

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



May 22, 2017

The Honorable Jason E. Chaffetz
Chairman
Committee on Oversight and
Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform
United States House of Representatives
2471 Rayburn House Office Building
Washington, DC 20515

The Honorable Bob Goodlatte
Chairman
Committee on Judiciary
United States House of Representatives
2309 Rayburn House Office Building
Washington, DC 20515

The Honorable John Conyers
Ranking Member
Committee on Judiciary
United States House of Representatives
2426 Rayburn House Office Building
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The Honorable Ronald H. Johnson
Chairman
Committee on Homeland Security and
Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC, 20510

The Honorable Claire C. McCaskill
Ranking Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC, 20510

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510-6050

The Honorable Dianne G. B. Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Dear Members of Congress:

Enclosed please find a letter from the U.S. Office of Government Ethics (OGE) in response to a letter dated May 17, 2017, from John M. Mulvaney, Director of the Office of Management and Budget. In his letter, Director Mulvaney questions OGE's authority to collect ethics information and records from executive branch officials, specifically ethics waivers and Standards of Conduct authorizations. As discussed in the enclosed letter, OGE is fully authorized to collect such information and records, and agencies have a long history of compliance. OGE's ability to fulfill its mission depends on its statutory authority to collect such information and records. I trust that you will find the enclosed response informative. Please do not hesitate to contact OGE's Chief of Staff, Shelley K. Finlayson, should you have any questions or require further information.

Sincerely,

Walter M. Shaub, Jr.
Director

Enclosure





May 22, 2017

The Honorable John M. Mulvaney
Director
Office of Management and Budget
Executive Office of the President
725 17th Street, NW
Washington, DC 20503

Dear Director Mulvaney:

I am in receipt of your May 16, 2017, letter¹ requesting that the U.S. Office of Government Ethics (OGE) suspend its inquiry into the practices of agency ethics programs and, separately, the activities of individual appointees.² Specifically, you ask OGE to stay a directive issued in an April 28, 2017, Program Advisory requiring executive branch officials to produce information and records pertaining to ethics waivers and authorizations.³

Despite the highly unusual nature and distribution of your letter,⁴ I have provided for your convenience the following discussion of OGE's plenary authority to collect the information and records sought, as well as evidence of the longstanding history of compliance with such collections, which obviate any need to request an opinion from the Department of Justice's Office of Legal Counsel (OLC). The unusual nature of your letter highlights OGE's responsibility to lead the executive branch ethics program with independence, free from political pressure. Accordingly, OGE declines your request to suspend its ethics inquiry and reiterates its expectation that agencies will fully comply with its directive by June 1, 2017. Public confidence in the integrity of government decisionmaking demands no less.

By law, OGE is the "supervising ethics office" for the executive branch.⁵ Under the Ethics in Government Act of 1978 (EIGA), as amended, OGE has plenary authority to collect all information and records that "the Director may determine to be necessary for the performance of his duties," as well as such reports "as the Director deems necessary," except to the extent prohibited by law.⁶

¹ See Attachment 13.

² Recent news reports, which OGE has neither validated nor conclusively invalidated, raise questions as to whether some appointees are participating in matters from which they may be required to recuse if they have not received waivers. See Eric Lipton, Ben Protess & Andrew Lehren, *With Trump Appointees, a Raft of Potential Conflicts and 'No Transparency,'* N.Y. TIMES, Apr. 15, 2017, <https://goo.gl/pq2V5Z>; Editorial Board, *Trump is Issuing Secret Waivers to his Own Ethics Rules. So Much for Draining the Swamp,* WASH. POST, May 6, 2017, <https://goo.gl/hdcTXA>.

³ See Attachment 14.

⁴ You sent copies of your letter to hundreds of General Counsels and Designated Agency Ethics Officials.

⁵ 5 U.S.C. app. § 109(18).

⁶ 5 U.S.C. app. §§ 402(b)(10), 403(a)(2).



Congress has firmly articulated the need for OGE to have access to needed information and records, as the report of one House committee clearly states:

The Committee believes that it is not possible for OGE to ensure the effective and efficient operation of the executive branch ethics program as a whole without having up-to-date information on how agency programs are structured and without having important management data. This data would indicate, for example, the number of individuals who have and haven't filed SF-278s; the number and type of corrective actions required of agency employees (divestitures, **waivers**, disqualifications); and the number of employees alleged or found to have violated employees' standards of conduct or conflict of interest laws, rules, and regulations.⁷

A Senate committee report similarly observes that, "[F]or purposes of performing his responsibilities, [OGE's Director] will require access to relevant files and records of agency ethics counselors and other agency materials, information, and documentation necessary to monitor compliance with this statute and related conflict of interest laws and regulations."⁸

Agency ethics officials are well aware of their legal obligation to produce information and records subject to OGE's directives.⁹ In fact, dozens of agencies have already complied with OGE's current directive well in advance of the June 1, 2017, deadline. In addition, your own agency has a solid record of compliance with OGE's information and records production directives. OMB recently complied with a directive to produce an extensive array of information and records that OGE needed for a thorough evaluation of OMB's ethics program.¹⁰ OMB regularly responds to other OGE directives to produce information and records.¹¹ Most recently, OMB provided OGE with notice¹² of your own efforts to comply with the ethics agreement that you signed on January 10, 2017.¹³

Additional examples of agency compliance with OGE directives to produce information and records are abundant. Among other items, the most obvious examples include: notifications filed by Inspectors General and agency ethics officials related to criminal referrals for prosecution;¹⁴ criminal conflict of interest waivers;¹⁵ responses to executive branch-wide

⁷ See H.R. REP. NO. 100-1017, at 19-20 (1988) (emphasis added).

⁸ See S. REP. NO. 95-170, at 150 (1977).

⁹ See 5 U.S.C. app. §§ 402(b)(10), 403(a)(2); 5 C.F.R. §§ 2638.104(c)(3), 2638.202.

¹⁰ See Attachment 6.

¹¹ See, e.g., Office of Mgmt. and Budget, *Response to Annual Agency Ethics Program Questionnaire for CY 2015*, U.S. OFF. GOV'T ETHICS, <https://goo.gl/Vg4neA> (last visited May 22, 2017).

¹² Attachment 10.

¹³ Ethics Agreement of John M. Mulvaney (Jan. 10, 2017), <https://goo.gl/5v8ZWI>.

¹⁴ See 5 C.F.R. § 2638.206; see also OGE Form 202, <https://goo.gl/SflA23>.

¹⁵ See Exec. Order No. 12,731, § 301(d) (Oct. 17, 1990); 5 C.F.R. § 2640.303.

directives for information and records;¹⁶ responses to directives to produce information and records in connection with multi-agency special issue reviews;¹⁷ responses to agency-specific directives in connection with oversight of individual agency ethics programs;¹⁸ directives to produce annually designations of separate agency components;¹⁹ responses to a standing directive to produce delegations of authority to Designated Agency Ethics Officials;²⁰ reports of agencies' acceptance of outside reimbursement for official travel;²¹ responses to requests for information regarding conflict of interest prosecutions;²² and responses to the annual Agency Ethics Program Questionnaire.²³

Just last year, the Government Accountability Office issued a report recommending that the Director of OGE collect data from Designated Agency Ethics Officials and determine whether executive branch agencies are experiencing challenges related to the reliability of data on the executive branch's use of special government employees.²⁴ GAO's report followed an inquiry that it conducted at the request of Senate Judiciary Committee Chairman Charles E. Grassley.²⁵ Thereafter, OGE issued an executive branch-wide directive requiring production of information through a "compulsory survey" of 135 agencies, including OMB, and achieved a 100% response rate.²⁶

Compliance on the part of agencies with these OGE directives to produce information and records is entirely commonplace;²⁷ however, I am aware of the views of the White House's current Designated Agency Ethics Official. In a letter dated February 28, 2017, he asserted that Presidential appointees serving in the White House Office are beyond the reach of basic ethics requirements universally applicable to millions of executive branch employees.²⁸ As I explained

¹⁶ See, e.g., OGE Program Advisory PA-15-01 (2015), <https://goo.gl/hcg9lz>; Memo from Dale Christopher, Assoc. Dir., Program Servs. Div., U.S. Office of Gov't Ethics, to Designated Agency Ethics Officials, *Notifying the United States Office of Government Ethics of Filing Extensions*, DO-10-011 (2010), <https://goo.gl/AjjGmi>.

¹⁷ *Post-Election Readiness Review*, U.S. OFF. GOV'T ETHICS, (Sept. 1, 2012), <https://goo.gl/qR4h9L>.

¹⁸ See Attachment 5.

¹⁹ See 5 C.F.R. § 2641.302(e)(2)(ii).

²⁰ See Attachment 9.

²¹ WHITE HOUSE OFFICE, SEMIANNUAL REPORT OF PAYMENTS ACCEPTED FROM A NON-FEDERAL SOURCE (Sept. 30, 2016), <https://goo.gl/oMI1PA>.

²² See *Conflict of Interest Prosecution Surveys Index (by Statute)*, U.S. OFF. GOV'T ETHICS, <https://goo.gl/rMgtA8> (last visited May 22, 2017); see also Attachment 12.

²³ *Annual Agency Ethics Program Questionnaire Responses (CY14)*, U.S. OFF. GOV'T ETHICS (Jul. 1, 2015), <https://goo.gl/dQYpHP>.

²⁴ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-16-548, FEDERAL WORKFORCE: OPPORTUNITIES EXIST TO IMPROVE DATA ON SELECTED GROUPS OF SPECIAL GOVERNMENT EMPLOYEES (2016), <https://goo.gl/1cqA0y>.

²⁵ See Press Release, Sen. Charles E. Grassley, Special Government Employee Report Released, Outlines Problems Managing Designation (Aug. 15, 2016), <https://goo.gl/Ps15A4> ("Grassley asked the Government Accountability Office (GAO) to study the Special Government Employee designation to see whether it works as intended to serve taxpayers.").

²⁶ U.S. OFFICE OF GOV'T ETHICS, SPECIAL GOVERNMENT EMPLOYEES NOT SERVING ON FEDERAL BOARDS (2017), <https://goo.gl/Neg03V>.

²⁷ See, e.g., Attachments 3, 5-6, 8-12.

²⁸ See Letter from Stefan C. Passantino, Designated Agency Ethics Official, White House Office, to Walter M. Shaub, Jr., Director, U.S. Office of Gov't Ethics (Feb. 28, 2017), <https://goo.gl/JozVpS>. Note, however, that Mr. Passantino's letter also stands as an example of the White House Office's compliance with exercises of OGE's

in my response, the theory underlying his position has not been applied in the context of government ethics.²⁹ Contrary to the Designated Agency Ethics Official's assertion, the White House Office has routinely complied with OGE's directives to produce information and records.³⁰ For your edification, I have enclosed a sampling of materials that illustrate the exercise of OGE's authority to collect information and records from the White House Office during every Presidential administration since the enactment of the Ethics in Government Act in 1978, including the Obama, Bush, Clinton, Bush, Reagan, and Carter Administrations.³¹ As you will observe when you review these materials, the compliance of the White House Office has not previously been in doubt.³²

Irrespective of the views expressed by the White House's Designated Agency Ethics Official, OGE's authority is sufficiently clear that consultation with OLC is unnecessary. Nevertheless, you may find it helpful to know that OLC recently approved OGE's issuance of a regulation that establishes the following mandate:³³

Acting directly or through other officials, the DAEO is responsible for taking actions authorized or required under this subchapter, including the following: . . . Promptly and timely furnishing the Office of Government Ethics with all documents and information requested or required under subpart B of this part

statutory authority to compel the production of information and records because, notwithstanding his stated objection, the letter includes the information OGE required him to produce.

²⁹ The underlying theory is that the White House Office is not an "executive agency" for certain limited purposes under 5 U.S.C. § 105, which is referenced in OGE's organic statute. For example, the White House has been found not to be an "executive agency" for purposes of a certain employment discrimination law. *See Haddon v. Walters*, 43 F.3d 1488 (D.C. Cir. 1995) (per curiam). In contrast, the White House has been found to be an "executive agency" for purposes of 18 U.S.C. § 603. *Application of 18 U.S.C. § 603 to Contributions to the President's Re-Election Committee*, 27 Op. O.L.C. 118, 119 (2003) (Office of Legal Counsel opinion finding that, under the statutory scheme of the Hatch Act Reform Amendments, the White House Office should be treated as an "executive agency" under title 5, notwithstanding *Haddon*). In addition, the White House has routinely relied on a certain statutory authority available only to an "executive agency" that authorizes acceptance of outside reimbursements for official travel. *See* 31 U.S.C. § 1353(c)(1) (restricting authority to accept such reimbursements only to an "executive agency" as defined under 5 U.S.C. § 105); *see also* WHITE HOUSE OFFICE, SEMIANNUAL REPORT OF PAYMENTS ACCEPTED FROM A NON-FEDERAL SOURCE (Sept. 30, 2016), <https://goo.gl/BTUpBw>. Thus, the White House is an "executive agency" for some purposes and arguably not for others. However, its status as an "executive agency" for purposes of the Ethics in Government Act is not in doubt. To the contrary, the attached materials include examples of the successful exercise of OGE's authority to require the White House Office to produce information and records over the years since enactment of the Ethics in Government Act. *See* Attachment 8; *see also Office of Government Ethics Jurisdiction Over the Smithsonian Institution*, 32 Op. O.L.C. 56, 63-64 (2008) (OLC opinion finding historical practice relevant to its analysis of the scope of OGE's authority).

