filers.
- 2638.309 Agency-specific ethics education requirements.
- 2638.310 Coordinating the agency's ethics education program.

#### **Subpart D—Correction of Executive Branch Agency Ethics Programs**

- 2638.401 In general.
- 2638.402 Informal action.
- 2638.403 Formal action.

**Subpart E—Corrective Action Involving Individual Employees**

- 2638.501 In general.  
 2638.502 Violations of criminal provisions related to government ethics.  
 2638.503 Recommendations and advice to employees and agencies.  
 2638.504 Violations of noncriminal provisions related to government ethics.

**Subpart F—General Provisions**

- 2638.601 Authority and purpose.  
 2638.602 Agency regulations.  
 2638.603 Definitions.  
 2638.604 Key program dates.

**Authority:** 5 U.S.C. App. 101–505; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

**Subpart A—Mission and Responsibilities****§ 2638.101 Mission.**

(a) *Mission.* The primary mission of the executive branch ethics program is to prevent conflicts of interest on the part of executive branch employees.

(b) *Breadth.* The executive branch ethics program works to ensure that public servants make impartial decisions based on the interests of the public when carrying out the governmental responsibilities entrusted to them, serve as good stewards of public resources, and loyally adhere to the Constitution and laws of the United States. In the broadest sense of the term, “conflicts of interest” stem from financial interests; business or personal relationships; misuses of official position, official time, or public resources; and the receipt of gifts. The mission is focused on both conflicts of interest and the appearance of conflicts of interest.

(c) *Conflicts-based program.* The executive branch ethics program is a conflicts-based program, rather than a solely disclosure-based program. While transparency is an invaluable tool for promoting and monitoring ethical conduct, the executive branch ethics program requires more than transparency. This program seeks to ensure the integrity of governmental decision making and to promote public confidence by preventing conflicts of interest. Taken together, the systems in place to identify and address conflicts of interest establish a foundation on which to build and sustain an ethical culture in the executive branch.

**§ 2638.102 Government ethics responsibilities of employees.**

Consistent with the fundamental principle that public service is a public trust, every employee in the executive branch plays a critical role in the executive branch ethics program. As

provided in the Standards of Conduct at part 2635 of this chapter, employees must endeavor to act at all times in the public’s interest, avoid losing impartiality or appearing to lose impartiality in carrying out official duties, refrain from misusing their offices for private gain, serve as good stewards of public resources, and comply with the requirements of government ethics laws and regulations, including any applicable financial disclosure requirements. Employees must refrain from participating in particular matters in which they have financial interests and, pursuant to § 2635.402(f) of this chapter, should notify their supervisors or ethics officials when their official duties create the substantial likelihood of such conflicts of interest. Collectively, the charge of employees is to make ethical conduct the hallmark of government service.

**§ 2638.103 Government ethics responsibilities of supervisors.**

Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials. Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

**§ 2638.104 Government ethics responsibilities of agency ethics officials.**

(a) *Appointment of a Designated Agency Ethics Official.* Each agency head must appoint a Designated Agency Ethics Official (DAEO). The DAEO is the employee with primary responsibility for directing the daily activities of the agency’s ethics program and coordinating with the Office of Government Ethics.

(b) *Qualifications necessary to serve as DAEO.* The following are necessary qualifications of an agency’s DAEO:

(1) The DAEO must be an employee at an appropriate level in the organization, such that the DAEO is able

to coordinate effectively with officials in relevant agency components and gain access to the agency head when necessary to discuss important matters related to the agency’s ethics program.

(2) The DAEO must be an employee who has demonstrated the knowledge, skills, and abilities necessary to manage a significant agency program, to understand and apply complex legal requirements, and to generate support for building and sustaining an ethical culture in the organization.

(3) On an ongoing basis, the DAEO must demonstrate the capacity to serve as an effective advocate for the executive branch ethics program, show support for the mission of the executive branch ethics program, prove responsive to the Director’s requests for documents and information related to the ethics program, and serve as an effective liaison with the Office of Government Ethics.

(4) In any agency with 1,000 or more employees, any DAEO appointed after the effective date of this regulation must be an employee at the senior executive level or higher, unless the agency has fewer than 10 positions at that level.

(c) *Responsibilities of the DAEO.* Acting directly or through other officials, the DAEO is responsible for taking actions authorized or required under this subchapter, including the following:

(1) Serving as an effective liaison to the Office of Government Ethics;

(2) Maintaining records of agency ethics program activities;

(3) Promptly and timely furnishing the Office of Government Ethics with all documents and information requested or required under subpart B of this part;

(4) Providing advice and counseling to prospective and current employees regarding government ethics laws and regulations, and providing former employees with advice and counseling regarding post-employment restrictions applicable to them;

(5) Carrying out an effective government ethics education program under subpart C of this part;

(6) Taking appropriate action to resolve conflicts of interest and the appearance of conflicts of interest, through recusals, directed divestitures, waivers, authorizations, reassignments, and other appropriate means;

(7) Consistent with § 2640.303 of this chapter, consulting with the Office of Government Ethics regarding the issuance of waivers pursuant to 18 U.S.C. 208(b);

(8) Carrying out an effective financial disclosure program, by:

(i) Establishing such written procedures as are appropriate relative to

the size and complexity of the agency's financial disclosure program for the filing, review, and, when applicable, public availability of financial disclosure reports;

(ii) Requiring public and confidential filers to comply with deadlines and requirements for financial disclosure reports under part 2634 of this chapter and, in the event of noncompliance, taking appropriate action to address such noncompliance;

(iii) Imposing late fees in appropriate cases involving untimely filing of public financial disclosure reports;

(iv) Making referrals to the Inspector General or the Department of Justice in appropriate cases involving knowing and willful falsification of financial disclosure reports or knowing and willful failure to file financial disclosure reports;

(v) Reviewing financial disclosure reports, with an emphasis on preventing conflicts of interest;

(vi) Consulting, when necessary, with financial disclosure filers and their supervisors to evaluate potential conflicts of interest;

(vii) Timely certifying financial disclosure reports and taking appropriate action with regard to financial disclosure reports that cannot be certified; and

(viii) Using the information disclosed in financial disclosure reports to prevent and resolve potential conflicts of interest.

(9) Assisting the agency in its enforcement of ethics laws and regulations when agency officials:

(i) Make appropriate referrals to the Inspector General or the Department of Justice;

(ii) Take disciplinary or corrective action; and

(iii) Employ other means available to them.

(10) Upon request of the Office of Inspector General, providing that office with ready and active assistance with regard to the interpretation and application of government ethics laws and regulations, as well as the procedural requirements of the ethics program;

(11) Ensuring that the agency has a process for notifying the Office of Government Ethics upon referral, made pursuant to 28 U.S.C. 535, to the Department of Justice regarding a potential violation of a conflict of interest law, unless such notification would be prohibited by law;

(12) Providing agency officials with advice on the applicability of government ethics laws and regulations to special Government employees;

(13) Requiring timely compliance with ethics agreements, pursuant to part 2634, subpart H of this chapter;

(14) Conducting ethics briefings for certain agency leaders, pursuant to § 2638.305;

(15) Prior to any Presidential election, preparing the agency's ethics program for a potential Presidential transition; and

(16) Periodically evaluating the agency's ethics program and making recommendations to the agency regarding the resources available to the ethics program.

(d) *Appointment of an Alternate Designated Agency Ethics Official.* Each agency head must appoint an Alternate Designated Agency Ethics Official (ADAEO). The ADAEO serves as the primary deputy to the DAEO in the administration of the agency's ethics program. Together, the DAEO and the ADAEO direct the daily activities of an agency's ethics program and coordinate with the Office of Government Ethics. The ADAEO must be an employee who has demonstrated the skills necessary to assist the DAEO in the administration of the agency's ethics program.

(e) *Program support by additional ethics officials and other individuals.* Subject to approval by the DAEO or the agency head, an agency may designate additional ethics officials and other employees to assist the DAEO in carrying out the responsibilities of the ethics program, some of whom may be designated "deputy ethics officials" for purposes of parts 2635 and 2636 of this chapter. The agency is responsible for ensuring that these employees have the skills and expertise needed to perform their assigned duties related to the ethics program and must provide appropriate training to them for this purpose. Although the agency may appoint such officials as are necessary to assist in carrying out functions of the agency's ethics program, they will be subject to the direction of the DAEO with respect to the functions of the agency's ethics program described in this chapter. The DAEO retains authority to make final decisions regarding the agency's ethics program and its functions, subject only to the authority of the agency head and the Office of Government Ethics.

(f) *Ethics responsibilities that may be performed only by the DAEO or ADAEO.* In addition to any items reserved for action by the DAEO or ADAEO in other parts of this chapter, only the DAEO or ADAEO may carry out the following responsibilities:

(1) Request approval of supplemental agency regulations, pursuant to § 2635.105 of this chapter;

(2) Recommend a separate component designation, pursuant to § 2641.302(e) of this chapter;

(3) Request approval of an alternative means for collecting certain public financial disclosure reports, pursuant to § 2638.204(c);

(4) Request determinations regarding public reporting requirements, pursuant to §§ 2634.202(c), 2634.203, 2634.205, and 2634.304(f) of this chapter;

(5) Make determinations, other than exceptions in individual cases, regarding the means the agency will use to collect public or confidential financial disclosure reports, pursuant to §§ 2638.204 and 2638.205;

(6) Request an alternative procedure for filing confidential financial disclosure reports, pursuant to § 2634.905(a) of this chapter;

(7) Request a formal advisory opinion on behalf of the agency or a prospective, current, or former employee of that agency, pursuant to § 2638.209(d); and

(8) Request a certificate of divestiture, pursuant to § 2634.1005(b) of this chapter.

**§ 2638.105 Government ethics responsibilities of lead human resources officials.**

(a) The lead human resources official, as defined in § 2638.603, acting directly or through delegees, is responsible for:

(1) Promptly notifying the DAEO of all appointments to positions that require incumbents to file public or confidential financial disclosure reports, with the notification occurring prior to appointment whenever practicable but in no case occurring more than 15 days after appointment; and

(2) Promptly notifying the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports, with the notification occurring prior to termination whenever practicable but in no case occurring more than 15 days after termination.

(b) The lead human resources official may be assigned certain additional ethics responsibilities by the agency.

(1) If an agency elects to assign such responsibilities to human resources officials, the lead human resources official is responsible for coordinating, to the extent necessary and practicable, with the DAEO to support the agency's ethics program;

(2) If the lead human resources official is responsible for conducting ethics training pursuant to subpart C of this part, that official must follow the DAEO's directions regarding applicable requirements, procedures, and the qualifications of any presenters, consistent with the requirements of this chapter;

(3) If the lead human resources official is responsible for issuing the required government ethics notices in written offers of employment, pursuant to § 2638.303, or providing supervisory ethics notices, pursuant to § 2638.306, that official must comply with any substantive and procedural requirements established by the DAEO, consistent with the requirements of this chapter; and

(4) To the extent applicable, the lead human resources official is required to provide the DAEO with a written summary and confirmation regarding procedures for implementing certain requirements of subpart C of this part by January 15 each year, pursuant to § 2638.310.

(c) Nothing in this section prevents an agency head from delegating the duties described in paragraph (b) of this section to another agency official. In the event that an agency head delegates the duties described in paragraph (b) of this section to an agency official other than the lead human resources official, the requirements of paragraph (b) of this section will apply to that official.