³⁰ As part of the current White House's unusual assertions with regard to ethics compliance, I note that a White House official contacted a staff-level OGE employee a few hours before I received your letter in order to challenge an OGE directive to produce information and records that OGE issues every year. In connection with this challenge, the caller demanded that the employee certify that his statement that the Bush Administration had complied with the directive was a "true and correct statement." The White House caller also asked several questions about the collection of information from the National Security Council. *See* Attachment 1.

³¹ *See* Attachment 8.

³² *See id.*

³³ *See* Attachment 7.

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: . . . Requiring agency officials to provide the DAEO with the information, support, and cooperation necessary for the accomplishment of the DAEO's responsibilities

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.³⁴

OLC approved the promulgation of this regulation pursuant to a statutory requirement that OGE coordinate with the Department of Justice before issuing certain regulations.³⁵ In addition to this statutorily required consultation with OLC, OGE consulted with OMB and a broad range of other stakeholders through the ordinary regulatory process.³⁶

The recent issuance of this regulation did not significantly change the regulatory framework for requiring the submission of information and records in the executive branch to OGE. The above-quoted language is similar to the language of an earlier regulation that OGE issued 27 years ago in consultation with the Department of Justice.³⁷ A former OGE Director, who was appointed by President Bush and later reappointed by President Clinton, emphasized that compliance with the regulation has never been optional:

The first point to remember is that every executive agency has a statutory obligation to furnish OGE with “all information and records in its possession which the Director may determine to be necessary for the performance of his duties.” 5 U.S.C. app. § 403(a). This statutory obligation is independent of, and serves many purposes in addition to,

³⁴ Executive Branch Ethics Program Amendments, 81 Fed. Reg. 76,271, 76,274, 76,276-77 (Nov. 2, 2016) (codified at 5 C.F.R. §§ 2638.104, 2638.107, 2638.202).

³⁵ 5 U.S.C. app. § 402(b)(1).

³⁶ See Executive Branch Ethics Program Amendments, 81 Fed. Reg. at 76,271 (“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.”).

³⁷ Implementation of the Office of Government Ethics Reauthorization Act of 1988, 55 Fed. Reg. 1665 (1990); Corrective Action and Reporting Requirements Relating to Executive Agency Ethics Programs: Implementation of the Office of Government Ethics Reauthorization Act of 1988, 55 Fed. Reg. 21,845 (1990); see also 5 U.S.C. app. § 402(b)(1).

the scheme for agency review and OGE certification of certain financial disclosure statements. *See* 5 U.S.C. app. § 402 (listing broad range of statutory authorities and functions)... Furthermore, as [the Designated Agency Ethics Official (DAEO)] acknowledges, OGE’s implementing regulations provide that the DAEO “shall ensure” that information requested by OGE “is provided in a complete and timely manner.” 5 C.F.R. § 2638.203(a)(14).

...

By statute, OGE is charged with providing “overall direction of executive branch policies related to preventing conflicts of interest.” 5 U.S.C. app. § 402(a). Among other things, OGE is given specific statutory authority to promulgate rules, interpret those rules, and monitor compliance with financial disclosure requirements. 5 U.S.C. app. § 402(b).

...

Unless and until OGE’s interpretation had been overruled by a judicial opinion or otherwise modified by OGE through the usual process of executive branch deliberations, the DAEO had no ground to hold out a contrary interpretation as a lawful option for the filer. Should any future disagreements arise between the DAEO and OGE as to legal issues within OGE’s primary jurisdiction, we expect that the DAEO will be careful not to make any statements that might reasonably be construed by [agency] employees as giving them the option to disregard the interpretation of OGE in favor of a contrary interpretation rendered by the DAEO.³⁸

The Director’s opinion accurately reflects the common understanding in the executive branch that compliance is mandatory.³⁹

In light of OGE’s clear authority and the long history of agencies’ compliance, your letter requesting a stay of OGE’s pending directive for production of information and records copied to hundreds of other executive branch officials is highly unusual. For OGE to fulfill its mission of

³⁸ OGE Informal Advisory Opinion 00 x 2 at 1-4 (2000).

³⁹ *See Reauthorization of the Office of Government Ethics: Hearing Before the Subcomm. on the Fed. Workforce and Agency Org. of the H. Comm. on Gov’t Reform*, 109th Cong. 109-211, at 19 (2006) (statement of Marilyn Glynn, Acting Director, Office of Government Ethics), <https://goo.gl/22vffk> (“We do have currently so-called corrective action authority that allows us to actually hold a hearing if an agency or an individual at an agency refuses to comply on an ongoing basis with some direction in effect that we have given them, and we have never had to use it. I think we have a little bit of the power of the bully pulpit. We can call very high level folks at the agency, all the way up to a Secretary’s office or an Administrator’s office, and say, so and so on your staff is doing thus and such and it needs to stop. And it stops immediately. We do not find pushback from agencies. So I am not sure that there is a need to particularly strengthen our role.”).

preventing conflicts of interest and monitoring compliance with the ethics laws by agencies and officials, the Director must be able to act independently and free from political pressure. Congress created OGE as an institutional check to monitor the ethics program and to prevent conflicts of interest in the executive branch. OGE can effectively perform this role only if it can act objectively and without fear of reprisal.⁴⁰

In this context, it bears emphasizing that OGE has the authority to institute corrective action proceedings against agencies that fail to comply, or against individuals who improperly prevent agency ethics officials from complying, with the Ethics in Government Act.⁴¹ Likewise the Inspectors General and the U.S. Office of Special Counsel have authority to investigate allegations of retaliation against ethics officials for complying with the legal requirement to provide OGE with the information and records subject to this directive.⁴²

OGE is exercising its authority and independence appropriately. OGE's April 28, 2017, directive is supported by ample legal authority and compliant with applicable procedures. Consistent with the applicable legal standard, the directive includes a determination of necessity.⁴³ Although not required to do so, OGE has also limited the scope of the directive to information and records that lie at the heart of the executive branch ethics program.⁴⁴ OGE has also afforded executive branch officials a full month to produce information and records that are routinely maintained and readily accessible by any well-run agency ethics program.

This directive supports a key aspect of OGE's mission, which is to ensure public confidence in the integrity of executive branch-wide decisionmaking. The vital national interest in disclosure of such information and records was most eloquently expressed in a letter that Chairman of the Senate Committee on the Judiciary Charles E. Grassley sent to OGE:

⁴⁰ See S. REP. NO. 98-59 at 20 (1983) ("A major issue discussed at the Oversight Subcommittee's hearing was the independence of the OGE. In many instances, the Office must rule on sensitive issues involving political appointees and other high-ranking officials. For the OGE to perform its role of preventing conflicts of interest and monitoring compliance with the ethics laws by agencies and officials, it is crucial that the Director act independently and free from political pressure. . . . The Congress created the OGE as an institutional check to monitor the ethics program and to prevent conflicts of interest in the Executive Branch. This institutional check is effective only when the Office can act objectively and without fear of reprisal."); see also Attachment 4 (Senate Homeland Security and Government Affairs Committee Questionnaire for Walter M. Shaub, Jr., Question 26: "Some believe that the Director of OGE must be insulated from political pressure, to ensure the Director is not forced to compromise on necessary action or encouraged to deviate from the normal application of ethical requirements with respect to a particular individual. Do you agree that the Director of OGE must act independently and free from political pressure? If so, how would you, if confirmed, maintain this independence and freedom from pressure?").

⁴¹ 5 U.S.C. app. § 402(b)(9), (f); 5 C.F.R. pt. 2638, subpts. D, E.

⁴² See 5 U.S.C. app. §§ 2(1), 4(a)(1) (Inspector General Act of 1978, as amended); see also 5 U.S.C. §§ 2302(b)(9)(D), (b)(12).

⁴³ See OGE Program Advisory PA-17-02 at 1 (2017); see also 5 U.S.C. app. §§ 402(b)(10), 403; 5 C.F.R. §§ 2638.104(c)(3), 2638.202.

⁴⁴ In your letter, you refer to what you characterize as the "uniqueness" of this directive to produce information and records, but there is nothing unique about OGE collecting records central to the program it oversees. As the enclosed samples illustrate, OGE's staff has engaged in either the collection or review of agency ethics program records on each working day since OGE's establishment in 1978. See, e.g., Attachments 3, 5-6, 8-12.

The work of the Government is the work of the people and it should be public and available for all to see. It has been said that sunlight is the best disinfectant and that opening up the business of the Government will ensure that the public trust is not lost. As a senior member of the United States Senate, I have consistently worked to ensure that the business of the Government is done in as open and transparent manner as possible.

...

I am concerned that Section 3 could be used to gut the ethical heart of the [Executive] Order. Each day, new nominees to key Government positions are reported. Many of these nominees have been nominated despite the fact that they have previously served as lobbyists or in a manner that would preclude their participation under the Order absent a Section 3 waiver.

...

[T]he Ethics in Government Act provides the Director of OGE a number of authorities to bring sunlight upon Section 3 waivers issued by DAEOs. Specifically, the Act explicitly provides the Director of OGE the authority to, among other things, “interpret rules and regulations issued by the President or the Director governing conflict of interest and ethical problems and the filing of financial statements.” The Act also provides the Director of OGE the authority to require “such reports from executive agencies as the Director deems necessary.” Further, the Act authorizes the Director to prescribe regulations that require each executive agency to submit to OGE a report containing “any other information that the Director may require in order to carry out the responsibilities of the Director under this title.” Finally, the Act is clear that when the Director makes a request to an executive agency, the agency shall furnish “all information and records in its possession which the Director may determine to be necessary for the performance of his duties.”

Based upon these existing statutory authorities you have the authority to require each DAEO to provide OGE with an accounting of all waivers and recusals issued.

...

The American people deserve a full accounting of all waivers and recusals to better understand who is running the government and whether the Administration is adhering to its promise to be open,

transparent, and accountable. I urge you to take immediate action to make any waivers and recusals public⁴⁵

Following its receipt of Chairman Grassley's letter and the development of the necessary technological means, OGE began posting ethics pledge waivers on its official website.⁴⁶ However, the current Administration has not been complying with this established practice.

In closing, I want to assure you that a request from the Director of the Office of Management and Budget is not something that I decline lightly. For the foregoing reasons, however, OGE is not granting your request to stay the pending directive to produce information and records. Please take all necessary steps to ensure that OMB's response is submitted by the June 1, 2017, deadline.⁴⁷

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter M. Shaub, Jr.", with a stylized flourish at the end.

Walter M. Shaub, Jr.
Director

Attachments (15)

⁴⁵ See Attachment 2.

⁴⁶ *Executive Branch Agency Ethics Pledge Waivers*, U.S. OFF. GOV'T ETHICS, <https://goo.gl/Yw16wQ> (last visited May 22, 2017).

⁴⁷ See Attachment 15.

cc. Designated Agency Ethics Officials

General Counsels

Inspectors General

The Honorable Carolyn N. Lerner
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036-4505

The Honorable Jason E. Chaffetz
Chairman
Committee on Oversight and
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United States House of Representatives
2157 Rayburn House Office Building
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The Honorable Elijah E. Cummings
Ranking Member
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The Honorable Bob Goodlatte
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The Honorable Charles E. Grassley
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The Honorable Dianne G. B. Feinstein
Ranking Member
Committee on the Judiciary
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ATTACHMENTS

Attachment 1	<ul style="list-style-type: none">○ Memorandum Regarding White House Contact
Attachment 2	<ul style="list-style-type: none">○ Letter from Chairman Charles E. Grassley
Attachment 3	<ul style="list-style-type: none">○ National Security Council Response to OGE Directive to Produce Information○ White House Response to OGE Directive to Produce Information
Attachment 4	<ul style="list-style-type: none">○ Senate Homeland Security and Government Affairs Committee Questionnaire
Attachment 5	<ul style="list-style-type: none">○ OGE Program Review Guidelines○ Standard Initial OGE Directive Requiring Production of Agency-Specific Information in Connection with a Program Review
Attachment 6	<ul style="list-style-type: none">○ OMB Response to OGE Directive Requiring Production of Agency-Specific Information
Attachment 7	<ul style="list-style-type: none">○ Documents Related to OLC and OMB Consultations on OGE Regulation

Attachment 8	<ul style="list-style-type: none"> ○ Sampling of documents illustrating instances when OGE exercised its authority to collect information and records from the White House Office, pursuant to the Ethics In Government Act
Attachment 9	<ul style="list-style-type: none"> ○ Delegation of Authority to a Designated Agency Ethics Official Submitted Pursuant to a Standing OGE Directive to Produce Records
Attachment 10	<ul style="list-style-type: none"> ○ Additional Examples of Executive Branch Compliance with OGE Directives to Produce Information and Records
Attachment 11	<ul style="list-style-type: none"> ○ 1994 Agency Ethics Program Questionnaire
Attachment 12	<ul style="list-style-type: none"> ○ OGE Request for Prosecution Information
Attachment 13	<ul style="list-style-type: none"> ○ Mulvaney Letter
Attachment 14	<ul style="list-style-type: none"> ○ OGE PA-17-02 (Apr. 28, 2017)
Attachment 15	<ul style="list-style-type: none"> ○ Initial OGE Response to Mulvaney Letter

Memorandum Regarding White House Contact

May 18, 2016

MEMORANDUM FOR CHIEF, LEAP, U.S. OGE

FROM: ASSOCIATE COUNSEL

SUBJECT: TELEPHONE CALL WITH WHITE HOUSE COUNSEL'S OFFICE ON MAY 17, 2017

At 1:43 p.m. on May 17, 2017, I sent a courtesy email to, *inter alia*, [REDACTED] of the White House Counsel's Office containing the draft Annual Agency Ethics Program Questionnaire that will be circulated in January of 2018. At 2:27 p.m. the same day, Mr. [REDACTED] left a 32 second voice mail for me in which he stated that he wanted "to touch base with [me] and get some further information" on the email that I "had just sent out." He left me his direct line. At approximately 2:53 p.m. on the same day, I returned his telephone call.

At the start of the conversation, Mr. [REDACTED] disclosed that he attempted to speak with another OGE employee, currently on detail to the White House, regarding my email, but that this employee referred him to me for further questions. Mr. [REDACTED] then proceeded to inquire about the purpose of the email and whether the White House submits a response to the Annual Questionnaire. I explained that OGE circulates a draft version of the Annual Questionnaire prior to the official release and that the draft was typically circulated in November. I explained that this year it was being circulated earlier because there were several modifications, and then briefly proceeded to discuss those modifications. I also explained that we incorporated the Ethics Pledge Assessment questions into the Annual Questionnaire and that this would address some of the issues certain agencies were having accessing the third party application we had been using. He then asked me to confirm that there would no longer be a separate Ethics Pledge Assessment and I reiterated that it would no longer be a separate assessment because the questions were being incorporated into the Annual Questionnaire. He then inquired whether the White House submits a response to the Annual Questionnaire and I explained that for the length of time that I had been with the agency the White House had submitted a response. He then wanted to know which offices submitted a response, specifically naming the NSC. I explained that some entities submitted their own response, while to the best of my knowledge other entities were "rolled up" into the general White House response. I explained that the NSC did not separately submit a response and that to the best of my knowledge they were "rolled up" into the White House response. He asked if that were the same for the Pledge Assessment, again specifically asking about the NSC. I explained that it was. I then walked him through the entities, such as the Office of Administration, that separately submitted a response. He then recapped this portion of the conversation, again referencing the NSC as an example. His repeated use of the NSC as an example struck me as unusual, given the multiple other White House entities.

After his recap, Mr. [REDACTED] asked whether the prior administration submitted responses to the Annual Questionnaire. I reiterated that for the length of time I had been with the agency the Obama Administration had submitted responses to both the Annual Questionnaire and the Pledge Assessment. He then asked whether that meant they had submitted a response for each year of the Obama Administration, minus the transition period. I reiterated that I could only confirm for the time that I had been with the agency, but that I could review the record to give a more complete response. He then asked whether the Bush Administration had submitted

responses to the Annual Questionnaire. I responded that I was not employed with OGE during the Bush Administration and that I would need to check the record. I then proceeded to randomly spot check 2004 and 2007 -expressing to Mr. [REDACTED] that I was spot checking- and confirmed that for those years the Bush Administration had submitted a response. He then wanted me to clarify that it was not just the Obama Administration but also the Bush Administration that had submitted responses. I responded in the affirmative. He then wanted me to certify that it was, quote, "a true and correct statement" that the Bush Administration submitted a response during each year of that administration. I explained that I could only certify the correctness of that statement for the years that I had just randomly spot checked, and that I would be happy to review each year for a more accurate statement. He then expressed that he had all he needed for now, and somewhat abruptly ended the phone call. When compared to phone calls that I routinely have with other ethics officials regarding the surveys and other matters the demeanor of Mr. [REDACTED] during the call struck me as less collegial.

Letter from Chairman Charles E. Grassley

United States Senate

WASHINGTON, DC 20510

June 10, 2009

The Honorable Robert I. Cusick
Director
Office of Government Ethics
1201 New York Avenue, N.W., Suite 500
Washington, DC 20005

Dear Director Cusick:

The work of the Government is the work of the people and it should be public and available for all to see. It has been said that sunlight is the best disinfectant and that opening up the business of the Government will ensure that the public trust is not lost. As a senior member of the United States Senate, I have consistently worked to ensure that the business of the Government is done in as open and transparent manner as possible.

President Obama issued Executive Order 13490, *Ethics Commitments by Executive Branch Personnel*, (herein Order) on January 21, 2009, to much fanfare. The White House Press Secretary said the Executive Order was signed because the American people “deserve more than simply an assurance that those coming to Washington will serve their interests. They deserve to know that there are rules on the books to keep it that way.”¹

The Order requires that “every appointee in every executive agency” shall sign a pledge that: (1) prohibits them from obtaining gifts from registered lobbyists or lobbying organizations, (2) limits appointees from working on matters involving specific parties that are directly and substantially related to former employers or former clients, including regulations or contracts, (3) limits individuals that were registered lobbyists in the two years before the appointment from participating in a matter or specific issue area that they lobbied on prior to their appointment for two years and restricts them from being employed by any executive agency they lobbied. These provisions, known as the gift ban and revolving door bans, are the heart of the Executive Order and were designed, “as a downpayment on the change [President Obama] has promised to bring to Washington.”²

I have watched with interest the implementation and enforcement of the Order. However, the implementation of the Order has not matched the promises of openness and transparency that were made supporting it when it was signed. I write today to request that the Office of Government Ethics (OGE) take immediate action under its authority granted in the Ethics in Government Act of 1978, as amended, (herein Act) to ensure that all waivers issued under Section 3 of the Order be consolidated and publicly displayed on the OGE website.

Specifically, Section 3 provides that the Director of the Office of Management and Budget (OMB), or his or her designee, the authority to grant “a written waiver of any restrictions

¹ Press Release, Office of the Press Secretary, Statement from the Press Secretary on the President’s Signing of Two Executive Orders and Three Memoranda (Jan. 21, 2009), *available at* http://www.whitehouse.gov/the_press_office/StatementfromthePressSecretaryonthePresidentssigningoftwoExecutiveOrdersandthreeMe/ (last visited 6/8/09).

² *Id.*

contained in the pledge signed by such an appointee.”³ Section 3 also states that the Director of OMB, or his or her designee, must certify in writing “(i) that the literal application of the restriction is inconsistent with the purposes of the restriction, or (ii) that it is in the public interest to grant the waiver.”⁴ In a February 23, 2009, memorandum to all “Agency Heads and Designated Agency Ethics Officials” you wrote that OMB Director Peter Orszag delegated his authority to issue Section 3 waivers to each Designated Agency Ethics Official (DAEO) of each executive agency, in consultation with the Counsel to the President.⁵ You added that “[i]t is the President’s intention that waivers will be granted sparingly and that their scope will be as limited as possible.”⁶ Your memorandum also outlined that the “advance consultation with the Counsel to the President remains and is to be strictly enforced.”⁷

I am concerned that Section 3 could be used to gut the ethical heart of the Order. Each day, new nominees to key Government positions are reported. Many of these nominees have been nominated despite the fact that they have previously served as lobbyists or in a manner that would preclude their participation under the Order absent a Section 3 waiver. For example, I publicly objected to a waiver for the nomination of William Lynn to be the Deputy Secretary of Defense because, among other things, of his previous role as the principle Department of Defense lobbyist for Raytheon Company—a large defense contractor. Further, it was announced just a few weeks ago that the nomination of Charles Bolden for Administrator of NASA will require a waiver because of his work as a lobbyist for a NASA contractor.⁸ Other examples include the waivers granted Jocelyn Frye who was a registered lobbyist prior to her service in the Office of the First Lady⁹, and Cecilia Munoz who was a lobbyist prior to serving in the White House Office of Intergovernmental Affairs.¹⁰ These are just a couple of the public examples of those who either received waivers or were forced to recuse themselves from working on issues related to their former employment—as was the case for Mark Patterson, the Chief of Staff to Treasury Secretary Timothy Geithner who previously served as a lobbyist for Goldman Sachs.¹¹

In a February 17 letter to OMB Director Orszag, I requested information regarding any and all waivers and recusals issued under the Order. On March 3, 2009, Counsel to the President, Gregory B. Craig attached a memorandum prepared by Norman Eisen, Special Counsel to the President that said this information will not be available until the annual report required by the Order is published. That is unacceptable and the American people deserve this information in real time. That memorandum also stated that the White House has, “asked the Office of Government Ethics (OGE) to take the lead in developing and promulgating guidance with respect to the handling and disclosure of waivers in addition to the annual report [outlined by the

³ Exec. Order No. 13490, Ethics Commitments by Executive Branch Personnel (Jan. 21, 2009), *available at* http://www.whitehouse.gov/the_press_office/Ethics-Commitments-By-Executive-Branch-Personnel/ (last visited June 4, 2009).

⁴ *Id.*

⁵ Memorandum from Robert I. Cusick, Director, U.S. Office of Government Ethics, to Designated Agency Ethics Officials DO-09-008, (Feb. 23, 2009).

⁶ *Id.*

⁷ *Id.*

⁸ Kenneth Chang, *Former Astronaut Nominated to Lead NASA*, THE NEW YORK TIMES, May 24, 2009.

⁹ Waiver Pursuant to Section 3 of Executive Order 13490, (Feb. 20, 2009), *available at* http://www.whitehouse.gov/assets/documents/frye_waiver_final_2009.pdf (last visited June 5, 2009).

¹⁰ Waiver Pursuant to Section 3 of Executive Order 13490, (Feb. 20, 2009), *available at* http://www.whitehouse.gov/assets/documents/munoz_waiver_final_2009.pdf (last visited June 5, 2009).

¹¹ Fredreka Schouten, *Geithner Names Ex-lobbyist as Treasury Chief of Staff*, USA TODAY, Jan. 27, 2009.

Order].”¹² Further, the memorandum noted that the White House Counsel is, “in the process of working with OGE to determine the most appropriate method for disclosing recusal information and...expect[s] a uniform procedure for this to be addressed in the...OGE guidance.”¹³

The current decentralized system delegating Section 3 waiver authority to each agency DAEO has created a situation where the transparency and accountability touted by the White House are lost because there is no comprehensive database of the waivers and recusals granted. Instead, the White House has chosen to selectively publish Section 3 waivers on the White House website and wait for an annual report to produce a full accounting of all waivers and recusals. As the Director of OGE, you are in the position to immediately change this and bring the transparency promised by the Obama Administration.