**§ 2638.106 Government ethics responsibilities of Inspectors General.**

An agency's Inspector General has authority to conduct investigations of suspected violations of conflict of interest laws and other government ethics laws and regulations. An Inspector General is responsible for giving due consideration to a request made pursuant to section 403 of the Ethics in Government Act of 1978 (the "Act") by the Office of Government Ethics for investigation of a possible violation of a government ethics law or regulation. Inspectors General provide the Office of Government Ethics notification of certain referrals to the Department of Justice, pursuant to § 2638.206. Inspectors General may consult with the Director for legal guidance on the application of government ethics laws and regulations, except that the Director may not make any finding as to whether a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated. Nothing in this section will be construed to limit or otherwise affect the authority of an Inspector General under section 6 of the Inspector General Act of 1978, as amended, including the authority under section 6(a)(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable.

**§ 2638.107 Government ethics responsibilities of agency heads.**

The agency head is responsible for, and will exercise personal leadership in, establishing and maintaining an effective agency ethics program and fostering an ethical culture in the agency. The agency head is also responsible for:

(a) Designating employees to serve as the DAEO and ADAEO and notifying the Director in writing within 30 days of such designation;

(b) Providing the DAEO with sufficient resources, including staffing, to sustain an effective ethics program;

(c) Requiring agency officials to provide the DAEO with the information, support, and cooperation necessary for the accomplishment of the DAEO's responsibilities;

(d) When action is warranted, enforcing government ethics laws and regulations through appropriate referrals to the Inspector General or the Department of Justice, investigations, and disciplinary or corrective action;

(e) Requiring that violations of government ethics laws and regulations, or interference with the functioning of the agency ethics program, be appropriately considered in evaluating the performance of senior executives;

(f) Requiring the Chief Information Officer and other appropriate agency officials to support the DAEO in using technology, to the extent practicable, to carry out ethics program functions such as delivering interactive training and tracking ethics program activities;

(g) Requiring appropriate agency officials to submit to the Office of Government Ethics, by May 31 each year, required reports of travel accepted by the agency under 31 U.S.C. 1353 during the period from October 1 through March 31;

(h) Requiring appropriate agency officials to submit to the Office of Government Ethics, by November 30 each year, required reports of travel accepted by the agency under 31 U.S.C. 1353 during the period from April 1 through September 30; and

(i) Prior to any Presidential election, supporting the agency's ethics program in preparing for a Presidential transition.

**§ 2638.108 Government ethics responsibilities of the Office of Government Ethics.**

The Office of Government Ethics is the supervising ethics office for the executive branch, providing overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. The Office of

Government Ethics has the authorities and functions established in the Act.

(a) *Authorities and functions.* Among other authorities and functions, the Office of Government Ethics has the authorities and functions described in this section.

(1) The Office of Government Ethics issues regulations regarding conflicts of interest, standards of conduct, financial disclosure, requirements for agency ethics programs, and executive branch-wide systems of records for government ethics records. In issuing any such regulations, the Office of Government Ethics will, to the full extent required under the Act and any Executive order, coordinate with the Department of Justice and the Office of Personnel Management. When practicable, the Office of Government Ethics will also consult with a diverse group of selected agency ethics officials that represents a cross section of executive branch agencies to ascertain representative views of the DAEO community when developing substantive revisions to this chapter.

(2) The Office of Government Ethics reviews and approves or disapproves agency supplemental ethics regulations.

(3) The Office of Government Ethics issues formal advisory opinions to interested parties, pursuant to § 2638.209. When developing a formal advisory opinion, the Office of Government Ethics will provide interested parties with an opportunity to comment.

(4) The Office of Government Ethics issues guidance and informal advisory opinions, pursuant to § 2638.208. When practicable, the Office of Government Ethics will consult with selected agency ethics officials to ascertain representative views of the DAEO community when developing guidance or informal advisory opinions that the Director determines to be of significant interest to a broad segment of the DAEO community.

(5) The Office of Government Ethics supports agency ethics officials through such training, advice, and counseling as the Director deems necessary.

(6) The Office of Government Ethics provides assistance in interpreting government ethics laws and regulations to executive branch Offices of Inspector General and other executive branch entities.

(7) When practicable, the Office of Government Ethics convenes quarterly executive branch-wide meetings of key agency ethics officials. When the Office of Government Ethics convenes a major executive branch-wide training event, the event normally serves in place of a quarterly meeting.

(8) Pursuant to sections 402(b)(10) and 403 of the Act, the Director requires agencies to furnish the Office of Government Ethics with all information, reports, and records which the Director determines to be necessary for the performance of the Director's duties, except when such a release is prohibited by law.

(9) The Office of Government Ethics conducts reviews of agency ethics programs in order to ensure their compliance with program requirements and to ensure their effectiveness in advancing the mission of the executive branch-wide ethics program. The Office of Government Ethics also conducts single-issue reviews of individual agencies, groups of agencies, or the executive branch ethics program as a whole.

(10) The Office of Government Ethics reviews financial disclosure reports filed by employees, former employees, nominees, candidates for the Office of the President of the United States, and candidates for the Office of the Vice President of the United States who are required to file executive branch financial disclosure reports with the Office of Government Ethics pursuant to sections 101, 103(c), and 103(l) of the Act.

(11) By January 15 each year, the Office of Government Ethics issues year-end reports to agencies regarding their compliance with the obligations, pursuant to section 103(c) of the Act and part 2634 of this chapter:

(i) To timely transmit the annual public financial disclosure reports of certain high-level officials to the Office of Government Ethics; and

(ii) To promptly submit such additional information as is necessary to obtain the Director's certification of the reports.

(12) The Office of Government Ethics oversees the development of ethics agreements between agencies and Presidential nominees for positions in the executive branch requiring Senate confirmation and tracks compliance with such agreements. The Office of Government Ethics also maintains a guide that provides sample language for ethics agreements of Presidential nominees requiring Senate confirmation.

(13) The Office of Government Ethics proactively assists Presidential Transition Teams in support of effective and efficient Presidential transitions and, to the extent practicable, may provide Presidential campaigns with advice and counsel on preparing for Presidential transitions.

(14) The Office of Government Ethics orders such corrective action on the part

of an agency as the Director deems necessary, pursuant to subpart D of this part, and such corrective action on the part of individual executive branch employees as the Director deems necessary, pursuant to subpart E of this part.

(15) The Office of Government Ethics makes determinations regarding public financial disclosure requirements, pursuant to §§ 2634.202(c), 2634.203, 2634.205, and 2634.304(f) of this chapter.

(16) The Office of Government Ethics conducts outreach to inform the public of matters related to the executive branch ethics program.

(17) The Director and the Office of Government Ethics take such other actions as are necessary and appropriate to carry out their responsibilities under the Act.

(b) *Other authorities and functions.* Nothing in this subpart or this chapter limits the authority of the Director or the Office of Government Ethics under the Act.

#### **Subpart B—Procedures of the Executive Branch Ethics Program**

##### **§ 2638.201 In general.**

This subpart establishes certain procedures of the executive branch ethics program. The procedures set forth in this subpart are in addition to procedures established elsewhere in this chapter and in the program advisories and other issuances of the Office of Government Ethics.

##### **§ 2638.202 Furnishing records and information generally.**

Consistent with sections 402 and 403 of the Act, each agency must furnish to the Director all information and records in its possession which the Director deems necessary to the performance of the Director's duties, except to the extent prohibited by law. All such information and records must be provided to the Office of Government Ethics in a complete and timely manner.

##### **§ 2638.203 Collection of public financial disclosure reports required to be submitted to the Office of Government Ethics.**

The public financial disclosure reports of individuals, other than candidates for elected office and elected officials, whose reports are required by section 103 of the Act to be transmitted to the Office of Government Ethics will be transmitted through the executive branch-wide electronic filing system of the Office of Government Ethics, except in cases in which the Director determines that using that system would be impracticable.

##### **§ 2638.204 Collection of other public financial disclosure reports.**

This section establishes the procedure that the executive branch ethics program will use to collect, pursuant to section 101 of the Act, public financial disclosure reports of individuals whose reports are not required by section 103 of the Act to be transmitted to the Office of Government Ethics.

(a) *General.* Subject to the exclusions and exceptions in paragraphs (b) through (d) of this section, the public financial disclosure reports required by part 2634 of this chapter will be collected through the executive branch-wide electronic filing system of the Office of Government Ethics.

(b) *Exclusions.* This section does not apply to persons whose financial disclosure reports are covered by section 105(a)(1) or (2) of the Act, persons whose reports are required by section 103 of the Act to be transmitted to the Office of Government Ethics, or such other persons as the Director may exclude from the coverage of this section in the interest of the executive branch ethics program.

(c) *Authorization to collect public reports in paper format or through a legacy electronic filing system.* Upon written request signed by the DAEO or ADAEO and by the Chief Information Officer, the Director of the Office of Government Ethics may authorize an agency in the interest of the executive branch ethics program to collect public financial disclosure reports in paper format or through a legacy electronic filing system other than the executive branch-wide electronic filing system of the Office of Government Ethics. The Director may rescind any such authorization based on a written determination that the rescission promotes the efficiency or effectiveness of the executive branch ethics program, but only after providing the agency with advance written notice and an opportunity to respond. The rescission will become effective on January 1 of a subsequent calendar year, but not less than 24 months after notice is provided.

(d) *Exceptions in cases of extraordinary circumstances or temporary technical difficulties.* Based on a determination that extraordinary circumstances or temporary technical difficulties make the use of an electronic filing system impractical, the DAEO or ADAEO may authorize an individual to file a public financial disclosure report using such alternate means of filing as are authorized in the program advisories of the Office of Government Ethics. To the extent practicable, agencies should limit the number of exceptions they grant under this paragraph each year.

The Director may suspend an agency's authority to grant exceptions under this paragraph when the Director is concerned that the agency may be granting exceptions unnecessarily or in a manner that is inconsistent with § 2638.601(c). Nothing in this paragraph limits the authority of the agency to excuse an employee from filing electronically to the extent necessary to provide reasonable accommodations under the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, or other applicable legal authority.

**§ 2638.205 Collection of confidential financial disclosure reports.**

This section establishes the procedure that the executive branch will use to collect confidential financial disclosure reports from employees of the executive branch. To the extent not inconsistent with part 2634 of this chapter or with the approved forms, instructions, and other guidance of the Office of Government Ethics, the DAEO of each agency will determine the means by which the agency will collect confidential financial disclosure reports, including a determination as to whether the agency will collect such reports in either paper or electronic format. Nothing in this paragraph limits the authority of the agency to provide reasonable accommodations under the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, or other applicable legal authority.

**§ 2638.206 Notice to the Director of certain referrals to the Department of Justice.**

This section establishes the requirement to provide the Director with notice of certain referrals.

(a) Upon any referral made pursuant to 28 U.S.C. 535 to the Department of Justice regarding a potential violation of a conflict of interest law, the referring office must notify the Director of the referral by filing a completed OGE Form 202 with the Director, unless prohibited by law.

(b) In order to ensure effective coordination of this section, the Office of Government Ethics will obtain the concurrence of the Chairperson of the Council of the Inspectors General on Integrity and Efficiency before implementing substantive changes to the OGE Form 202.