In addition to the authority granted to you in the Order and the guidance requested by the White House Counsel, **the Ethics in Government Act provides the Director of OGE a number of authorities to bring sunlight upon Section 3 waivers** issued by DAEOs. Specifically, the Act explicitly provides the Director of OGE the authority to, among other things, “interpret rules and regulations issued by the President or the Director governing conflict of interest and ethical problems and the filing of financial statements.”¹⁴ The Act also provides the Director of OGE the authority to require “such reports from executive agencies as the Director deems necessary.”¹⁵ Further, the Act authorizes the Director to prescribe regulations that requires each executive agency to submit to OGE a report containing “any other information that the Director may require in order to carry out the responsibilities of the Director under this title.”¹⁶ Finally, the Act is clear that when the Director makes a request to an executive agency, the agency shall furnish “all information and records in its possession which the Director may determine to be necessary for the performance of his duties.”¹⁷

Based upon these existing statutory authorities you have the authority to require each DAEO to provide OGE with an accounting of all waivers and recusals issued. The existing statutory authority also allows you to provide that information to Congress in your biennial Report to Congress required under the Act.¹⁸ In addition to the statutory authority granted your office, Executive Order 13490 also requires that you provide an “annual public report on the administration of the pledge and this order.”¹⁹ Taken together these provisions provide you with the authority to account for all waivers and recusals issued by executive agencies. I also believe that OGE should utilize any and all authority to consolidate all waivers and recusals pursuant to the Order and make them public on the OGE website as soon as possible—not simply wait for an annual report.

Accordingly, I call upon you in your capacity as Director to immediately implement policies and procedures to collect all waivers granted by DAEOs and recusals by former lobbyists. As my previous request to OMB went unanswered, I ask that you provide me a full accounting of all waivers and recusals since January 21, 2009, including: (1) the name of the individual, (2) the agency employing the individual, (3) the reason and justification for granting any waiver, (4) the

¹² Memorandum for Gregory B. Craig, Counsel to the President, from Norman Eisen, Special Counsel to the President, 2 (March 3, 2009).

¹³ *Id.*

¹⁴ 5 U.S.C. App. 4 § 402(b)(6) (2006).

¹⁵ 5 U.S.C. App. 4 § 402(b)(10) (2006).

¹⁶ 5 U.S.C. App. 4 § 402(e)(1)(C) (2006).

¹⁷ *See* 5 U.S.C. App. 4 § 403 (a) (2006).

¹⁸ 5 U.S.C. App. 4 § 408 (2006).

¹⁹ Exec. Order No. 13490, Sec. 4(c)(5), *supra* note 3.

name of the DAEO that issued any waiver, and (5) a description of any and all issue areas from which the employee is recused.

The American people deserve a full accounting of all waivers and recusals to better understand who is running the Government and whether the Administration is adhering to its promise to be open, transparent, and accountable. I urge you to take immediate action to make any waivers and recusals public and ask for your response to my requests no later than June 19, 2009.

Sincerely,



Charles E. Grassley
United States Senator

Cc: The Honorable Peter Orszag
Director, Office of Management and Budget

Gregory B. Craig
Counsel to the President

Norm Eisen
Special Counsel to the President for
Ethics and Government Reform

National Security Council Response to OGE
Directive to Produce Information

White House Response to OGE Directive to
Produce Information

	United States Office of Government Ethics 2005 Agency Ethics Program Questionnaire National Security Council
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Part 1. Organization/Resources

Agency Name: **National Security Council**

As of December 31, 2005:

Number of Full Time Agency Employees (include employees detailed to another agency): **61**

Number of Special Government Employees (SGE): **0**

Number of IPAs (Intergovernmental Personnel Act): **0**

Designated Agency Ethics Official (DAEO)

DAEO Name: **This position is vacant**

DAEO Title:

Identify the length of time the DAEO has held the position: - **Select** -

Approximate percent of the DAEO's time spent on ethics:

Alternate Designated Agency Ethics Official (ADAEO)

ADAEO Name: **Brad Wiegmann**

ADAEO Title: **Acting Legal Advisor**

Identify the length of time the DAEO has held the position: **5 - 9 Years**

Approximate percent of the Alternate DAEO's time spent on ethics: **25**

Do you have designated Deputy DAEO(s)? **No**

Please specify the Name and Title of each designated Deputy DAEO:

Does your agency have regional or field office ethics officials? **No**

Functional location(s) of regional/field ethics officials:

Check all that apply. 'Other':

Total number of ethics officials who worked in the ethics program in 2005:

	Full Time	Part Time
Headquarters Ethics Officials	0	3
Regional or Field Office Ethics Officials		

Is the ethics program a separate budgeted item? **No**

Comments: **Agency has Two ADAEOs - The other ADAEO is Himamauli Das Deputy Legal Advisor with 1-4 years length of time holding the position.**

Part 2. Program Administration

Please rate the amount of time you spend administering the following items:

Item	Time
Public financial disclosure system:	Moderate amount of time (3)
Confidential financial disclosure system:	Moderate amount of time (3)
Outside activity approval system:	Limited amount of time (2)
Written opinions and counseling:	Considerable amount of time (4)
Education and training:	Moderate amount of time (3)
Disciplinary process for violations:	No time (1)
Special Government Employees' activities:	No time (1)
Developing information technology applications for any aspect of the ethics program:	No time (1)

Please indicate which ethics program area(s) your agency contracted out (outside the Government), in 2005:

Check all that apply. **None** 'Other':

Provide a brief description and the outcome of the ethics program area(s) your agency contracted out (optional):

Did your agency perform an internal ethics program review (formal self evaluation, IG review, etc.) in 2005? **No**

What organization within your agency conducted the review?

Check all that apply. 'Other':

Were you provided feedback from the review?

Comments:

Part 3. Education and Training

Number of employees **required to receive** initial ethics orientation: **106**

Number of employees who **actually received** initial ethics orientation: **106**

How often do you provide initial ethics orientation? **Other** 'Other': **Upon arrival of new staff member.**

Number of Employees who received annual ethics training (include all types of training):

	<i>Required to Receive annual ethics training</i>	<i>Actually Received annual ethics training</i>
SF 278 filers (PAS)	0	0
SF 278 filers (Non-PAS)	39	39
OGE Form 450 Filers	65	61
Others	136	125

If the number of employees required to receive annual training is different than the number of employees that actually received annual training, provide a brief explanation: **Inflexible work schedule significantly limited availability for attendance for certain categories of NSC staff members at scheduled training sessions; alternative mechanisms to complete training requirement are being made available to these staff members.**

Number of PAS officials who received one-on-one annual ethics training: **0**

How do you ensure that your required employees receive annual ethics training?
Check all that apply. **Attendance Rosters 'Other':**

Identify the topical areas in which training was provided:
Check all that apply. **Fourteen Principles of Ethical Conduct, Conflicting Financial Interests, Gifts, Post Employment, Impartiality, Seeking Employment, Misuse of Position, Hatch Act, Outside and Representational Activities 'Other':**

What kinds of training methods and materials did you use for your training?
Check all that apply. **Written Materials, Individual Briefings 'Other':**

What kinds of written materials did you use for your training?
Check all that apply. **Copies of the Standards of Conduct and/or agency supplemental regulations**

What kinds of videos did you use for your training?
Check all that apply.

Comments:

Part 4. Ethics Opinions, Advice and Counseling

Please rate the frequency with which you provided opinions, advice and counseling for the following topics:

Topic	Frequency
Outside employment/activities:	Periodically (3)
Post-employment restrictions:	Frequently (4)
Conflicting financial interests:	

	Rarely (2)
Awards:	Rarely (2)
Impartiality in performance of official duties:	Rarely (2)
Misuse of position, Government resources and information:	Rarely (2)
Travel, subsistence, and related expenses from non-Federal sources:	Frequently (4)
Gift acceptance, excluding awards and travel, subsistence, and related expenses from non-Federal sources:	Very Frequently (5)

Who is authorized to provide written advice on standards of conduct and conflict of interest statutes? If the DAEO is the General Counsel, please mark DAEO.

Check all that apply. **DAEO/Alternate DAEO/Deputies/Ethics Officials 'Other':**

How does your DAEO or HQ ethics office ensure that accurate opinions, advice and counsel are provided to employees?

Check all that apply. **Review all written opinions, Discuss verbal opinions prior to providing them to employees, Offer training**

'Other':

Comments:

Part 5. Enforcement of Standards of Ethical Conduct, Criminal and Civil Statutes

Report the number of disciplinary actions taken based wholly or in part upon **violations of the standards of ethical conduct provisions (5 C.F.R. part 2635)**. For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents: **0**

Report the number of disciplinary actions taken based wholly or in part upon **violations of the criminal conflict of interest statutes, 18 U.S.C. §§ 203, 205, 207, 208, and 209**. For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents: **0**

Report the number of referrals of potential violations of the criminal conflict of interest statutes: **0**

Which office(s) within your agency make referrals of potential violations of the criminal conflict of interest statutes, 18 U.S.C. §§ 203, 205, 207, 208, and 209, to the Department of Justice, including offices of U.S. Attorneys?

Check all that apply. **DAEO (Ethics Officials) 'Other':**

Which office(s) are responsible for notifying OGE when a referral of a potential violation of the criminal conflict of interest statutes have been made to the Department of Justice, including the U.S. Attorneys?

Check all that apply. **DAEO (Ethics Officials) 'Other' :**

Comments:

Part 6. Public Financial Disclosure

2005 Total Public Financial Disclosure Reports (SF 278):

	Nominee/ New Entrant		Annual		Termination		Combination		Total	
	Req	Filed	Req	Filed	Req	Filed	Req	Filed	Req	Filed
PAS									0	0
Non-Career SES									0	0
Career SES	8	8	4	4	4	4			16	16
Schedule C									0	0
Other									0	0
Total	8	8	4	4	4	4	0	0	16	16

Does your agency require an intermediate review by someone other than an ethics official of all SF 278s? **No**

Number of Schedule C employees exempted from the filing requirement by OGE: **0**

Number of filers who requested filing extensions: **4**

Number of filers who were granted filing extensions: **4**

Number of filers who requested waivers of the late filing fee: **0**

Number of filers who were granted waivers of the late filing fee: **0**

Number of filers who paid the late filing fee: **0**

Number of requests your agency received for public release of SF 278s: **0**

Number of individual SF 278 reports requested to be released: **0**

Number of PAS SF 278 reports requested: **0**

Number of non-career SES SF 278 reports requested: **0**

Number of career SES SF 278 reports requested: **0**

Number of public financial disclosure filers who took specific corrective or remedial (nondisciplinary) actions in 2005: **0**

Number of 18 U.S.C. § 208(b)(1) waivers granted to public financial disclosure filers:

Comments:

Part 7. Confidential Financial Disclosure

Total number of confidential financial disclosure reports (OGE form 450 and alternative approved form) **required** to be filed by permanent full-time employees in 2005, **excluding SGEs: 69**

Number of OGE form 450s, OGE form 450As, or alternate OGE approved forms **actually filed, excluding SGEs:**

OGE 450: **32**

OGE 450A: **36**

Alternative OGE approved form:

Does your agency require an intermediate review by someone other than an ethics official of all OGE form 450s? **No**

Number of confidential financial disclosure filers who took specific corrective or remedial (nondisciplinary) actions in 2005: **0**

Number of 18 U.S.C. § 208(b)(1) waivers granted to confidential financial disclosure filers: **0**

Comments:

Part 8. Advisory Committees/Special Government Employees

Number of Advisory Committees (do not include Federal Advisory Committees (FACA)): **0**

Number of advisory committee members (do not include FACA members): **0**

Number of FACA advisory committees: **0**

Number of FACA advisory committee members: **0**

Does your agency provide ethics program services for any boards or commissions that are independent of your agency? **No**

Please provide the names of the boards and commissions that your agency provides ethics program services.

Number of SGEs who served as advisory committee members or as experts/consultants and who were required to file financial disclosure reports in 2005. Include the total number who actually filed.

	Confidential Reports		Public Reports	
	Required	Filed	Required	Filed
Advisory Committee Members				
Experts/Consultants				
Board Members				
Commissioners				
Total	0	0	0	0

Please specify the 'Other' SGEs who served as advisory committee members or as experts/consultants and who were required to file financial disclosure reports in 2005.

Number of SGE filers who took specific corrective or remedial (nondisciplinary) actions in 2005.0

Number of § 208(b)(1) waivers granted to SGE's: 0

Number of § 208(b)(3) waivers granted to SGE's: 0

Comments:

Part 9. General Comments: Use the space below for any general comments or overflow comments:

National Security Council submitted the questionnaire in hard copy. OGE entered data into online version.



United States Office of Government Ethics

2005 Agency Ethics Program

Questionnaire

White House

Part 1. Organization/Resources

Agency Name: **White House**

As of December 31, 2005:

Number of Full Time Agency Employees (include employees detailed to another agency): **439**

Number of Special Government Employees (SGE): **0**

Number of IPAs (Intergovernmental Personnel Act): **0**

Designated Agency Ethics Official (DAEO)

DAEO Name: **Harriet E. Miers**

DAEO Title: **Counsel to the President**

Identify the length of time the DAEO has held the position: **Less than 1 Year**

Approximate percent of the DAEO's time spent on ethics: **0**

Alternate Designated Agency Ethics Official (ADAEO)

ADAEO Name: **Richard W. Painter**

ADAEO Title: **Associate Counsel to the President**

Identify the length of time the DAEO has held the position: **Less than 1 Year**

Approximate percent of the Alternate DAEO's time spent on ethics: **100**

Do you have designated Deputy DAEO(s)? **No**

Please specify the Name and Title of each designated Deputy DAEO:

Does your agency have regional or field office ethics officials? **No**

Functional location(s) of regional/field ethics officials:

Check all that apply. 'Other':

Total number of ethics officials who worked in the ethics program in 2005:

	Full Time	Part Time
Headquarters Ethics Officials	12	0
Regional or Field Office Ethics Officials		

Is the ethics program a separate budgeted item? **No**

Comments: **Comment for "Name and title of the DAEO" - 1/1/2005-2/3/2005 - Alberto R. Gonzales Counsel to the President; Comment for "Approximate percent of the DAEO's time spent on ethics" - The Counsel to the President is briefed daily on ethics issues and dedicates the substantial time necessary to lead and maintain an excellent ethics program; Comment for "Name and title of the ADAEO" - 1/1/2005-2/18/2005 - Nanette R. Everson Associate Counsel to the President; Comment for "Total number**

of ethics officials who worked in the ethics program in 2005" -This figure includes two on-staff White House Office employees and several detailees who are assigned to the ethics office from executive branch agencies.

Part 2. Program Administration

Please rate the amount of time you spend administering the following items:

Item	Time
Public financial disclosure system:	Moderate amount of time (3)
Confidential financial disclosure system:	Limited amount of time (2)
Outside activity approval system:	Limited amount of time (2)
Written opinions and counseling:	Extreme amount of time (5)
Education and training:	Extreme amount of time (5)
Disciplinary process for violations:	No time (1)
Special Government Employees' activities:	No time (1)
Developing information technology applications for any aspect of the ethics program:	No time (1)

Please indicate which ethics program area(s) your agency contracted out (outside the Government), in 2005:

Check all that apply. **None** 'Other':

Provide a brief description and the outcome of the ethics program area(s) your agency contracted out (optional):

Did your agency perform an internal ethics program review (formal self evaluation, IG review, etc.) in 2005? **Yes**

What organization within your agency conducted the review?

Check all that apply. **Other** 'Other': **Self-review**

Were you provided feedback from the review? **No feedback provided**

Comments: **Comment for "Were you provided feedback from the review?" - no answer marked.**

Part 3. Education and Training

Number of employees **required to receive** initial ethics orientation: **207**

Number of employees who **actually received** initial ethics orientation: **203**

How often do you provide initial ethics orientation? **Other 'Other': Monthly group sessions and individual briefings**

Number of Employees who received annual ethics training (include all types of training):

	Required to Receive annual ethics training	Actually Received annual ethics training
SF 278 filers (PAS)	0	
SF 278 filers (Non-PAS)	124	
OGE Form 450 Filers	16	
Others	0	

If the number of employees required to receive annual training is different than the number of employees that actually received annual training, provide a brief explanation: **White House employees were required to attend mandatory general ethics and classified information briefings in 2005 - 821 employees attended the briefings.**

Number of PAS officials who received one-on-one annual ethics training:

How do you ensure that your required employees receive annual ethics training?
Check all that apply. **Attendance Rosters, Training Management System 'Other':**

Identify the topical areas in which training was provided:

Check all that apply. **Fourteen Principals of Ethical Conduct, Conflicting Financial Interests, Gifts, Post Employment, Impartiality, Seeking Employment, Misuse of Position, Hatch Act, Outside and Representational Activities, Other 'Other': Classified information responsibilities**

What kinds of training methods and materials did you use for your training?

Check all that apply. **Written Materials, Individual Briefings, Other 'Other': Actual case studies**

What kinds of written materials did you use for your training?

Check all that apply. **Copies of the Standards of Conduct and/or agency supplemental regulations, Summaries of the Standards of Conduct, Pamphlets/Brochures, Newsletters, Self-study manual, Hypothetical case studies**

What kinds of videos did you use for your training?

Check all that apply.

Comments:

Part 4. Ethics Opinions, Advice and Counseling

Please rate the frequency with which you provided opinions, advice and counseling for the following topics:

Topic	Frequency
Outside employment/activities:	Periodically (3)
Post-employment restrictions:	Periodically (3)
Conflicting financial interests:	Very Frequently (5)
Awards:	Periodically (3)
Impartiality in performance of official duties:	Frequently (4)
Misuse of position, Government resources and information:	Frequently (4)
Travel, subsistence, and related expenses from non-Federal sources:	Periodically (3)
Gift acceptance, excluding awards and travel, subsistence, and related expenses from non-Federal sources:	Frequently (4)

Who is authorized to provide written advice on standards of conduct and conflict of interest statutes? If the DAEO is the General Counsel, please mark DAEO.

Check all that apply. **DAEO/Alternate DAEO/Deputies/Ethics Officials 'Other':**

How does your DAEO or HQ ethics office ensure that accurate opinions, advice and counsel are provided to employees?

Check all that apply. **Review all written opinions,Discuss verbal opinions prior to providing them to employees,Conduct periodic discussions with staff**

'Other':

Comments:

Part 5. Enforcement of Standards of Ethical Conduct, Criminal and Civil Statutes

Report the number of disciplinary actions taken based wholly or in part upon **violations of the standards of ethical conduct provisions (5 C.F.R. part 2635)**. For purposes of this

question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents: **0**

Report the number of disciplinary actions taken based wholly or in part upon **violations of the criminal conflict of interest statutes, 18 U.S.C. §§ 203, 205, 207, 208, and 209**. For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents: **0**

Report the number of referrals of potential violations of the criminal conflict of interest statutes: **0**

Which office(s) within your agency make referrals of potential violations of the criminal conflict of interest statutes, 18 U.S.C. §§ 203, 205, 207, 208, and 209, to the Department of Justice, including offices of U.S. Attorneys?

Check all that apply. **DAEO (Ethics Officials)** 'Other':

Which office(s) are responsible for notifying OGE when a referral of a potential violation of the criminal conflict of interest statutes have been made to the Department of Justice, including the U.S. Attorneys?

Check all that apply. **DAEO (Ethics Officials)** 'Other' :

Comments:

Part 6. Public Financial Disclosure

2005 Total Public Financial Disclosure Reports (SF 278):

	Nominee/ New Entrant		Annual		Termination		Combination		Total	
	Req	Filed	Req	Filed	Req	Filed	Req	Filed	Req	Filed
PAS									0	0
Non-Career SES									0	0
Career SES									0	0
Schedule C									0	0
Other	36	36	75	75	31	31	2	2	144	144
Total	36	36	75	75	31	31	2	2	144	144

Does your agency require an intermediate review by someone other than an ethics official of all SF 278s? **No**

Number of Schedule C employees exempted from the filing requirement by OGE:

Number of filers who requested filing extensions: **0**

Number of filers who were granted filing extensions: **0**

Number of filers who requested waivers of the late filing fee: **0**

Number of filers who were granted waivers of the late filing fee: **0**

Number of filers who paid the late filing fee: **0**

Number of requests your agency received for public release of SF 278s:

Number of individual SF 278 reports requested to be released:

Number of PAS SF 278 reports requested:
 Number of non-career SES SF 278 reports requested:
 Number of career SES SF 278 reports requested:

Number of public financial disclosure filers who took specific corrective or remedial (nondisciplinary) actions in 2005: **2**

Number of 18 U.S.C. § 208(b)(1) waivers granted to public financial disclosure filers:

Comments: **Comment for question "Report the total number of public financial disclosure reports required to be filed in 2005, and the total number of reports actually filed" - Other - 3 detailees/assignees filed with home agency; 13 employees moved to covered positions elsewhere in the executive branch; Comment for "Number of requests your agency received for public release of SF 278s" - All reports of very senior and senior officials are made available to the Office of the Press Secretary for release to the public**

Part 7. Confidential Financial Disclosure

Total number of confidential financial disclosure reports (OGE form 450 and alternative approved form) **required** to be filed by permanent full-time employees in 2005, **excluding SGEs: 16**

Number of OGE form 450s, OGE form 450As, or alternate OGE approved forms **actually filed, excluding SGEs:**

OGE 450: **16**

OGE 450A:

Alternative OGE approved form:

Does your agency require an intermediate review by someone other than an ethics official of all OGE form 450s? **No**

Number of confidential financial disclosure filers who took specific corrective or remedial (nondisciplinary) actions in 2005: **1**

Number of 18 U.S.C. § 208(b)(1) waivers granted to confidential financial disclosure filers: **0**

Comments:

Part 8. Advisory Committees/Special Government Employees

Number of Advisory Committees (do not include Federal Advisory Committees (FACA)): **0**

Number of advisory committee members (do not include FACA members): **0**

Number of FACA advisory committees: **0**

Number of FACA advisory committee members: **0**

Does your agency provide ethics program services for any boards or commissions that are independent of your agency? **No**

Please provide the names of the boards and commissions that your agency provides ethics program services.

Number of SGEs who served as advisory committee members or as experts/consultants and who were required to file financial disclosure reports in 2005. Include the total number who actually filed.

	Confidential Reports		Public Reports	
	Required	Filed	Required	Filed
Advisory Committee Members				
Experts/Consultants	1			
Board Members				
Commissioners				
Total	1	0	0	0

Please specify the 'Other' SGEs who served as advisory committee members or as experts/consultants and who were required to file financial disclosure reports in 2005.

Number of SGE filers who took specific corrective or remedial (nondisciplinary) actions in 2005. **0**

Number of § 208(b)(1) waivers granted to SGE's: **0**

Number of § 208(b)(3) waivers granted to SGE's: **0**

Comments: **For "Number of SGEs who served as advisory committee members or as experts/consultants and who were required to file financial disclosure reports in 2005." - note for confidential reports filed - N/A, per 5 C.F.R. section 2634.905(a) and (b)**

Part 9. General Comments: Use the space below for any general comments or overflow comments:

The White House submitted their questionnaire in hard copy. OGE entered information into online version.

Previous

Next

Senate Homeland Security and Government Affairs
Committee Questionnaire

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Walter M. Shaub Jr. to be
Director, U.S. Office of Government Ethics

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Director of the Office of Government Ethics (OGE)?
2. Were any conditions, express or implied, attached to your nomination? If so, please explain.
3. What would be your priorities as Director of the Office of Government Ethics?
4. What specific background and experience affirmatively qualifies you to be OGE Director?
5. Have you made any commitments with respect to the policies and principles you will attempt to implement as Director? If so, what are they, and to whom were the commitments made?
6. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures and/or criteria that you will use to carry out such a recusal or disqualification.

II. Role and Responsibilities of the Director, U.S. Office of Government Ethics

7. Why do you wish to serve as the Director of the Office of Government Ethics?
8. What do you consider to be your most significant accomplishments and achievements during your time as Deputy General Counsel of the Office of Government Ethics?
9. How do you view the role of the Director of OGE? What are the major components of the Director's role and how would you direct your focus in fulfilling this role?
10. If confirmed, what do you hope to achieve during your term as OGE Director? In what ways would your previous experience as OGE Deputy General Counsel help to inform and guide your decisions?

11. What do you see as the principal mission of OGE? What do you see as its principal responsibilities?
12. What do you see as the major internal and external challenges facing OGE? If confirmed, what steps would you take to address these challenges? Describe the skills and experience that you have that will prove helpful in effectively managing the agency and meeting these challenges.
13. How can your leadership as Director make a difference in ensuring that ethics is an integral part of agencies' cultures and day-to-day operations?

III. Policy Questions

14. If confirmed, do you foresee making any significant revisions to OGE's current organizational structure?
15. The federal government is increasingly relying on a multi-sector workforce to meet agency missions. Federal, state, and local civil servants (whether full- or part-time, temporary or permanent); uniformed personnel; and contractor personnel often work on different elements of program implementation, sometimes in the same workplace, but under substantially different governing laws; different systems for compensation, appointment, discipline, and termination; and different ethical standards.
 - a. What challenges does this pose for OGE in preventing conflicts of interest and improving the public's confidence that government actions are taken in accordance with the highest ethical standards?
 - b. In your view, what is OGE's role in preventing conflicts of interest among the various workforce sectors?