(c) If an agency's procedures authorize an official outside the Office of Inspector General to make a referral covered by this section, that official must provide the Inspector General and the DAEO with copies of documents provided to the Director pursuant this section, unless prohibited by law.

**§ 2638.207 Annual report on the agency's ethics program.**

(a) By February 1 of each year, an agency must file with the Office of Government Ethics, pursuant to section 402(e)(1) of the Act, a report containing such information about the agency's ethics program as is requested by the Office of Government Ethics. The report must be filed electronically and in a manner consistent with the instructions of the Office of Government Ethics.

(b) In order to facilitate the collection of required information by agencies, the Office of Government Ethics will provide agencies with advance notice regarding the contents of the report prior to the beginning of the reporting period for information that would be expected to be tracked over the course of the reporting period. Otherwise, it will provide as much notice as practicable, taking into consideration the effort required to collect the information.

**§ 2638.208 Written guidance on the executive branch ethics program.**

This section describes several means by which the Office of Government Ethics provides agencies, employees, and the public with guidance regarding its legal interpretations, program requirements, and educational offerings. Normally, guidance documents are published on the official Web site of the Office of Government Ethics.

(a) *Legal advisories.* The Office of Government Ethics issues legal advisories, which are memoranda regarding the interpretation of government ethics laws and regulations. They are intended primarily to provide education and notice to executive branch ethics officials; prospective, current, and former executive branch employees; and individuals who interact with the executive branch.

(b) *Program advisories.* The Office of Government Ethics issues program advisories, which are memoranda regarding the requirements or procedures applicable to the executive branch ethics program and individual agency ethics programs. They are intended primarily to instruct agencies on uniform procedures for the executive branch ethics program.

(c) *Informal advisory opinions.* Upon request or upon its own initiative, the Office of Government Ethics issues informal advisory opinions. Informal advisory opinions address subjects that in the opinion of the Director do not meet the criteria for issuance of formal advisory opinions. They are intended primarily to provide guidance to individuals and illustrate the application of government ethics laws

and regulations to specific circumstances.

**§ 2638.209 Formal advisory opinions.**

This section establishes the formal advisory opinion service of the Office of Government Ethics.

(a) *General.* The Office of Government Ethics renders formal advisory opinions pursuant to section 402(b)(8) of the Act. A formal advisory opinion will be issued when the Director determines that the criteria and requirements established in this section are met.

(b) *Subjects of formal advisory opinions.* Formal advisory opinions may be rendered on matters of general applicability or important matters of first impression concerning the application of the Act; Executive Order 12674 of April 12, 1989, as modified by Executive Order 12731 of October 17, 1990; 18 U.S.C. 202-209; and regulations interpreting or implementing these authorities. In determining whether to issue a formal advisory opinion, the Director will consider:

- (1) The unique nature of the question and its precedential value;
- (2) The potential number of employees throughout the government affected by the question;
- (3) The frequency with which the question arises;
- (4) The likelihood or presence of inconsistent interpretations on the same question by different agencies; and
- (5) The interests of the executive branch ethics program.

(c) *Role of the formal advisory opinion service.* The formal advisory opinion service of the Office of Government Ethics is not intended to replace the government ethics advice and counseling programs maintained by executive branch agencies. Normally, formal advisory opinions will not be issued with regard to the types of questions appropriately directed to an agency's DAEO. If a DAEO receives a request that the DAEO believes might appropriately be answered by the Office of Government Ethics through a formal advisory opinion, the DAEO will consult informally with the General Counsel of the Office of Government Ethics for instructions as to whether the matter should be referred to the Office of Government Ethics or retained by the agency for handling. Except in unusual circumstances, the Office of Government Ethics will not render formal advisory opinions with respect to hypothetical situations posed in requests for formal advisory opinions. At the discretion of the Director, however, the Office of Government Ethics may render formal advisory

opinions on certain proposed activities or financial transactions.

(d) *Eligible persons.* Any person may request an opinion with respect to a situation in which that person is directly involved, and an authorized representative may request an opinion on behalf of that person. However, an employee will normally be required to seek an opinion from the agency's DAEO before requesting a formal advisory opinion from the Office of Government Ethics. In addition, a DAEO may request a formal advisory opinion on behalf of the agency or a prospective, current, or former employee of that agency.

(e) *Submitting a request for a formal advisory opinion.* The request must be submitted either by electronic mail addressed to [ContactOGE@oge.gov](mailto:ContactOGE@oge.gov) or by mail, through either the United States Postal Service or a private shipment service, to the Director of the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. Personal deliveries will not be accepted.

(f) *Requirements for request.* The request must include:

(1) An express statement indicating that the submission is a request for a formal advisory opinion;

(2) The name, street address, and telephone number of the person requesting the opinion;

(3) The name, street address, and telephone number of any representative of that person;

(4) All material facts necessary for the Director to render a complete and correct opinion;

(5) The date of the request and the signature of either the requester or the requester's representative; and

(6) In the case of a request signed by a representative, a written designation of the representative that is dated and signed by the requester.

(g) *Optional materials.* At the election of the requester, the request may also include legal memoranda or other material relevant to the requested formal advisory opinion.

(h) *Additional information.* The Director may request such additional information or documentation as the Director deems necessary to the development of a formal advisory opinion, from either the requester or other sources. If the requester or the requester's representative fails to cooperate with such a request, the Office of Government Ethics normally will close the matter without issuing a formal advisory opinion.

(i) *Comments from interested parties.* The Office of Government Ethics will, to the extent practicable, solicit written

comments on a request by posting a prominent notice on its official Web site. Any such notice will summarize relevant information in the request, provide interested parties 30 days to submit written comments, and include instructions for submitting written comments. Written comments submitted after the deadline will be considered only at the discretion of the Director.

(j) *Consultation with the Department of Justice.* Whenever the Office of the Government Ethics is considering rendering a formal advisory opinion, the Director will consult with the Office of Legal Counsel of the Department of Justice sufficiently in advance to afford that office an opportunity to review the matter. In addition, whenever a request involves an actual or apparent violation of any provision of 18 U.S.C. 202-209, the Director will consult with the Criminal Division of the Department of Justice. If the Criminal Division determines that an investigation or prosecution will be undertaken, the Director will take no further action on the request, unless the Criminal Division makes a determination not to prosecute.

(k) *Consultation with other executive branch officials.* The Director will consult with such other executive branch officials as the Director deems necessary to ensure thorough consideration of issues and information relevant to the request by the Office of Government Ethics. In the case of a request submitted by a prospective or current employee, the Director will share a copy of the request with the DAEO of the employee's agency.

(l) *Publication.* The Office of Government Ethics will publish each formal advisory opinion on its official Web site. Prior to publishing a formal advisory opinion on its Web site, the Office of Government Ethics will delete information that identifies individuals involved and that is unnecessary to a complete understanding of the opinion.

(m) *Reliance on formal advisory opinions.* (1) Any formal advisory opinion referred to in this section or any provisions or finding of a formal advisory opinion involving the application of the Act or the regulations promulgated pursuant to the Act or Executive order may be relied upon by:

(i) Any person directly involved in the specific transaction or activity with respect to which such advisory opinion has been rendered; and

(ii) Any person directly involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such formal advisory opinion was rendered.

(2) Any person who relies upon any provision or finding of any formal advisory opinion in accordance with this paragraph and who acts in good faith in accordance with the provisions and findings of such opinion will not, as a result of such act, be subject to prosecution under 18 U.S.C. 202-209 or, when the opinion is exculpatory, be subject to any disciplinary action or civil action based upon legal authority cited in that opinion.

#### **§ 2638.210 Presidential transition planning.**

Prior to any Presidential election, each agency has a responsibility to prepare its agency ethics program for a Presidential transition. Such preparations do not constitute support for a particular candidate and are not reflective of a belief regarding the likely outcome of the election; rather, they reflect an understanding that agencies are responsible for ensuring the continuity of governmental operations.

(a) *Preparing the ethics program for a transition.* The agency head or the DAEO must, not later than 12 months before any Presidential election, evaluate whether the agency's ethics program has an adequate number of trained agency ethics officials to effectively support a Presidential transition.

(b) *Support by the Office of Government Ethics.* In connection with any Presidential election, the Office of Government Ethics will:

(1) Prior to the election, offer training opportunities for agency ethics officials on counseling departing noncareer appointees on post-employment restrictions, reviewing financial disclosure reports, drafting ethics agreements for Presidential nominees, and counseling new noncareer appointees on conflict of interest laws and the Standards of Conduct; and

(2) After the election, in the event of a Presidential transition, proactively assist the Presidential Transition Team in preparing for Presidential nominations, coordinate with agency ethics officials, and develop plans to implement new initiatives related to government ethics.

#### **Subpart C—Government Ethics Education**

##### **§ 2638.301 In general.**

Every agency must carry out a government ethics education program to teach employees how to identify government ethics issues and obtain assistance in complying with government ethics laws and regulations. An agency's failure to comply with any

of the education or notice requirements set forth in this subpart does not exempt an employee from applicable government ethics requirements.

#### § 2638.302 Definitions.

The following definitions apply to the format of the various types of training required in this subpart. The agency may deviate from these prescribed formats to the extent necessary to provide reasonable accommodations to participants under the Rehabilitation Act of 1973 (Pub. L. 93–112), as amended, or other applicable legal authority.

(a) *Live*. A training presentation is considered live if the presenter personally communicates a substantial portion of the material at the same time as the employees being trained are receiving the material, even if part of the training is prerecorded or automated. The training may be delivered in person or through video or audio technology. The presenter must respond to questions posed during the training and provide instructions for participants to submit questions after the training.

*Example 1.* An agency ethics official provides a presentation regarding government ethics and takes questions from participants who are assembled in a training room with the ethics official. At the end of the session, the ethics official provides contact information for participants who wish to pose additional questions. This training is considered live.

*Example 2.* An agency ethics official provides a presentation to a group of employees in an auditorium. She presents an introduction and a brief overview of the material that will be covered in the training. She has participants watch a prerecorded video regarding government ethics. She stops the video frequently to elaborate on key concepts and offer participants opportunities to pose questions before resuming the video. At the end of the session, she recaps key concepts and answers additional questions. She then provides contact information for employees who wish to pose additional questions. This training is considered live.

*Example 3.* The ethics official in Example 2 arranges for several Senate-confirmed public filers stationed outside of headquarters to participate in the live training via streaming video or telephone. For these remote participants, the ethics official also establishes a means for them to pose questions during the training, such as by emailing questions to her assistant. She also provides these remote participants with instructions for contacting the ethics office to pose additional questions after the training. This training is also considered live for the remote participants.

*Example 4.* Agency ethics officials present training via a telephone conference. A few dozen agency employees dial into the conference call. The ethics officials take questions that are submitted by email and provide contact information for employees

who wish to pose additional questions later. This training is considered live.

*Example 5.* Several Senate-confirmed public filers required to complete live training in a particular year are stationed at various facilities throughout the country. For these filers, an ethics official schedules a 20-minute conference call, emails them copies of the written materials and a link to a 40-minute video on government ethics, and instructs them to view the video before the conference call. During the conference call, the ethics official recaps key concepts, takes questions, and provides his contact information in case participants have additional questions. The public filers then confirm by email that they watched the video and participated in the conference call. This training is considered live because a substantial portion of the training was live.