Federal Government Ethics Programs

16. Based on your experience, what is your view about how effectively federal government ethics programs are being implemented? Do you have suggestions about how these programs could be improved? Please explain.
17. How would you measure the performance of agency ethics programs in fostering ethical conduct at agencies? What qualitative and performance measures should be used by ethics offices throughout the federal government for assessing and reporting on their performance? Are any changes needed in this regard? Should these measures be publicly reported, such as in agencies' annual performance and accountability reports?

18. For Designated Agency Ethics Officials (DAEOs) to best fulfill their functions, how valuable and important do you believe it is for them to be fully independent from agency heads? How valuable and important do you believe it is for DAEOs to be known within the agency as having a close and trusting relationships with the agency head and to have the agency head's full support? Considering such factors, what is your view as to the adequacy of independence of DAEOs? Is it desirable and appropriate that the responsibility for selecting DAEOs resides with agency heads, or should OGE have responsibility for selecting DAEOs and managing and directing their activities? Do you believe any other such approaches or actions would be desirable to enhance the DAEO's effectiveness?
19. Compliance with ethical rules is a minimum standard of conduct. It is important for ethics programs to emphasize ethical behavior and leadership in addition to addressing compliance issues. What are your views on the role of OGE in helping department and agency leaders instill an understanding of the importance of ethics programs and requirements and spearheading efforts to adopt ethical principles throughout the organization?
20. OGE periodically reviews the effectiveness of agencies' ethics programs and seeks improvements. What is your opinion of OGE's record in conducting such periodic reviews, including the scope, thoroughness, frequency, effectiveness of these reviews? What, if any, improvements with respect to agency reviews are necessary?
21. Based on your experience with, and observations of, the federal government's ethics program, are there aspects of that program that you believe are particularly problematic? For example, are there important requirements that are not being adequately enforced or complied with, or do current requirements leave significant loopholes that should be closed? Are there important requirements that are difficult or impossible to understand or apply in practice, or that are unreasonable or unenforceable?

Financial Disclosure

22. The Office of Government Ethics is tasked with reviewing financial disclosures filed by federal employees in the executive branch. In your view, are changes needed to financial disclosure forms? What are the advantages or disadvantages in modifying the financial disclosures requirements?
23. Generally, what do you believe are the goals of financial disclosure under the Ethics in Government Act (EGA)? Do you believe there are any unintended adverse consequences of such financial disclosure? How well do you believe the EGA as currently implemented fulfils the goals without imposing undue adverse consequences? Do you have any suggestions for improvements in either the legislation or its implementation?

24. In cases in which an official has entered into a recusal agreement involving the official's former clients and current clients of the official's former business partners, there have been instances where up-to-date information has not been available to the agency.
- How important do you believe it is that the agency's ethics personnel have accurate and up-to-date information regarding those clients? Please explain.
 - If you agree it is important, how should this need for accurate up-to-date information be satisfied and what do you view as OGE's role in providing or reviewing this information?
25. When OGE reviews the financial disclosures and draft ethics agreements of nominees, do you believe that OGE should satisfy itself that the information necessary to ensure the nominee's compliance with, and the policing of, the ethics agreements – including up-to-date information regarding the current clients of a former partner from whom the nominee would be recused – will be available? How would you as Director accomplish this? What is OGE's role in enforcing signed ethics agreements of nominees and other executive agency personnel?
26. Some believe that the Director of OGE must be insulated from political pressure, to ensure the Director is not forced to compromise on necessary action or encouraged to deviate from the normal application of ethical requirements with respect to a particular individual. Do you agree that the Director of OGE must act independently and free from political pressure? If so, how would you, if confirmed, maintain this independence and freedom from pressure?

Human Capital Management

27. Please describe your experience in building and maintaining a high-performing workforce needed to achieve desired results (getting the right employees for the job and providing the training, structure, incentives, and accountability to work effectively).
28. What do you believe to be the major personnel management challenges facing OGE in the coming years, and what would be your plan, if confirmed as Director, to address those challenges?
29. What are your views and experience with respect to fostering productive communication between management and employees to draw on the strengths of employees at all levels? What preliminary ideas do you have to promote such communication?
30. Based on your experience, what have you found to be the best approach for motivating employees to achieve excellence? What would be your approach for creating and maintaining a high-performing organization at OGE?

Ethics Requirements

31. How would you, as Director, respond to congressional requests for access to documents and information regarding individual ethics cases or regarding OGE's advice, opinions, or conclusions about such cases? Under what kinds of circumstances, if any, might you accede to or refuse to accede to such requests?
32. Under section 102(a)(6)(B) of the Ethics in Government Act, a nominee does not have to disclose information on Form 278 about the source of compensation in excess of \$5,000 if such information "is considered confidential as a result of a privileged relationship, established by law, between such individual and any person."
- a. Under what kinds of circumstance do you believe an omission from disclosure under this provision should be acceptable? For example, when, if ever, should a lawyer be allowed to omit disclosing information about a former client because the lawyer and client entered into a confidentiality agreement? How should OGE act to determine whether that standard has been correctly applied?
 - b. If a filer uses this authority to omit information from disclosure, do you believe the filer should be required to state on the form that information is being omitted? Should the filer be required to inform OGE or the employing agency that information is being omitted? Do you believe that applicable laws or regulations should be changed to impose or clarify any such requirement?
 - c. What would you do as Director to ensure that any omissions under this authority are proper?
 - d. If confirmed, what would you do as Director to ensure that, when information is properly omitted, recusal agreements are entered into and subsequently policed to avoid conflicts of interest?
33. In 1996, in response to a congressional letter requesting that OGE investigate allegations of a potential violation of ethics requirements, the then-Director expressed the opinion that:

"[OGE] is not an investigatory agency. Rather it serves in an advisory and policymaking role for the executive branch. Investigations of possible misconduct by employees of the executive branch are carried out by the Inspector General of the agency which the employee serves and/or the Department of Justice." (OGE Advisory Opinion 96 x 19, October 18, 1996.)

Please explain whether you agree with this statement and why.

34. Section 402 of the Ethics in Government Act authorizes the Director of OGE to order corrective action on the part of agencies and employees that the Director deems necessary.
- a. Please describe the circumstances under which, and the manner in which, you would exercise such authority, and the circumstances in which you would not exercise such authority.
 - b. What actions would you take when a violation of the ethics requirements occurs and the head of the agency involved fails to take disciplinary action? What actions do you believe OGE has the authority to take under such circumstances?
 - c. What action would you take when OGE determines that a violation of the ethics requirements may have occurred, but the head of the agency involved fails to conduct the additional investigation that OGE believes is required? If the agency declines to take an action that OGE deems warranted, what steps would you then take as Director to ensure compliance?
35. Under 18 U.S.C. § 208(b)(1), a federal official who is negotiating for, or has an arrangement for, post-government employment may seek a waiver of conflict-of-interest requirements by showing that the conflict is not “so substantial” that it would “affect the integrity” of his or her work for the government.
- a. When a Senate confirmed Presidential appointee seeks a waiver, what role, if any, do you believe the Office of the Counsel to the President or others in the White House should play in reaching a decision on whether such a waiver should be granted?
 - b. What role, if any, do you believe OGE should play in working with the agencies, and any others in the Administration, in meeting the requirements of 18 U.S.C. § 208(b)(1)?
 - c. What criteria do you believe should be applied in deciding whether to waive conflict-of-interest requirements to enable a federal officer or employee to negotiate for outside employment? What procedural safeguards and documentation should be required?
 - d. Under what circumstances, if any, do you believe that the granting of a waiver enabling an officer to negotiate for post-government employment should be made public?
36. On January 21, 2009, President Obama issued Executive Order 13490, entitled “Ethics Commitments by Executive Branch Personnel” requiring full-time non-career appointees of executive agencies to sign a pledge committing the appointee to follow the ethical obligations contained in the Executive Order. Among other things, the Executive Order

directs agencies to work in consultation with OGE to ensure compliance with certain requirements of the Executive Order. It also directs the OGE to work in consultation with the Attorney General and the Counsel to the President to adopt rules and procedures necessary to carry out certain of the responsibilities contained in the order, including to apply to executive branch employee the lobbyist gift-ban of the pledge contained in the Executive Order, and to “authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban.

- a. What has been OGE’s experience with respect to the implementation of Executive Order 13490?
- b. In what ways do you believe this Executive Order significantly improved OGE’s ability to raise ethical standards, compared to prior practice?
- c. In what ways do you believe this Executive Order can be improved?

IV. Independence of OGE

37. Generally, with respect to which, if any, of OGE’s functions and responsibilities do you believe OGE and its Director should strive to serve the programs and interests of the Administration?
38. With respect to which, if any, of OGE’s functions and responsibilities, and under what kinds of circumstances, do you believe it is desirable or appropriate for the Director of OGE to seek the guidance or approval of any officer or employee of the White House, the Executive Office of the President, or any other governmental agency? Please explain.
39. Under what kinds of circumstances, if any, do you believe it is desirable or appropriate for OGE to consult with the White House as part of OGE's determination of whether a federal officer or employee has complied with his or her obligations or of what action OGE would take if it determines the officer or employee has not complied?
40. Under what kinds of circumstances, if any, do you believe it is desirable or appropriate for OGE to consult with the White House as part of its determination of what opinion or advice to give to an agency, officer, or employee with respect to interpreting ethics laws or other requirements? Please explain.

V. Relations with Congress

41. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

42. Do you agree, without reservation, to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

VI. Assistance

43. Are these answers your own? Have you consulted with the Office of Government Ethics or any interested parties in drafting these answers? If so, please indicate which entities.

AFFIDAVIT

I, _____, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Subscribed and sworn before me this ____ day of _____, 2012.

Notary Public

OGE Program Review Guidelines

Standard Initial OGE Directive Requiring
Production of Agency-Specific Information
in Connection with a Program Review



Color Key	
◇	Decision Point

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PRE-REVIEW	PRB Chief	Send review notification email and Request for Materials to agencies previously selected for review. For quarterly reviews, email should be sent one month in advance of upcoming quarter. Inspections/single-issue reviews may be sent with sufficient lead time to allow agencies to prepare for inspection/review.	Request materials are sent to PRB Program Analysts assigned to review.
PRE-REVIEW	◇ PRB Chief	Determine if review schedule requires modification based on agency responses, agency requests for extensions, ongoing reviews and available staff. Consult with DD for Compliance on review schedule modification.	
PRE-REVIEW	◇ DD for Compliance	Modify review schedule, as necessary.	
PRE-REVIEW	PRB Chief	Issue notice of review to agency DAEO, along with lists of pre-review materials and pre-review questions. Request a list of possible interviewees who can respond to the ethics program elements identified in the notice of review.	
PRE-REVIEW	DD for Compliance	Notify OGE Division Heads of upcoming reviews, and extend invitations for participation by their respective staff.	
PRE-REVIEW	PRB Program Analyst	Print new Review Procedures Job Aid. Keep Job Aid with work papers until review is complete and Job Aid has been signed.	
PRE-REVIEW	PRB Program Analyst	In the agency folder on the network, create a new folder for the review. Copy the folder “ 20XX ” from: <i>J:\WORKING\prd\Agency Folders\00 - Agency Folder Template\Program Reviews</i> Paste it in the agency’s “ Program Reviews ” folder and rename it with the new fiscal year.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PRE-REVIEW	PRB Program Analyst	Provide PRB Metrics Monitor with <i>Agency Name, PRB Team Lead, PRB Team Member(s)</i> .	Maunda Charles is the PRB Metrics Monitor for this step.
PRE-REVIEW	PRB Metrics Monitor	Update Issue Tracker with new review information. Update: <i>Last Review, Other Review Dates, PRD Team Lead, PRD Team Member(s)</i> . The issue tracker is located at: <i>J:\WORKING\prd\PRB Agency Review and Issue Tracker</i>	
PRE-REVIEW	PRB Program Analyst	Notify PRB Chief if agency has not provided materials for pre-review by due date.	
PRE-REVIEW	PRB Chief	Contact agency and request pre-review materials with revised due date.	
PRE-REVIEW	◇ PRB Chief	Notify DD for Compliance if agency has not provided materials for pre-review by revised due date. Determine if due date or review schedule requires further revision.	
PRE-REVIEW	◇ DD for Compliance	Approve revised review schedule or contact agency and request pre-review materials with revised due date. Further escalation on case-by-case basis.	
PRE-REVIEW	PRB Program Analyst	Receive pre-review materials and agency responses to pre-review questions. Store electronic materials and responses the appropriate electronic work paper folder: <i>J:\WORKING\prd\Agency Folders\AGENCY\Program Reviews\Year\Work Papers</i> Obtain from agency the list of officials with whom the review team should meet during fieldwork.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PRE-REVIEW	PRB Program Analyst	<p>Prepare new Review Findings Database that contains the detailed steps to be followed by the reviewer for each ethics program element.</p> <p>Copy blank Review Findings Database file (<i>J:\WORKING\prd\Reviewer Tools\Review Findings Database</i>) to work papers and rename the file with the agency name and fiscal year of the review: “Year Agency.accdb”</p>	The notes section for each step in the Review Findings Database is completed to document the information gathered for that particular step. If a particular step is not applicable during a review, enter “N/A” in the notes section.
PRE-REVIEW	PRB Program Analyst	<p>Build agency-specific review binder. Binder sections should be tabbed in the following ethics program element sequence and mirror the report layout.</p> <ul style="list-style-type: none"> • Tab 1 – Program Administration • Tab 2 – Financial Disclosure • Tab 3 – Education and Training • Tab 4 – Advice and Counsel • Tab 5 – Agency-Specific Ethics Rules • Tab 6 – Conflict Remedies • Tab 7 – Enforcement • Tab 8 – Special Government Employees • Tab 9 – 1353 Travel Acceptances • Tab 10 – Correspondence & Other 	The binder sections are to be filled out with the applicable pre-review materials received from the agency. The binder sections are subsequently updated with additional documentary information obtained for each program element during the course of the review. At the end of fieldwork, just prior to report writing, print and attach the Review Findings Database printouts for each program element as the <i>first</i> work paper of each section.
PRE-REVIEW	PRB Program Analyst	Complete Pre-Review steps in Review Findings Database. Note any Onsite and/or Interview steps in the Review Findings Database for possible completion based on pre-review material.	
PRE-REVIEW	◇ PRB Program Analyst; PRB Chief	<p>Discuss review program elements, possible significant issues identified during Pre-Review, and proposed list of agency interviewees. Consult on course of action, as necessary.</p> <p>PRB Chief to consider expanding scope of single-issue/targeted review or inspection.</p>	Significant issues may include: Noticeable deficiencies within an ethics element (Financial Disclosure, Education and Training, Advice and Counsel, SGEs), uncooperative/confrontational ethics officials.

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PRE-REVIEW	PRB Program Analyst	Set up entrance conference and fieldwork dates. Notify Agency Assistance Branch Chief of entrance conference date and extend invitation to attend. Record entrance conference and fieldwork dates on Review Procedures Job Aid.	The appropriate agency contact, as listed in FDTS, is to be contacted to establish the entrance conference date and the fieldwork dates.
PRE-REVIEW	◇ OGE Division Heads	Determine if staff should be assigned to attend entrance conference/fieldwork.	
PRE-REVIEW	PRB Program Analyst	Prepare fieldwork materials including: <ul style="list-style-type: none"> • Entrance Conference template • Model Practices handout All found at: J:\WORKING\prd\Reviewer Tools\ • Onsite and Fieldwork note-takers (printed from the Review Findings Database) • Any Pre-Review follow-up questions. 	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FIELDWORK	PRB Program Analyst	Conduct entrance conference. Discuss review evaluation. Provide agency with Model Practices and Review Evaluation handouts.	
FIELDWORK	PRB Program Analyst	Conduct fieldwork. Complete onsite and interview steps from database. Conduct interviews with individuals or panels, as necessary. Complete financial disclosure spreadsheet. Complete any outstanding pre-review steps. Complete fieldwork section of Review Procedures Checklist. Mark off Review Procedures Checklist check boxes as each step is completed.	<u>278s</u> : Sample as a daily control of high risk (maximum of 40 reports in each category if available – new entrant, annual, termination) for a total maximum sample of 120 reports. <u>450s</u> : Sample a daily control of medium risk (maximum of 30 reports in each category if available – new entrant, annual) for total maximum sample of 60 reports.
FIELDWORK	PRB Program Analyst	Transcribe notes from entrance conference and all fieldwork to the review database.	All interview notes and other relevant reviewer observations are to be entered into the appropriate review database steps and entrance conference template.
FIELDWORK	◇ PRB Program Analyst	Propose to PRB Chief the advice and counsel samples to provide to OGC for consultation.	Select advice and counsel samples where issues are novel or complex.
FIELDWORK	◇ PRB Chief	Select the samples of advice and counsel to be provided to OGC for consultation.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	PRB Program Analyst	Copy report template from: <i>J:\WORKING\prd\Reviewer Tools\Report Template</i> Save report and all subsequent drafts in the agency folder in: <i>J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Work Papers\00 Draft Reports</i>	
DRAFTING	◇ PRB Program Analyst	Prepare initial review findings and meet with PRB Chief to discuss.	Discussion points may include proposed changes to the scope, timing, and direction of the review.
DRAFTING	◇ PRB Chief	Determine if sufficient, appropriate review evidence has been obtained by PRB Program Analyst to provide a reasonable basis for conclusions and recommendations; directs additional fieldwork as necessary. Determine if any issues identified during fieldwork affect the drafting of the report or require changes to scope, timing, or direction of the review or require further review within OGE. Determine if review plan and strategy must be adjusted, including nature, timing, and extent of review.	Issues may include significant program deficiencies, further OGE review of advice and counsel samples, or other extraordinary circumstances.
DRAFTING	PRB Program Analyst	Draft report. <ul style="list-style-type: none"> • Recommendations should be written, if possible, to require an action plan to resolve issues. • When possible, establish with agency an agreed-upon plan for addressing proposed recommendations. Document in report. • Suggestions should be incorporated into the body of the report and not separately bulleted. 	Report content is to be drawn from the filled out review database steps for each program element and from other documents obtained during the course of the review. PRB Program Analyst must ensure that the report contents are factually accurate, logically consistent, and properly formatted.
DRAFTING	PRB Program Analyst	Provide electronic copy of Draft report to PRB Chief and schedule meeting to review draft report.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	◇ PRB Chief	Review Draft report. Determine if content is logical, accurate, consistent, properly formatted, and provides a reasonable basis for conclusions and recommendations. Provide edits and directions for additional fieldwork, as necessary. Approve Draft report after incorporation of necessary modifications. Determine if any issues identified in the Draft report, including recommendations, involve complex or novel policy issues that should be raised with OGE Division Heads and/or the OGE Director.	
DRAFTING	◇ PRB Chief; DD for Compliance	Meet to determine if recommendations or issues identified in the Draft report should be raised with OGE Division Heads and/or the OGE Director.	
DRAFTING	PRB Chief	Notify OGE Division Heads of the completion of Draft report. Invite them to have staff members attend a preliminary message briefing on the initial results of fieldwork.	
DRAFTING	◇ OGE Division Heads	Determine if staff should be assigned to preliminary message briefing.	
DRAFTING	◇ OGE Division Heads	Determine if results of fieldwork require further discussion.	
DRAFTING	PRB Program Analyst	Complete preliminary edits to Draft report to address feedback from PRB Chief. Prepare Discussion Draft report for review by PRB Chief.	Draft report becomes Discussion Draft report (to be sent to agencies for comment/discussion) upon completion of preliminary edits from PRB Chief.
DRAFTING	PRB Chief	Review Discussion Draft to ensure that appropriate edits were incorporated.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	PRB Program Analyst	Complete final edits to Discussion Draft report.	
DRAFTING	PRB Program Analyst	Index Discussion Draft report. Sign and date Review Procedures Job Aid when indexing is complete.	The draft report is to be indexed using the comments feature in MSWord to ensure that each agency-specific fact presented in the report is supported by an underlying source document. The source documents include the database steps for each program element that are now filed in the review binder and other documents filed in the review binder that were obtained during the course of the review. LINK?
DRAFTING	PRB Program Analyst	Reference Discussion Draft report. Referencer: sign and date Review Procedures Job Aid when referencing is complete and all issues found during referencing are resolved.	Once indexed, the indices are to be verified by a PRB Program Analyst not involved in the review. The reference is to follow the indices to the source and verify that the source documents support the facts presented in the report.
DRAFTING	PRB Program Analyst	Email the completely referenced Discussion Draft report to the agency. Provide 1-2 weeks for informal agency comments depending on report length/complexity. Tailor appropriately stock transmittal language (found here): J:\WORKING\prd\Reviewer Tools\Stock Language	
DRAFTING	PRB Program Analyst	Notify PRB Chief if agency has not provided comments by the due date.	
DRAFTING	PRB Chief	Contact agency and request comments with revised due date.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	◇ PRB Chief	Notify DD for Compliance if agency has not provided comments by revised due date. Determine if due date requires further revision.	
DRAFTING	◇ DD for Compliance	Approve revised due date and request comments with revised due date. Further escalation on case-by-case basis.	
DRAFTING	PRB Program Analyst	Receive agency response to Discussion Draft report. Store electronic agency response in the electronic work paper folder: <i>J:\WORKING\prd\Agency Folders\AGENCY\Program Reviews\Year\Work Papers\10 Correspondence & Other</i>	
DRAFTING	◇ PRB Program Analyst; PRB Chief	Determine if agency comments require substantive changes to the report. Notify PRB Chief of any substantive changes and consult on course of action, as necessary.	
DRAFTING	PRB Program Analyst	Prepare Final Draft and Transmittal Letters for DAEO, Agency Head, and IG (if applicable) for review by PRB Chief. Incorporate any changes, as applicable, from agency comments.	Discussion Draft report becomes Final Draft report (to be sent to agencies for formal comments) upon inclusion of any changes resulting from any informal comments. Verify accuracy of addressees with agency ethics officials.
DRAFTING	PRB Chief	Review Final Draft report and Transmittal Letters to ensure that all further edits have been appropriately incorporated into the report.	
DRAFTING	PRB Program Analyst	Complete any final edits to the Final Draft report and Transmittal Letters . Review for spelling, grammar, and typos.	Pay particular attention to words that will not trigger spell check.