(b) *Interactive*. A training presentation is considered interactive if the employee being trained is required to take an action with regard to the subject of the training. The required action must involve the employee's use of knowledge gained through the training and may not be limited to merely advancing from one section of the training to another section. Training that satisfies the requirements of paragraph (a) of this section will also satisfy the requirements of this paragraph.

*Example 1.* An automated system allows employees to view a prerecorded video in which an agency ethics official provides training. At various points, the system poses questions and an employee selects from among a variety of possible answers. The system provides immediate feedback as to whether the selections are correct or incorrect. When the employee's selections are incorrect, the system displays the correct answer and explains the relevant concepts. This training is considered interactive.

*Example 2.* If, instead of a video, the training described in Example 1 were to include animated or written materials interspersed with questions and answers, the training would still be considered interactive.

*Example 3.* A DAEO emails materials to employees who are permitted under part 2638 to complete interactive training. The materials include a written training presentation, questions, and space for employees to provide written responses. Employees are instructed to submit their answers to agency ethics officials, who provide individualized feedback. This training is considered interactive.

*Example 4.* A DAEO emails materials to employees who are permitted under part 2638 to complete interactive training. The materials include a written training presentation, questions, and an answer key. The DAEO also distributes instructions for contacting an ethics official with any questions about the subjects covered. This training meets the minimum requirements to be considered interactive, even though the employees are not required to submit their answers for review and feedback. However, any DAEO who uses this minimally interactive format is encouraged to provide

employees with other opportunities for more direct and personalized feedback.

#### § 2638.303 Notice to prospective employees.

Written offers of employment for positions covered by the Standards of Conduct must include the information required in this section to provide prospective employees with notice of the ethical obligations associated with the positions.

(a) Content. The written offer must include, in either the body of the offer or an attachment:

(1) A statement regarding the agency's commitment to government ethics;

(2) Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee;

(3) Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements;

(4) Where applicable, notice of the time frame for completing initial ethics training; and

(5) Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.

(b) *DAEO's authority*. At the election of the DAEO, the DAEO may specify the language that the agency will use in the notice required under paragraph (a) of this section or may approve, disapprove, or revise language drafted by other agency officials.

(c) *Tracking*. Each agency must establish written procedures, which the DAEO must review each year, for issuing the notice required in this section. In the case of an agency with 1,000 or more employees, the DAEO must review any submissions under § 2638.310 each year to confirm that the agency has implemented an appropriate process for meeting the requirements of this section.

#### § 2638.304 Initial ethics training.

Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training that meets the requirements of this section.

(a) Coverage. (1) This section applies to each employee appointed to a position in an agency who was not an employee of the agency immediately prior to that appointment. This section also permits Presidential nominees for Senate-confirmed positions to complete the initial ethics training prior to appointment.

(2) The DAEO may exclude a non-supervisory position at or below the



GS-8 grade level, or the equivalent, from the requirement to complete the training presentation described in paragraph (e)(1) of this section, provided that:

(i) The DAEO signs a written determination that the duties of the position do not create a substantial likelihood that conflicts of interest will arise;

(ii) The position does not meet the criteria set forth at § 2634.904 of this chapter; and

(iii) The agency provides an employee described in paragraph (a)(1) of this section who is appointed to the position with the written materials required under paragraph (e)(2) of this section within 3 months of appointment.

(b) *Deadline.* Except as provided in this paragraph, each new employee must complete initial ethics training within 3 months of appointment.

(1) In the case of a Presidential nominee for a Senate-confirmed position, the nominee may complete the ethics training before or after appointment, but not later than 3 months after appointment.

(2) In the case of a special Government employee who is reasonably expected to serve for no more than 60 days in a calendar year on a board, commission, or committee, the agency may provide the initial ethics training at any time before, or at the beginning of, the employee's first meeting of the board, commission, or committee.

(c) *Duration.* The duration of the training must be sufficient for the agency to communicate the basic ethical obligations of federal service and to present the content described in paragraph (e) of this section.

(d) *Format.* Employees covered by this section are required to complete interactive initial ethics training.

(e) *Content.* The following content requirements apply to initial ethics training.

(1) *Training presentation.* The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate for the employees participating in the training. The presentation must address concepts related to the following subjects:

- (i) Financial conflicts of interest;
- (ii) Impartiality;
- (iii) Misuse of position; and
- (iv) Gifts.

(2) *Written materials.* In addition to the training presentation, the agency must provide the employee with either the following written materials or written instructions for accessing them:

(i) The summary of the Standards of Conduct distributed by the Office of

Government Ethics or an equivalent summary prepared by the agency;

(ii) Provisions of any supplemental agency regulations that the DAEO determines to be relevant or a summary of those provisions;

(iii) Such other written materials as the DAEO determines should be included; and

(iv) Instructions for contacting the agency's ethics office.

(f) *Tracking.* Each agency must establish written procedures, which the DAEO must review each year, for initial ethics training. In the case of an agency with 1,000 or more employees, the DAEO must review any submissions under § 2638.310 each year to confirm that the agency has implemented an appropriate process for meeting the requirements of this section.

*Example 1.* The DAEO of a large agency decides that the agency's ethics officials will conduct live initial ethics training for high-level employees and certain procurement officials. The DAEO directs ethics officials to cover concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts during the live training sessions. She also coordinates with the agency's Chief Information Officer to develop computerized training for all other new employees, and she directs her staff to include concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts in the computerized training. The computerized training poses multiple-choice questions and provides feedback when employees answer the questions. At the DAEO's request, the agency's human resources officials distribute the required written materials as part of the onboarding procedures for new employees. The computerized training automatically tracks completion of the training, and the ethics officials use sign-in sheets to track participation in the live training. After the end of the calendar year, the DAEO reviews the materials submitted by the Office of Human Resources under § 2638.310 to confirm that the agency has implemented procedures for identifying new employees, distributing the written materials, and providing their initial ethics training. The agency's program for initial ethics training complies with the requirements of § 2638.304.

*Example 2.* The agency head, the DAEO, and the lead human resources official of an agency with more than 1,000 employees have agreed that human resources officials will conduct initial ethics training. The DAEO provides the lead human resources official with written materials for use during the training, approves the content of the presentations, and trains the human resources officials who will conduct the initial ethics training. After the end of the calendar year, the lead human resources official provides the DAEO with a copy of the agency's procedures for identifying new employees and providing initial ethics training, and the lead human resources official confirms that there is a reasonable basis for concluding that the procedures have

been implemented. The DAEO reviews these procedures and finds them satisfactory. The agency has complied with its tracking obligations with regard to initial ethics training.

#### **§ 2638.305 Additional ethics briefing for certain agency leaders.**

In addition to other applicable requirements, each individual covered by this section must complete an ethics briefing to discuss the individual's immediate ethics obligations. Although the ethics briefing is separate from the initial ethics training, the agency may elect to combine the ethics briefing and the initial ethics training, provided that the requirements of both this section and § 2638.304 are met.

(a) *Coverage.* This section applies to Senate-confirmed Presidential nominees and appointees, except for those in positions identified in § 2634.201(c)(2) of this chapter.

(b) *Deadline.* The following deadlines apply to the ethics briefing.

(1) Except as provided in paragraph (b)(2) of this section, each individual covered by this section must complete the ethics briefing after confirmation but not later than 15 days after appointment. The DAEO may grant an extension of the deadline not to exceed 30 days after appointment.

(2)(i) In extraordinary circumstances, the DAEO may grant an additional extension to an individual by issuing a written determination that an extension is necessary. The determination must describe the extraordinary circumstances necessitating the extension, caution the individual to be vigilant for conflicts of interest created by any newly acquired financial interests, remind the individual to comply with any applicable ethics agreement, and be accompanied by a copy of the ethics agreement(s). The DAEO must send a copy of the determination to the individual before expiration of the time period established in paragraph (b)(1) of this section. The agency must conduct the briefing at the earliest practicable date thereafter. The written determination must be retained with the record of the individual's briefing.

(ii) In the case of a special Government employee who is expected to serve for no more than 60 days in a calendar year on a board, commission, or committee, the agency must provide the ethics briefing before the first meeting of the board, commission, or committee.

(c) *Qualifications of presenter.* The employee conducting the briefing must have knowledge of government ethics laws and regulations and must be

qualified, as the DAEO deems appropriate, to answer the types of basic and advanced questions that are likely to arise regarding the required content.

(d) *Duration.* The duration of the ethics briefing must be sufficient for the agency to communicate the required content.

(e) *Format.* The ethics briefing must be conducted live.

(f) *Content.* The ethics briefing must include the following activities.

(1) If the individual acquired new financial interests reportable under section 102 of the Act after filing the nominee financial disclosure report, the agency ethics official must appropriately address the potential for conflicts of interest arising from those financial interests.

(2) The agency ethics official must counsel the individual on the basic recusal obligation under 18 U.S.C. 208(a).

(3) The agency ethics official must explain the recusal obligations and other commitments addressed in the individual's ethics agreement and ensure that the individual understands what is specifically required in order to comply with each of them, including any deadline for compliance. The ethics official and the individual must establish a process by which the recusals will be achieved, which may consist of a screening arrangement or, when the DAEO deems appropriate, vigilance on the part of the individual with regard to recusal obligations as they arise in particular matters.

(4) The agency ethics official must provide the individual with instructions and the deadline for completing initial ethics training, unless the individual completes the initial ethics training either before or during the ethics briefing.

(g) *Tracking.* The DAEO must maintain a record of the date of the ethics briefing for each current employee covered by this section.

*Example 1.* A group of ethics officials conducts initial ethics training for six Senate-confirmed Presidential appointees within 15 days of their appointments. At the end of the training, ethics officials meet individually with each of the appointees to conduct their ethics briefings. The agency and the appointees have complied with both § 2638.304 and § 2638.305.

*Example 2.* The Senate confirms a nominee for a position as an Assistant Secretary. After the nominee's confirmation but several days before her appointment, the nominee completes her initial ethics briefing during a telephone call with an agency ethics official, and the ethics official records the date of the briefing. The agency and the nominee have complied with § 2638.305. During the telephone call, the ethics official

also discusses the content required for initial ethics training and provides the nominee with instructions for accessing the required written materials online. The agency and the nominee have also complied with § 2638.304.

#### **§ 2638.306 Notice to new supervisors.**

The agency must provide each employee upon initial appointment to a supervisory position with the written information required under this section.

(a) *Coverage.* This requirement applies to each civilian employee who is required to receive training pursuant to 5 CFR 412.202(b).

(b) *Deadline.* The agency must provide the written materials required by this section within 1 year of the employee's initial appointment to the supervisory position.

(c) *Written materials.* The written materials must include contact information for the agency's ethics office and the text of § 2638.103. In addition, a copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct must be included, as well as such other information as the DAEO deems necessary for new supervisors.

(d) *Tracking.* Each agency must establish written procedures, which the DAEO must review each year, for supervisory ethics notices. In the case of an agency with 1,000 or more employees, the DAEO must review any submissions under § 2638.310 each year to confirm that the agency has implemented an appropriate process for meeting the requirements of this section.

#### **§ 2638.307 Annual ethics training for confidential filers and certain other employees.**

Each calendar year, employees covered by this section must complete ethics training that meets the following requirements.

(a) *Coverage.* In any calendar year, this section applies to the following employees, unless they are public filers:

(1) Each employee who is required to file an annual confidential financial disclosure report pursuant to § 2634.904 of this chapter during that calendar year, except an employee who ceases to be a confidential filer before the end of the calendar year;

(2) Employees appointed by the President and employees of the Executive Office of the President;

(3) Contracting officers described in 41 U.S.C. 2101; and

(4) Other employees designated by the head of the agency.

(b) *Deadline.* The employee must complete required annual ethics training before the end of the calendar year.

(c) *Duration.* Agencies must provide employees with 1 hour of duty time to complete interactive training and review any written materials.

(d) *Format.* The following formatting requirements apply.

(1) Except as provided in paragraph (d)(2) of this section, employees covered by this section are required to complete interactive training.

(2) If the DAEO determines that it is impracticable to provide interactive training to a special Government employee covered by this section who is expected to work no more than 60 days in a calendar year, or to an employee who is an officer in the uniformed services serving on active duty for no more than 30 consecutive days, only the requirement to provide the written materials required by this section will apply to that employee each year. The DAEO may make the determination as to individual employees or a group of employees.

(e) *Content.* The following content requirements apply to annual ethics training for employees covered by this section.

(1) *Training presentation.* The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate for the employees participating in the training. The presentation must address concepts related to the following subjects:

- (i) Financial conflicts of interest;
- (ii) Impartiality;
- (iii) Misuse of position; and
- (iv) Gifts.

(2) *Written materials.* In addition to the training presentation, the agency must provide the employee with either the following written materials or written instructions for accessing them:

(i) The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency;

(ii) Provisions of any supplemental agency regulations that the DAEO determines to be relevant or a summary of those provisions;

(iii) Such other written materials as the DAEO determines should be included; and

(iv) Instructions for contacting the agency's ethics office.

(f) *Tracking.* The following tracking requirements apply to training conducted pursuant to this section. An employee covered by this section must confirm in writing the completion of annual ethics training and must comply with any procedures established by the DAEO for such confirmation. If the DAEO or other presenter has knowledge that an employee completed required

training, that individual may record the employee's completion of the training, in lieu of requiring the employee to provide written confirmation. In the case of an automated system that delivers interactive training, the DAEO may deem the employee to have confirmed the completion of the training if the system tracks completion automatically.

**§ 2638.308 Annual ethics training for public filers.**

Each calendar year, public filers and other employees specified in this section must complete ethics training that meets the following requirements.

(a) *Coverage.* In any calendar year, this section applies to each employee who is required to file an annual public financial disclosure report pursuant to § 2634.201(a) of this chapter during that calendar year, except for an employee who ceases to be a public filer during that calendar year.

(b) *Deadline.* A public filer must complete required annual ethics training before the end of the calendar year.

(c) *Qualifications of presenter.* The employee conducting any live training presentation must have knowledge of government ethics laws and regulations and must be qualified, as the DAEO deems appropriate, to answer the types of basic and advanced questions that are likely to arise regarding the required content.

(d) *Duration.* The duration of training must be sufficient for the agency to communicate the required content, but at least 1 hour. Agencies must provide employees with 1 hour of duty time to complete interactive training and review any written materials.

(e) *Format.* The annual ethics training must meet the following formatting requirements.

(1) Employees whose pay is set at Level I or Level II of the Executive Schedule must complete 1 hour of live training each year, unless a matter of vital national interest makes it necessary for an employee to complete interactive training in lieu of live training in a particular year.

(2) Other civilian employees identified in section 103(c) of the Act who are stationed in the United States must complete live training once every 2 years and interactive training in alternate years. In extraordinary circumstances, the DAEO may grant written authorization for an employee who is required to complete live training in a particular year to complete interactive training.

(3) All other employees covered by this section must complete interactive training.

(f) *Content.* The following content requirements apply to annual ethics training for employees covered by this section.

(1) *Training presentation.* The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate for the employees participating in the training. The presentation must address concepts related to the following subjects:

- (i) Financial conflicts of interest;
- (ii) Impartiality;
- (iii) Misuse of position; and
- (iv) Gifts.

(2) *Written materials.* In addition to the training presentation, the agency must provide the employee with either the following written materials or written instructions for accessing them:

- (i) The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency;
- (ii) Provisions of any supplemental agency regulations that the DAEO determines to be relevant or a summary of those provisions;
- (iii) Such other written materials as the DAEO determines should be included; and
- (iv) Instructions for contacting the agency's ethics office.

(g) *Tracking.* The following tracking requirements apply to training conducted pursuant to this section. An employee covered by this section must confirm in writing the completion of annual ethics training and must comply with any procedures established by the DAEO for such confirmation. If the DAEO or other presenter has knowledge that an employee completed required training, that individual may record the employee's completion of the training, in lieu of requiring the employee to provide written confirmation. In the case of an automated system that delivers interactive training, the DAEO may deem the employee to have confirmed the completion of the training if the system tracks completion automatically.

*Example 1.* The DAEO of a small agency distributes the written materials for annual training by emailing a link to a Web site that contains the required materials. He then conducts a live training session for all of the agency's public filers. He spends the first 15 minutes of the training addressing concepts related to financial conflicts of interest, impartiality, misuse of position, and gifts. Because several participants are published authors, he spends the next 15 minutes covering restrictions on compensation for

speaking, teaching, and writing. He then spends 20 minutes discussing hypothetical examples related to the work of the agency and 10 minutes answering questions. The training meets the content requirements of this section. Further, because live training satisfies the requirements for interactive training, this training meets the formatting requirements for all public filers, including those required to complete interactive training.

*Example 2.* An ethics official personally appears at each monthly senior staff meeting to conduct a 10-minute training session on government ethics. Across the year, he addresses concepts related to financial conflicts of interest, impartiality, misuse of position, gifts, and other subjects related to government ethics laws and regulations, although no one session covers all of these subjects. During each meeting, he distributes a one-page handout summarizing the key points of his presentation, takes questions, and provides contact information for employees who wish to pose additional questions. He records the names of the public filers in attendance at each meeting. Once a year, he emails them the required written materials, as well as the one-page summaries. While many of these public filers do not attend all 12 meetings, each attends at least six sessions during the calendar year. Although some of the filers missed the sessions that addressed gifts, they all received the handout summarizing the presentation on gifts. The training satisfies the annual training requirement for the public filers who attended the meetings, including those required to complete interactive training. Moreover, because the ethics official recorded the names of the public filers who attended, the filers are not required to separately confirm their completion of the training.

*Example 3.* One of the Presidentially appointed, Senate-confirmed employees in Example 2 was required to complete live training that year. Because she attended only four senior staff meetings during the year, she completed only 40 minutes of annual ethics training. The DAEO allows the employee to spend 20 minutes reviewing the handouts and written materials and send an email confirming that she completed her review before the end of the calendar year. This arrangement satisfies the requirements for live annual training because a substantial portion of the training was live.

**§ 2638.309 Agency-specific ethics education requirements.**

The DAEO may establish additional requirements for the agency's ethics education program, with or without a supplemental agency regulation under § 2635.105 of this chapter.

(a) *Groups of employees.* The DAEO may establish specific government ethics training requirements for groups of agency employees.

(b) *Employees performing ethics duties.* The DAEO has an obligation to ensure that employees performing assigned ethics duties have the necessary expertise with regard to

government ethics laws and regulations. If the DAEO determines that employees engaged in any activities described in §§ 2638.104 and 2638.105 require training, the DAEO may establish specific training requirements for them either as a group or individually.

(c) *Procedures.* The DAEO may establish specific procedures for training that the DAEO requires under paragraph (a) or (b) of this section, including any certification procedures the DAEO deems necessary. Agency employees must comply with the requirements and procedures that the DAEO establishes under this section.

**§ 2638.310 Coordinating the agency's ethics education program.**

In an agency with 1,000 or more employees, any office that is not under the supervision of the DAEO but has been delegated responsibility for issuing notices, pursuant to § 2638.303 or § 2638.306, or conducting training, pursuant to § 2638.304, must submit the following materials to the DAEO by January 15 each year:

- (a) A written summary of procedures that office has established to ensure compliance with this subpart; and
- (b) Written confirmation that there is a reasonable basis for concluding that the procedures have been implemented.

**Subpart D—Correction of Executive Branch Agency Ethics Programs**

**§ 2638.401 In general.**

The Office of Government Ethics has authority, pursuant to sections 402(b)(9) and 402(f)(1) of the Act, to take the action described in this subpart with respect to deficiencies in agency ethics programs. Agency ethics programs comprise the matters described in this subchapter for which agencies are responsible.

**§ 2638.402 Informal action.**

If the Director has information indicating that an agency ethics program is not compliant with the requirements set forth in applicable government ethics laws and regulations, the Director is authorized to take any or all of the measures described in this section. The Director may:

- (a) Contact agency ethics officials informally to identify the relevant issues and resolve them expeditiously;
- (b) Issue a notice of deficiency to make the agency aware of its possible noncompliance with an applicable government ethics law or regulation;
- (c) Require the agency to respond in writing to the notice of deficiency;
- (d) Require the agency to provide such additional information or

documentation as the Director determines to be necessary;

(e) Issue an initial decision with findings as to the existence of a deficiency in the agency's ethics program;

(f) Require the agency to correct or, at the Director's discretion, satisfactorily mitigate any deficiency in its ethics program;

(g) Provide the agency with guidance on measures that would correct or satisfactorily mitigate any program deficiency;

(h) Monitor the agency's efforts to correct or satisfactorily mitigate the deficiency and require the agency to submit progress reports; or

(i) Take other actions authorized under the Act to resolve the matter informally.

**§ 2638.403 Formal action.**

If the Director determines that informal action, pursuant to § 2638.402, has not produced an acceptable resolution, the Director may issue an order directing the agency to take specific corrective action.

(a) Before issuing such an order, the Director will:

- (1) Advise the agency in writing of the deficiency in its ethics program;
- (2) Describe the action that the Director is considering taking;
- (3) Provide the agency with 30 days to respond in writing; and
- (4) Consider any timely written response submitted by the agency.

(b) If the Director is satisfied with the agency's response, no order will be issued.

(c) If the Director decides to issue an order, the order will describe the corrective action to be taken.

(d) If the agency does not comply with the order within a reasonable time, the Director will:

- (1) Notify the head of the agency of intent to furnish a report of noncompliance to the President and the Congress;
- (2) Provide the agency 14 calendar days within which to furnish written comments for submission with the report of noncompliance; and
- (3) Report the agency's noncompliance to the President and to the Congress.

**Subpart E—Corrective Action Involving Individual Employees**

**§ 2638.501 In general.**

This subpart addresses the Director's limited authority, pursuant to sections 402(b)(9) and 402(f)(2) of the Act, to take certain actions with regard to individual employees if the Director suspects a

violation of a noncriminal government ethics law or regulation. Section 402(f)(5) of the Act prohibits the Director from making any finding regarding a violation of a criminal law. Therefore, the Director will refer possible criminal violations to an Inspector General or the Department of Justice, pursuant to § 2638.502. If, however, the Director is concerned about a possible violation of a noncriminal government ethics law or regulation by an employee, the Director may notify the employee's agency, pursuant to § 2638.503. In the rare circumstance that an agency does not address a matter after receiving this notice, the Director may use the procedures in § 2638.504 to issue a nonbinding recommendation of a disciplinary action or an order to terminate an ongoing violation. Nothing in this subpart relieves an agency of its primary responsibility to ensure compliance with government ethics laws and regulations.

**§ 2638.502 Violations of criminal provisions related to government ethics.**

Consistent with section 402(f) of the Act, nothing in this subpart authorizes the Director or any agency official to make a finding as to whether a provision of title 18, United States Code, or any other criminal law of the United States outside of such title, has been or is being violated. If the Director has information regarding the violation of a criminal law by an individual employee, the Director will notify an Inspector General or the Department of Justice.

**§ 2638.503 Recommendations and advice to employees and agencies.**

The Director may make such recommendations and provide such advice to employees or agencies as the Director deems necessary to ensure compliance with applicable government ethics laws and regulations. The Director's authority under this section includes the authority to communicate with agency heads and other officials regarding government ethics and to recommend that the agency investigate a matter or consider taking disciplinary or corrective action against individual employees.

**§ 2638.504 Violations of noncriminal provisions related to government ethics.**

In the rare case that consultations made pursuant to § 2638.503 have not resolved the matter, the Director may use the procedures in this section if the Director has reason to believe that an employee is violating, or has violated, any noncriminal government ethics law or regulation. Any proceedings pursuant

to this section will be conducted in accordance with applicable national security requirements.

(a) *Agency investigation.* The Director may recommend that the agency head or the Inspector General conduct an investigation. If the Director determines thereafter that an agency head has not conducted an investigation within a reasonable time, the Director will notify the President.

(b) *Initiating further proceedings.* Following an investigation pursuant to paragraph (a) of this section or a determination by the Director that an investigation has not been conducted within a reasonable time, the Director may either initiate further proceedings under this section or close the involvement of the Office of Government Ethics in the matter.

(1) If the Director initiates further proceedings, the Director will notify the employee in writing of the suspected violation, the right to respond orally and in writing, and the right to be represented. The notice will include instructions for submitting a written response and requesting an opportunity to present an oral response, copies of this section and sections 401–403 of the Act, and copies of the material relied upon by the Office of Government Ethics.

(2) If the Director is considering issuing an order directing the employee to take specific action to terminate an ongoing violation, the Director will also provide notice of the potential issuance of an order and the right to request a hearing, pursuant to paragraph (f) of this section.

(c) *Employee's response.* The employee will be provided with a reasonable opportunity to present an oral response to the General Counsel of the Office of Government Ethics within 30 calendar days of the date of the employee's receipt of the notice described in paragraph (b) of this section. If the employee fails to timely request an opportunity to present an oral response or fails to cooperate with reasonable efforts to schedule the oral response, only a timely submitted written response will be considered.

(d) *General Counsel's recommendation.* After affording the employee 30 calendar days to respond, the General Counsel will provide the Director with a written recommendation as to the action warranted by the circumstances. However, if the employee has timely exercised an applicable right to request a hearing pursuant to paragraph (g) of this section, the provisions of paragraph (g) will apply instead of the provisions of this paragraph.

(1) If the employee has not had an opportunity to comment on any newly obtained material relied upon for the recommendation, the General Counsel will provide the employee with an opportunity to comment on that material before submitting the recommendation to the Director.

(2) The recommendation will include findings of fact and a conclusion as to whether it is more likely than not that a violation has occurred. The General Counsel will provide the Director with copies of the material relied upon for the recommendation, including any timely written response and a transcript of any oral response of the employee.

(3) In the case of an ongoing violation, the General Counsel may recommend an order directing the employee to take specific action to terminate the violation, provided that the employee has been afforded the notice required under paragraph (f) of this section and an opportunity for a hearing.

(e) *Decisions and orders of the Director.* After reviewing the recommendation of the General Counsel pursuant to paragraph (d) of this section or, in the event of a hearing, the recommendation of the administrative law judge pursuant to paragraph (g)(7) of this section, the Director may issue a decision and, if applicable, an order. The authority of the Director to issue decisions and orders under this paragraph may not be delegated to any other official. The Director's decision will include written findings and conclusions with respect to all material issues and will be supported by substantial evidence of record.

(1) A copy of the decision and order will be furnished to the employee and, if applicable, the employee's representative. Copies will also be provided to the DAEO and the head of the agency or, where the employee is the head of an agency, to the President. The Director's decision and any order will be posted on the official Web site of the Office of Government Ethics, except to the extent prohibited by law.

(2) The Director's decision may include a nonbinding recommendation that appropriate disciplinary or corrective action be taken against the employee. If the agency head does not take the action recommended within a reasonable period of time, the Director may notify the President.

(3) In the case of an ongoing violation, the Director may issue an order directing the employee to take specific action to terminate the violation, provided that the employee has been afforded the notice required under paragraph (f) of this section and an opportunity for a hearing.

(f) *Notice of the right to request a hearing regarding an order to terminate a violation.* Before an order to terminate an ongoing violation may be recommended or issued under this section, the employee must be provided with written notice of the potential issuance of an order, the right to request a hearing, and instructions for requesting a hearing.

(1) If the employee submits a written request for a hearing within 30 calendar days of the date of the employee's receipt of the notice, the hearing will be conducted pursuant to paragraph (g) of this section;

(2) If the employee does not submit a written request for a hearing within 30 days of receipt of the notice, the General Counsel may issue a recommendation, pursuant to paragraph (d) of this section, in lieu of a hearing after first considering any timely response of the employee, pursuant to paragraph (c) of this section; and

(3) If the employee timely submits written requests for both a hearing, pursuant to paragraph (f) of this section, and an oral response, pursuant to paragraph (c) of this section, only a hearing will be conducted, pursuant to paragraph (g) of this section.

(g) *Hearings.* If, after receiving a notice required pursuant to paragraph (f) of this section, the employee submits a timely request for a hearing, an administrative law judge who has been appointed under 5 U.S.C. 3105 will serve as the hearing officer, and the following procedures will apply to the hearing. An employee of the Office of Government Ethics will be assigned to provide the administrative law judge with logistical support in connection with the hearing.

(1) The General Counsel of the Office of Government Ethics will designate attorneys to present evidence and argument at the hearing in support of a possible finding that the employee is engaging in an ongoing violation. The General Counsel will serve as Advisor to the Director and will not, in connection with the presentation of evidence and argument against the employee, direct or supervise these attorneys. Any attorney who presents evidence, argument, or testimony against the employee at the hearing will be recused from assisting the Director or the General Counsel in connection with the contemplated order.

(2) The administrative law judge will issue written instructions for the conduct of the hearing, including deadlines for submitting lists of proposed witnesses and exchanging copies of documentary evidence. The hearing will be conducted informally,

and the administrative law judge may make such rulings as are necessary to ensure that the hearing is conducted equitably and expeditiously.

(3) The parties to the hearing will be the employee and the attorneys of the Office of Government Ethics designated to present evidence and arguments supporting a finding that a violation is ongoing, respectively. The parties will not engage in *ex parte* communications with the administrative law judge, unless the administrative law judge authorizes limited *ex parte* communications regarding scheduling and logistical matters.

(4) If either party requests assistance in securing the appearance of an approved witness who is an employee, the administrative law judge may, at his or her discretion, notify the General Counsel, who will assist the Director in requesting that the head of the employing agency produce the witness, pursuant to section 403(a)(1) of the Act. The Director will notify the President if an agency head fails to produce the approved witness.

(5) The hearing will be conducted on the record and witnesses will be placed under oath and subject to cross-examination. Following the hearing, the administrative law judge will provide each party with a copy of the hearing transcript.

(6) Hearings will generally be open to the public, but the administrative law judge may issue a written order closing, in whole or in part, the hearing in the best interests of national security, the employee, a witness, or an affected person. The order will set forth the reasons for closing the hearing and, along with any objection to the order by a party, will be made a part of the record. Unless specifically excluded by the administrative law judge, the DAEO of the employee's agency will be permitted to attend a closed hearing. If the administrative law judge denies a request by a party or an affected person to close the hearing, in whole or in part, that denial will be immediately appealable by the requester. The requester must file a notice of appeal with the Director within 3 working days. In the event that such a notice is filed, the hearing will be held in abeyance pending resolution of the appeal. The notice of appeal, exclusive of attachments, may not exceed 10 pages of double-spaced type. The Director will afford the parties and, if not a party, the requester the opportunity to make an oral presentation in person or via telecommunications technology within 3 working days of the filing of the appeal. The oral presentation will be conducted on the record. If the

appellant or either party is unavailable to participate in the oral presentation within the 3-working-day period, the Director will convene the oral presentation without that party or affected person. The Director will issue a decision on the appeal within 3 working days of the oral presentation. If the Director is unavailable during this time period, the Director may designate a senior executive of the Office of Government Ethics to hear the oral presentation and decide the appeal. The notice of appeal, the record of the oral presentation, the decision on the appeal, and any other document considered by the Director or the Director's designee in connection with the appeal will be made a part of the record of the hearing.

(7) After closing the record, the administrative law judge will certify the entire record to the Director for decision. When so certifying the record, the administrative law judge will make a recommended decision, which will include his or her written findings of fact and conclusions of law with respect to material issues. After considering the certified record, the Director may issue a decision and an order, pursuant to paragraph (e) of this section.

(h) *Dismissal*. The Director may dismiss a proceeding under this section at any time, without a finding as to the alleged violation, upon a finding that:

(1) The employee or the agency has taken appropriate action to address the Director's concerns;

(2) The employee has undertaken, or agreed in writing to undertake, measures the Director deems satisfactory; or

(3) A question has arisen involving the potential application of a criminal law.

(i) *Notice procedure*. The notices required by paragraphs (b)(1) and (f) of this section may be delivered by U.S. mail, electronic mail, or personal delivery. There will be a rebuttable presumption that notice sent by U.S. mail is received within 5 working days. If the agency does not promptly provide the Office of Government Ethics with an employee's contact information upon request, the notice may be sent to the agency's DAEO, who will bear responsibility for promptly delivering that notice to the employee and promptly notifying the Director after its delivery.

## Subpart F—General Provisions

### § 2638.601 Authority and purpose.

(a) *Authority*. The regulations of this part are issued pursuant to the authority of titles I and IV of the Ethics in

Government Act of 1978 (Pub. L. 95–521, as amended) (“the Act”).

(b) *Purpose*. These executive branch regulations supplement and implement titles I, IV and V of the Act and set forth more specifically certain procedures provided in those titles, and furnish examples, where appropriate.

(c) *Agency authority*. Subject only to the authority of the Office of Government Ethics as the supervising ethics office for the executive branch, all authority conferred on agencies in this subchapter B of chapter XVI of title 5 of the Code of Federal Regulations is sole and exclusive authority.

### § 2638.602 Agency regulations.

Each agency may, subject to the prior approval of the Office of Government Ethics, issue regulations not inconsistent with this part and this subchapter, using the procedures set forth in § 2635.105 of this chapter.

### § 2638.603 Definitions.

For the purposes of this part:

*Act* means the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended).

*ADAEO or Alternate Designated Agency Ethics Official* means an officer or employee who is designated by the head of the agency as the primary deputy to the DAEO in coordinating and managing the agency's ethics program in accordance with the provisions of § 2638.104.

*Agency or agencies* means any executive department, military department, Government corporation, independent establishment, board, commission, or agency, including the United States Postal Service and Postal Regulatory Commission, of the executive branch.

*Agency head* means the head of an agency. In the case of a department, it means the Secretary of the department. In the case of a board or commission, it means the Chair of the board or commission.

*Confidential filer* means an employee who is required to file a confidential financial disclosure report pursuant to § 2634.904 of this chapter.

*Conflict of interest laws* means 18 U.S.C. 202–209, and *conflict of interest law* means any provision of 18 U.S.C. 202–209.

*Corrective action* means any action necessary to remedy a past violation or prevent a continuing violation of this part, including but not limited to restitution, change of assignment, disqualification, divestiture, termination of an activity, waiver, the creation of a qualified diversified or blind trust, or counseling.

*DAEO or Designated Agency Ethics Official* means an officer or employee who is designated by the head of the agency to coordinate and manage the agency's ethics program in accordance with the provisions of § 2638.104.

*Department* means a department of the executive branch.

*Director* means the Director of the Office of Government Ethics.

*Disciplinary action* means those disciplinary actions referred to in Office of Personnel Management regulations and instructions implementing provisions of title 5 of the United States Code or provided for in comparable provisions applicable to employees not subject to title 5.

*Employee* means any officer or employee of an agency, including a special Government employee. It includes officers but not enlisted members of the uniformed services. It includes employees of a state or local government or other organization who are serving on detail to an agency, pursuant to 5 U.S.C. 3371, *et seq.* It does not include the President or Vice President. Status as an employee is unaffected by pay or leave status or, in the case of a special Government employee, by the fact that the individual does not perform official duties on a given day.

*Executive branch* includes each executive agency as defined in 5 U.S.C. 105 and any other entity or administrative unit in the executive branch. However, it does not include any agency, entity, office, or commission that is defined by or referred to in 5 U.S.C. app. sections 109(8)–(11) of the Act as within the judicial or legislative branch.

*Government ethics laws and regulations* include, among other applicable authorities, the provisions related to government ethics or financial disclosure of the following authorities:

(1) Chapter 11 of title 18 of the United States Code;

(2) The Ethics in Government Act of 1978 (Pub. L. 95–521, as amended);

(3) The Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) (Pub. L. 112–105, as amended);

(4) Executive Order 12674 (Apr. 12, 1989) as amended by Executive Order 12731 (Oct. 17, 1990); and

(5) Subchapter B of this chapter.

*Lead human resources official* means the agency's chief policy advisor on all human resources management issues who is charged with selecting, developing, training, and managing a high-quality, productive workforce. For agencies covered by the Chief Human Capital Officers Act of 2002 (Pub. L.

107–296), the Chief Human Capital Officer is the lead human resources official.

*Person* includes an individual, partnership, corporation, association, government agency, or public or private organization.

*Principles of Ethical Conduct* means the collection of general principles set forth in § 2635.101(b) of this chapter.

*Public filer* means an employee, former employee, or nominee who is required to file a public financial disclosure report, pursuant to § 2634.202 of this chapter.

*Senior executive* means a career or noncareer appointee in the Senior Executive Service or equivalent federal executive service. It also includes employees in Senior Level (SL) and Senior Technical (ST) positions. In addition, it includes equivalent positions in agencies that do not have a federal executive service.

*Special Government employee* means an employee who meets the definition at 18 U.S.C. 202(a). The term does not relate to a specific category of employee, and 18 U.S.C. 202(a) is not an appointment authority. The term describes individuals appointed to positions in the executive branch, the legislative branch, any independent agency of the United States, or the District of Columbia who are covered less expansively by conflict of interest laws at 18 U.S.C. 202–209. As a general matter, an individual appointed to a position in the legislative or executive branch who is expected to serve for 130 days or less during any period of 365 consecutive days is characterized as a special Government employee. The appointment of special Government employees is not administered or overseen by the Office of Government Ethics but is carried out under legal authorities administered by the Office of Personnel Management and other agencies.

*Standards of Conduct* means the Standards of Ethical Conduct for Employees of the Executive Branch set forth in part 2635 of this chapter.

#### **§ 2638.604 Key program dates.**

Except as amended by program advisories of the Office of Government Ethics, the following list summarizes key deadlines of the executive branch ethics program:

(a) *January 15* is the deadline for:

(1) The Office of Government Ethics to issue its year-end status reports, pursuant to § 2638.108(a)(11); and

(2) In an agency with 1,000 or more employees, any office not under the supervision of the DAEO that provides notices or training required under

subpart C of this part to provide a written summary and confirmation, pursuant to § 2638.310.

(b) *February 1* is the deadline for the DAEO to submit the annual report on the agency's ethics program, pursuant to § 2638.207.

(c) *February 15* is the deadline for employees to file annual confidential financial disclosure reports, pursuant to § 2634.903(a) of this chapter.

(d) *May 15* is the deadline for employees to file annual public financial disclosure reports, pursuant to § 2634.201(a) of this chapter.

(e) *May 31* is the deadline for the agency to submit required travel reports to the Office of Government Ethics, pursuant to § 2638.107(g).

(f) *July 1* is the deadline for the DAEO to submit a letter stating whether components currently designated should remain designated, pursuant to § 2641.302(e)(2) of this chapter.

(g) *November 30* is the deadline for the agency to submit required travel reports to the Office of Government Ethics, pursuant to § 2638.107(h).

(h) *December 31* is the deadline for completion of annual ethics training for employees covered by §§ 2638.307 and 2638.308.

(i) *By the deadline specified in the request* is the deadline, pursuant to § 2638.202, for submission of all documents and information requested by the Office of Government Ethics in connection with a review of the agency's ethics program, except when the submission of the information or reports would be prohibited by law.

(j) *Prior to appointment whenever practicable but in no case more than 15 days after appointment* is the deadline, pursuant to § 2638.105(a)(1), for the lead human resources official to notify the DAEO that the agency has appointed a confidential or public financial disclosure filer.

(k) *Prior to termination whenever practicable but in no case more than 15 days after termination* is the deadline, pursuant to § 2638.105(a)(2), for the lead human resources official to notify the DAEO of the termination of a public financial disclosure filer.

(l) *Within 15 days of appointment* is the deadline for certain agency leaders to complete ethics briefings, pursuant to § 2638.305(b).

(m) *Within 30 days of designation* is the deadline for the agency head to notify the Director of the designation of any DAEO or ADAEO, pursuant to § 2638.107(a).

(n) *Within 3 months of appointment* is the deadline for new employees to complete initial ethics training, pursuant to § 2638.304(b).

(o) *Within 1 year of appointment* is the deadline for new supervisors to receive supervisory ethics notices, pursuant to § 2638.306(b).

(p) *Not later than 12 months before any Presidential election* is the deadline for the agency head or the DAEO to evaluate whether the agency's ethics program has an adequate number of trained agency ethics officials to deliver effective support in the event of a Presidential transition, pursuant to § 2638.210(a).

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## DEPARTMENT OF THE INTERIOR

### 5 CFR Part 3501

[Docket ID: DOI-2016-0007; 167D0102R2; DS636440000; DR2000000.CH7000]

RIN 1092-AA12

#### Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior

**AGENCY:** Department of the Interior (DOI).

**ACTION:** Direct final rule.

**SUMMARY:** The Department of the Interior (DOI), with the concurrence of the Office of Government Ethics (OGE), is amending the Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior (Supplemental Standards). The Supplemental Standards apply only to DOI personnel and augment the Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards). This direct final rule amends portions of the Supplemental Standards to account for the current DOI structure resulting from organizational changes that established new bureaus and an office within DOI.

**DATES:** This rule is effective on January 3, 2017 unless we receive any significant adverse comments on or before December 2, 2016. If adverse comment is received, DOI will publish a timely withdrawal of the rule in the *Federal Register*.

**ADDRESSES:** You may submit comments on this rule by either of the methods listed below. Please use Regulation Identifier Number 1092-AA12 in your message.

1. Federal eRulemaking Portal: <http://www.regulations.gov>. In the "Search" bar, enter DOI-2016-0007 (the docket number for this rule) and then click "Search." Follow the instructions on the Web site for submitting comments.

2. U.S. mail, courier, or hand delivery: Departmental Ethics Office, Department of the Interior, 1849 C Street NW., MS 7346, Washington, DC 20240.

We request that you send comments only by one of the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us.

**FOR FURTHER INFORMATION CONTACT:** Edward McDonnell, Departmental Ethics Office, [edward.mcdonnell@sol.doi.gov](mailto:edward.mcdonnell@sol.doi.gov), (202) 208-5916.

#### SUPPLEMENTARY INFORMATION.

##### I. Background

On August 7, 1992, OGE published the OGE Standards, which, as corrected and amended, are codified at 5 CFR part 2635 (57 FR 35006). Effective on February 3, 1993, the OGE Standards establish uniform standards of ethical conduct that apply to all executive branch officers and employees. Section 2635.105 of the OGE Standards authorizes an agency, with the concurrence of OGE, to adopt and jointly issue agency-specific supplemental regulations that are necessary to properly implement its ethics program. On October 16, 1997, DOI, with OGE's concurrence and joint issuance, established the Supplemental Standards that became effective on June 24, 1998. See 62 FR 53713-53726; 63 FR 34258-34259. Employees of DOI are subject to the Supplemental Standards promulgated by OGE and DOI. The Supplemental Standards are necessary for successful implementation of DOI's ethics program in light of DOI's unique programs and operations. DOI is therefore amending portions of the Supplemental Standards to account for current DOI structure resulting from organizational changes that established new bureaus and an office within DOI.

##### II. Analysis of the Regulation

###### A. Section 3501.102 Designation of Separate Agency Components

The direct final rule amends § 3501.102(a) of the Supplemental Standards to reflect the current organizational structure mandated by Secretarial Order 3299 issued on May 19, 2010, and as further amended, in accordance with statutory authority that resulted in the establishment of new bureaus and an office within DOI. As currently organized and relevant to the Supplemental Standards, the duties and responsibilities of the former Minerals Management Service (MMS) were separated and reassigned to two newly established bureaus and an office. The new bureaus and office are the Bureau

of Ocean Energy Management (BOEM), the Bureau of Safety and Environmental Enforcement (BSEE), and the Office of Natural Resources Revenue (ONRR). BOEM and BSEE are distinct and separate bureaus under the Assistant Secretary for Land and Minerals Management. Section 2635.203(a) of the OGE Standards authorizes an executive department, by supplemental regulation, to designate as a separate agency any component of the department that the department determines exercises a distinct and separate function. Pursuant to this authority, DOI amends the Supplemental Standards to designate BOEM and BSEE as separate agencies in § 3501.102(a) for purposes of the regulations contained in subpart B of 5 CFR part 2635, government gifts from outside sources, including determining whether the donor of a gift is a prohibited source under 5 CFR 2635.203(d); 5 CFR 2635.807 governing teaching, speaking and writing; and § 3501.105(b) of this part governing prior approval requirements for outside employment by an employee with a prohibited source (other than for an employee of the U.S. Geological Survey or for a special Government employee). ONRR is organizationally placed within DOI under the Assistant Secretary for Policy, Management and Budget. Therefore, ONRR is included in the remainder of DOI under § 3501.102(b).

###### B. Section 3501.103 Prohibited Interests in Federal Lands

The direct final rule amends § 3501.103(b)(1)(i) of the Supplemental Standards to include all BOEM, BSEE and ONRR employees in the restrictions against holding financial interests in Federal lands or resources administered or controlled by DOI. Following the establishment of MMS in 1982, to address ethics concerns, DOI promulgated a regulation extending the restrictions on ownership of interests in Federal lands to all employees of the MMS. See 62 FR 53714 (October 16, 1997). Therefore, in order to continue to protect the integrity of the programs of the former MMS, that were subsequently reassigned to the newly established entities of BOEM, BSEE and ONRR, DOI is revising § 3501.103(b) to explicitly cover all employees of these three entities.

##### Procedural Matters

*Regulatory Planning and Review (Executive Order (E.O.) 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory





**From:** [Deborah J. Bortot](#)  
**To:** [Emory A. Rounds III](#); [Heather A. Jones](#); [Sandra S. Mabry](#); [Teresa L. Williamson](#); [Keith Labeledz](#)  
**Subject:** FW: Senate Transmissions  
**Date:** Thursday, December 22, 2016 4:43:14 PM

---

**From:** Ann M Donaldson (b)(6)  
**Sent:** Thursday, December 22, 2016 3:46 PM  
**To:** Deborah J. Bortot  
**Subject:** Senate Transmissions

Deb,

You will be receiving emails shortly regarding transmitting (b)(6) and (b)(6) pre-cleared 278 Reports and Ethics Agreements to the appropriate Senate committee. Going forward, we will send such emails to confirm the President-elect's intent to nominate once we have received confirmation of a filer's pre-clearance from your office. We will continue this process until Inauguration Day.

Thanks,  
Annie

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

(b)(6)

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**From:** [Deborah J. Bortot](#)  
**To:** (b)(6) - Ann  
**Cc:** [Lorna A. Syme](#); [Emory A. Rounds III](#); [Heather A. Jones](#); (b)(6); (b)(6); [v](#); [Teresa L. Williamson](#); [David J. Apol](#); [Sandra S. Mabry](#); [Rodrick T. Johnson](#)  
**Subject:** PRECLEARED: (b)(6)  
**Date:** Wednesday, December 14, 2016 4:33:00 PM

---

Annie, (b)(6) is precleared. Lorna, please forward the ethics agreement to the Annie.

Thanks!

Deb

Deborah J. Bortot

Chief, Presidential Nominations Branch

U.S. Office of Government Ethics

1201 New York Ave., NW, Suite 500

Washington, DC 20005-3917

Telephone: (202) 482-9227

Facsimile: (202) 482-9237

**From:** [Deborah J. Bortot](#)  
**To:** ["Ann M Donaldson"](#)  
**Cc:** [Stephanie Nonluecha](#); [Emory A. Rounds III](#); [David J. Apol](#); [Teresa L. Williamson](#); [Sandra S. Mabry](#); [Keith Labeledz](#); [Rodrick T. Johnson](#); ["Alexander, M. J."](#); [Martin, Janice N](#); ["Huitema, David P"](#); [Heather A. Jones](#)  
**Subject:** PRECLEARED: (b)(6)  
**Date:** Thursday, December 22, 2016 3:47:34 PM

---

Annie, (b)(6) is precleared.

Alex, Stephanie will call you with a minor edit to the ethics agreement.

Stephanie, please forward the ethics agreement to Annie.

Thanks!

Deb

Deborah J. Bortot

Chief, Presidential Nominations Branch

U.S. Office of Government Ethics

1201 New York Ave., NW, Suite 500

Washington, DC 20005-3917

Telephone: (202) 482-9227

Facsimile: (202) 482-9237

**From:** [Heather A. Jones](#)  
**To:** ["Ann M Donaldson"](#)  
**Subject:** RE: Call with Director  
**Date:** Thursday, December 22, 2016 6:56:07 PM

---

I'm happy to handle it next week.

**From:** Ann M Donaldson (b)(6)  
**Sent:** Thursday, December 22, 2016 6:29 PM  
**To:** Heather A. Jones  
**Subject:** RE: Call with Director  
Merry Christmas and enjoy a short break!

Thanks for dealing with the scheduling of this call. Let's plan for Tuesday at 11, but we'll touch base in the morning. I'm not entirely sure what will shape up over the weekend. Should I circle back with you or someone else Tuesday morning?

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

(b)(6)

From: "Heather A. Jones" <[hajones@oge.gov](mailto:hajones@oge.gov)>  
To: 'Ann M Donaldson' (b)(6)  
Date: 12/22/2016 06:20 PM  
Subject: RE: Call with Director

---

Walt will be in next week (except the holiday on Monday). He suggested Tuesday at 11.

I'm out tomorrow but will have e-mail access and I will be back in the office on Tuesday.

Merry Christmas,  
Heather

**From:** Ann M Donaldson (b)(6)  
**Sent:** Thursday, December 22, 2016 5:16 PM  
**To:** Heather A. Jones  
**Subject:** Re: Call with Director

Heather,  
I'm sorry this didn't work today. Please relay our apologies to Walt and David. We will schedule a time to talk early next week. Probably Tuesday morning if folks will be back then.  
Thanks,  
Annie

Ann M. Donaldson

Associate

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(b)(6)

---

From: Ann M Donaldson/JonesDay

To: "Heather A. Jones" <[hajones@oge.gov](mailto:hajones@oge.gov)>

Date: 12/22/2016 12:04 PM

Subject: Re: Call with Director

---

Ok. Will work on it.

Ann M. Donaldson

Associate

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(b)(6)

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From: "Heather A. Jones" <[hajones@oge.gov](mailto:hajones@oge.gov)>

To: Ann M Donaldson (b)(6)

Date: 12/22/2016 12:03 PM

Subject: Re: Call with Director

---

We would also like to avoid 2 if possible

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Ann M Donaldson

**Sent:** Thursday, December 22, 2016 11:52 AM

**To:** Heather A. Jones

**Subject:** Re: Call with Director

Heather,

I'm sorry -- he was unavailable after all. I am trying to find a time this afternoon.

Thanks,  
Annie

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

51 Louisiana Avenue, NW  
Washington, DC 20001

(b)(6)

---

From: "Heather A. Jones" <[hajones@oge.gov](mailto:hajones@oge.gov)>

To: Ann M Donaldson (b)(6)

Date: 12/22/2016 11:41 AM

Subject: Re: Call with Director

Yes he will call then

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Ann M Donaldson

**Sent:** Thursday, December 22, 2016 11:31 AM

**To:** Heather A. Jones

**Subject:** Re: Call with Director

Can he call at 11:45? (b)(6) Sorry to push another 15 minutes.

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

51 Louisiana Avenue, NW  
Washington, DC 20001

(b)(6)

---

From: "Heather A. Jones" <[hajones@oge.gov](mailto:hajones@oge.gov)>

To: Ann M Donaldson (b)(6)

Date: 12/22/2016 11:22 AM

Subject: Re: Call with Director

---

Is there a call in number?

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

**From:** Ann M Donaldson  
**Sent:** Thursday, December 22, 2016 9:47 AM  
**To:** Heather A. Jones  
**Subject:** Re: Call with Director

Great -- thanks for reaching out. I had left a message for Shelley earlier. We would like to have the call, but need to move it back if possible to 11:30 or thereabouts. Can you check on that possibility?

Thanks  
Annie

Ann M. Donaldson  
Associate  
[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)  
51 Louisiana Avenue, NW  
Washington, DC 20001  
(b)(6)

From: "Heather A. Jones" <[hajones@oge.gov](mailto:hajones@oge.gov)>  
To: 'Ann M Donaldson' (b)(6)  
Date: 12/22/2016 09:44 AM  
Subject: Call with Director

---

Annie-  
We have several people out of the office for the holiday today. If Don needs to cancel the call today, would you ask him to e-mail me and I will let Walt know.

Thanks,  
Heather

Heather Jones  
(202) 482-9316  
Office of Government Ethics

Visit OGE's website: [www.oge.gov](http://www.oge.gov)



Follow OGE on Twitter: @OfficeGovEthics

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**From:** [Deborah J. Bortot](#)  
**To:** "Ann M Donaldson"  
**Cc:** [Emory A. Rounds III](#); [Heather A. Jones](#); [Teresa L. Williamson](#)  
**Subject:** (b)(6)  
**Date:** Thursday, December 22, 2016 8:13:38 AM

---

Annie,

There has been no movement on this report on the part of the filer. The questions have been pending with the filer since 12/9/2016. Could someone in PTT call the filer/filer's representative to get movement on addressing the comments?

Thanks,

Deb

**From:** Ann M Donaldson (b)(6)  
**Sent:** Friday, December 16, 2016 6:19 PM  
**To:** Deborah J. Bortot  
**Cc:** Emory A. Rounds III  
**Subject:** (b)(6)

We'll shake the branches.

Thanks,

Annie

Ann M. Donaldson

Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

51 Louisiana Avenue, NW

(b)(6)

---

From: "Deborah J. Bortot" <[djbortot@oqe.gov](mailto:djbortot@oqe.gov)>

To: (b)(6) (b)(6)

Cc: "Emory A. Rounds III" <[earounds@oqe.gov](mailto:earounds@oqe.gov)>

Date: 12/16/2016 05:45 PM

Subject: (b)(6)

---

Annie,

Questions about the report have been pending with the filer for a week. Could someone in PTT call the filer/filer's representative to get movement on addressing the comments?

Thanks,

Deb

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**From:** [Ann M Donaldson](#)  
**To:** [Heather A. Jones](#)  
**Subject:** Re: Revised Gift Rule and Ethics Program Rule  
**Date:** Tuesday, December 06, 2016 9:22:18 AM

---

Thanks, Heather.  
Annie

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

(b)(6)



From: "Heather A. Jones"  
To: 'Ann M Donaldson'  
Date: 12/06/2016 09:17 AM  
Subject: Revised Gift Rule and Ethics Program Rule

---

Annie-

Attached are the revised gift rule and the Executive Branch ethics program rule. I think the ethics program rule may be helpful as you set up the White House ethics office.

Best,  
Heather

Heather Jones  
(202) 482-9316  
Office of Government Ethics

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[attachment "2016-27036.pdf" deleted by Ann M Donaldson/JonesDay] [attachment "2016-26418.pdf" deleted by Ann M Donaldson/JonesDay]

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**From:** [Ann M Donaldson](#)  
**To:** [Deborah J. Bortot](#); [Heather A. Jones](#)  
**Subject:** Representative Mike Pompeo  
**Date:** Thursday, December 22, 2016 3:53:13 PM

---

On behalf of the President-Elect, this email serves as confirmation that the President-Elect intends to nominate Representative Mike Pompeo to be CIA Director. Please transmit his pre-cleared 278 report and any accompanying documents to the appropriate Senate committee.

Thank you,  
Annie

Ann M. Donaldson  
Associate

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(b)(6)



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**From:** [Ann M Donaldson](#)  
**To:** [Deborah J. Bortot](#); [Heather A. Jones](#)  
**Subject:** Senator Sessions  
**Date:** Thursday, December 22, 2016 3:50:21 PM

---

On behalf of the President-Elect, this email serves as confirmation that the President-Elect intends to nominate Senator Jeff Sessions to be Attorney General. Please transmit his pre-cleared 278 report and any accompanying documents to the appropriate Senate committee.

Thank you,  
Annie

Ann M. Donaldson  
Associate

[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)

(b)(6)  
[Redacted]  
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