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	PRB Program Analyst	Forward Final Draft report and Transmittal Letters to OGE Director for review and approval prior to sending to agency for formal comment. Create and save CD Routing slip and use the Routing Slip Instructions here: J:\WORKING\prd\Admin\Documents and Templates\Memos to Director	Ensure that documents are sent in the appropriate format for OGE Director's review.
DRAFTING	PRB Program Analyst	Prepare Chronology File package for DD for Compliance. Create and save cover page for package using the template here: J:\WORKING\prd\Admin\Documents and Templates\Memos to Director\Chron File	The chronology file is a duplicate of the review packet that was sent to the OGE Director.
DRAFTING	PRB Chief	Update Chronology File of DD for Compliance	
DRAFTING	◇ PRB Program Analyst; PRB Chief; DD for Compliance	Address edits/comments to Final Draft or Transmittal Letters received from OGE Director.	
DRAFTING	PRB Program Analyst	Revise Final Draft or Transmittal Letters , if necessary, and resubmit to OGE Director for review and approval prior to issuance, if required.	
DRAFTING	PRB Program Analyst	Send the Final Draft report to the agency. Inform the agency that they have one week to provide comments (email or formal). If the agency prefers to send a formal, signed PDF version of their comments, request a MS Word version of the comments for 508-compliance. Remind agency that the 60-day response to recommendations is mandatory, unless waived by OGE (typically when recommendations are already adequately addressed in the formal comments).	
DRAFTING	PRB Chief	Invite Agency Assistance Branch Chief to discuss review findings.	
DRAFTING	PRB Program Analyst	Notify PRB Chief if agency has not provided formal comments by due date.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	PRB Chief	Contact agency and request formal comments with revised due date.	
DRAFTING	PRB Chief	Notify DD for Compliance if agency has not provided formal comments by revised due date.	
DRAFTING	◇ DD for Compliance	Determine if due date should be further revised or report should be published without formal comments. Further escalation on case-by-case basis.	
DRAFTING	PRB Program Analyst	Save the agency PDF and/or MS Word comments to: <i>J:\WORKING\prd\Agency Folders\AGENCY\Program Reviews\Year\Work Papers\10 Correspondence & Other</i>	
DRAFTING	PRB Program Analyst	Add brief or emailed comments directly to the MS Word version of the report in the "Agency Comments" section. If the agency provided a separate, formal document, the "Agency Comments" section should reflect the addition of that document at the end of the report.	
DRAFTING	PRB Program Analyst; PRB Chief	Meet to discuss if agency comments will require review by OGE Director prior to report issuance. Revise report and resubmit to OGE Director/Agency as necessary.	
DRAFTING	PRB Program Analyst	Schedule exit conference. Check appropriate box on Review Procedures Job Aid identifying the Exit Conference date or the date Exit Conference was declined by agency, if not required by OGE to conduct additional follow-up.	
DRAFTING	PRB Program Analyst	Notify Agency Assistance Branch Chief of exit conference date and extend invitation to attend.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
DRAFTING	PRB Program Analyst	<p>Prepare materials for exit conference. Use exit conference template here:</p> <p><i>J:\WORKING\prd\Reviewer Tools\Exit Conference Template</i></p> <p>Include discussion of issues identified during report. Document on exit conference template all verbally conveyed findings and suggestions that are not included in the report.</p>	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PUBLICATION	PRB Program Analyst	Provide Review Procedures Job Aid to the PRB Chief and request a report number.	
PUBLICATION	PRB Chief	Verify completion of Job Aid to this point. Provide report number. Enter report number into Issue Tracker and Report Number spreadsheets.	
PUBLICATION	PRB Program Analyst	Record report number provided by PRB Chief on the Review Procedures Job Aid.	
PUBLICATION	PRB Program Analyst	Insert report number onto the report.	
PUBLICATION	PRB Program Analyst	Print dated, completed Transmittal Letters and take to the DD for Compliance for signature.	
PUBLICATION	DD for Compliance	Review and sign Transmittal Letters .	
PUBLICATION	PRB Program Analyst	<p>Scan the signed Transmittal Letters. Save the signed transmittal letters to:</p> <p><i>J:\WORKING\prd\Agency Folders\AGENCY\Program Reviews\Year\Final Report</i></p>	Adjust scan settings to Ricoh/Savin printers (on left side of screen after pressing the scan button) to 400dpi to ensure a good quality scan.
PUBLICATION	PRB Program Analyst	Ensure report number, date, and page numbers are accurate on the Final Draft .	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PUBLICATION	PRB Program Analyst	Save the Final report in MS Word as " FiscalYear Agency Final Report.doc " (i.e. 2012 USDA Final Report.docx) in: <i>J:\WORKING\prd\Agency Folders\AGENCY\Program Reviews\Year\Final Report</i> Note: Following a consistent naming convention is necessary for publishing reports on the website.	Final Draft report becomes Final report upon addition of report number, date, and page numbers in table of contents.
PUBLICATION	PRB Program Analyst	Convert (Save as) to PDF and save the PDF version in the same folder. " FiscalYear Agency Final Report.pdf " (i.e. 2012 USDA Final Report.pdf)	
PUBLICATION	PRB Program Analyst	(If comments were provided in PDF format) Merge the signed PDF agency comments with the PDF Final report. From the PDF menu, select document, insert pages from file. Choose the PDF version of the agency comments.	
PUBLICATION	PRB Program Analyst	Give the PRB Program Support Assistant one hard copy of the Final report for each transmittal letter, plus one additional copy of the Final report for the OGE Director's read file. Email the PDF version of the Final report and all signed and scanned transmittal letters to the Program Support Assistant.	Veda Marshall is the PRB Program Support Assistant for this step.
PUBLICATION	PRB Program Support Assistant	Publish Follow-Up Review in accordance with publication guidelines found here: <i>J:\WORKING\prd\Admin\Publication Guidelines</i> Ensure copy of review is provided to Confidential Assistant to Director for OGE Director's read file.	Teresa Weakley is the Confidential Assistant to the Director for this step.
PUBLICATION	PRB Program Analyst	Verify with PRB Program Support Assistant that a copy of the final signed report has been sent to the OGE Director's read file.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
PUBLICATION	PRB Program Analyst	Email the report to the DAEO and any appropriate contact to the agency. Tailor appropriately stock transmittal language (found here): J:\WORKING\prd\Reviewer Tools\Stock Language Record date of report issuance on Review Procedures Job Aid.	
PUBLICATION	PRB Program Analyst	Email the report to the CD MailGroup Tailor appropriately stock transmittal language (found here): J:\WORKING\prd\Reviewer Tools\Stock Language	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
POST-REVIEW	PRB Program Analyst	Provide PRB Metrics Monitor with the necessary report data for the issue tracker, including issue date, recommendations, model practices, agency responses to recommendations, 60-day follow-up due date, and PAR data.	Maunda Charles is the PRB Metrics Monitor for this step.
POST-REVIEW	PRB Metrics Monitor	Update issue tracker based on input provided by PRB Program Analyst.	
POST-REVIEW	PRB Program Analyst	If agency requests or otherwise requires (in the case of financial disclosure), more than 60 days to clear a recommendation, consult with PRB Chief.	
POST-REVIEW	◇ PRB Chief	Discuss extension of 60-day follow-up with PRB Program Analysts and Agency (as necessary). Advise the DD for Compliance on whether to extend the 60-day response period.	
POST-REVIEW	◇ DD for Compliance	Provide agency with a revised follow-up due date (if necessary).	
POST-REVIEW	PRB Program Analyst	Add 60-day follow-up due date (if necessary) to personal Outlook Calendars of all team members. Ensure PRB Chief and PRB Calendar are “invited” to the calendar notification list.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
POST-REVIEW	◇ PRB Program Analyst; PRB Chief	If recommendations can be closed based on the agency's formal comments, discuss with PRB Chief. For follow-up review purposes, provide the PRB Metrics Monitor with the necessary information to update the issue tracker.	Maunda Charles is the PRB Metrics Monitor for this step.
POST-REVIEW	PRB Metrics Monitor	Update the issue tracker with details on recommendations that have been closed based on the agency's formal comments.	
POST-REVIEW	PRB Program Analyst	Email the final report (both MS Word and PDF versions with agency comments) to the PRB Web Team Representatives for website upload. Place the MS Word and PDF version of the final report (without transmittal letters) in: <i>J:\WORKING\prd\Admin\Reports to Migrate</i>	Maunda Charles (PSG1) and Michelle Walker (PSG2) are the Web Team Representatives for this step.
POST-REVIEW	PRB Web Team Representative	Upload final report to website. For upload, follow the procedures found here: <i>J:\WORKING\prd\PRD Responsibilities\Website Governance\Procedures to publish reports on the OGE website</i>	
POST-REVIEW	PRB Program Analyst	Check on OGE website to ensure report is published. Copy link to published report on OGE website for OGE Twitter feed. Record date of report publication on Review Procedures Job Aid.	
POST-REVIEW	PRB Program Analyst	Email name of published report and report publication date to CD Communication Outreach Group member.	Maunda Charles is the Communication Outreach Group member for this step.
POST-REVIEW	CD Communication Outreach Member	Publish tweet in accordance with OGE Policy for the Creation and Use of Official OGE Social Media Accounts: Appendix A, Twitter Policies, Procedures, and Guidelines.	
POST-REVIEW	PRB Program Analyst	Draft and forward Accomplishment Report to PRB Chief.	Accomplishment Report should include: <ul style="list-style-type: none"> • Date of report publication • Primary report contact/team lead • Brief description of report • Participants in review

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
POST-REVIEW	PRB Chief	Review and approve Accomplishment Report. Forward Accomplishment Report to the Confidential Assistant to the Director.	Teresa Weakley is the Confidential Assistant to the Director for this step.
POST-REVIEW	PRB Program Analyst	Email the following information to the PRB Web Team Representatives for upload to OGE's online report findings tracking system: (pending) <ul style="list-style-type: none"> • Agency Name • Report Number • Report Publication Date • Contact Information for PRB Chief • Text of Recommendation(s) 	Maunda Charles (PSG1) and Michelle Walker (PSG2) are the Web Team Representatives for this step.
POST-REVIEW	PRB Web Team Representative	Upload the information provided by PRB Program Analysts to OGE's online report findings tracking system. Notify PRB Program Analyst when upload is complete. (pending)	
POST-REVIEW	PRB Program Analyst	Check OGE online report findings database to confirm upload of findings. Record date of findings uploaded on Review Procedures Job Aid. (pending)	
POST-REVIEW	PRB Program Analyst	(If report has no recommendations) Save PDF of electronic work paper database (using Step 4 "Save Electronic Copy of Complete Findings") to: <i>J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Work Papers</i>	
POST-REVIEW	PRB Program Analyst	All PRB Program Analysts assigned to review: Sign and date Review Procedures Job Aid indicating initial review is complete. Check the appropriate Job Aid box to indicate if Follow-up Review is/is not required.	
POST-REVIEW	PRB Chief	Sign and date Review Procedures Job Aid indicating Job Aid steps to this point have been completed by PRB Program Analysts.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
POST-REVIEW	PRB Program Analyst	(If report has no recommendations) File hard copy work papers alphabetically in the PRB file. Use blue accordion folders for independent agencies. Use red accordion folders for sub-agencies. Label the upper right front of folder with Agency Name, FY of Review, and Folder Number (1 of 2, etc). Keep this Job Aid with the work papers. Notify PRB Chief that work papers have been filed. STOP PROCESSING JOB AID AT THIS POINT.	
POST-REVIEW	PRB Program Analyst	Place work paper binder for agency awaiting follow-up review in designated location.	
POST-REVIEW	PRB Program Analyst	If follow-up review team has not been identified by PRB Chief, notify PRB Chief two weeks prior to 60-day response due date.	
POST-REVIEW	◇ PRB Chief	Assign follow-up review team	
POST-REVIEW	◇ OGC	Notify Compliance Division whether any advice and counsel sample items provided during the plenary review warrant follow-up.	
POST-REVIEW	PRB Program Analyst	If not on the follow-up review team, notify all follow-up review team members of the 60-day response due date (by invitation to PRB calendar due date). Provide Review Procedures Job Aid and work paper binder to follow-up review team. STOP PROCESSING JOB AID AT THIS POINT.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP PRE-REVIEW	PRB Program Analyst	Print new Follow-Up Review Procedures Job Aid. Keep Job Aid with work papers until follow-up review is complete and Job Aid has been signed.	
FOLLOW-UP PRE-REVIEW	PRB Program Analyst	Send a reminder to the agency one week before 60-day recommendation response is due.	
FOLLOW-UP PRE-REVIEW	PRB Program Analyst	Notify PRB Chief if agency has not provided 60-day recommendation response by the due date.	
FOLLOW-UP PRE-REVIEW	PRB Chief	Contact agency and request 60-day recommendation response with revised due date.	
FOLLOW-UP PRE-REVIEW	PRB Chief	Notify DD for Compliance if agency has not provided 60-day recommendation response by revised due date.	
FOLLOW-UP PRE-REVIEW	◇ DD for Compliance	Contact agency and request 60-day recommendation response with revised due date. Further escalation on case-by-case basis.	
FOLLOW-UP PRE-REVIEW	PRB Program Analyst	Save 60-day recommendation response to: (scan and save hard copies) <i>J:\WORKING\prd\Agency Folders\AGENCY\Program Reviews\Year\Final Report</i>	Adjust scan settings to Ricoh/Savin printers (on left side of screen after pressing the scan button) to 400dpi to ensure a good quality scan.
FOLLOW-UP PRE-REVIEW	◇ PRB Program Analyst	Review issued report and any additional agency responses or documents provided subsequent to the issuance of the program review report. Determine if recommendations can be closed based on the 60-day recommendation response and additional documentation. Request information as necessary to close the recommendations. Proceed to FOLLOW-UP DRAFTING if sufficient information can be collected without fieldwork. Save all follow-up review documentation in: <i>J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Follow-Up Review\Follow-Up Work Papers</i>	All interview notes and other relevant reviewer observations should be saved electronically. Review Findings Database may be updated with additional follow-up review findings as necessary.

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP PRE-REVIEW	PRB Program Analyst	If fieldwork is necessary to close recommendations, set up follow-up fieldwork dates. Request a list of possible interviewees who can respond to the ethics program elements addressed during the Follow-Up Review. Notify Agency Assistance Branch Chief of follow-up fieldwork date and extend invitation to attend. Record date(s) of follow-up fieldwork on Follow-Up Review Procedures Job Aid.	
FOLLOW-UP PRE-REVIEW	PRB Program Analyst	Prepare fieldwork materials including the issued program review report, any additional agency responses or documents provided subsequent to the issuance of the program review report.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP FIELDWORK	◇ PRB Program Analyst	Conduct follow-up fieldwork. Collect information sufficient to determine if the agency has complied with OGE's recommendations. Update onsite and interview steps from database as necessary. Conduct interviews with individuals or panels, as necessary.	
FOLLOW-UP FIELDWORK	PRB Program Analyst	Transcribe notes from follow-up fieldwork.	All interview notes and other relevant reviewer observations should be saved electronically. Review Findings Database may be updated with additional follow-up review findings as necessary.

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP DRAFTING	PRB Program Analyst	Copy follow-up memo template from: <i>J:\WORKING\prd\Reviewer Tools\Follow-Up Template</i> Save Draft memo and all subsequent drafts in the agency folder in: <i>J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Follow-Up Review\Follow-Up Work Papers</i>	
FOLLOW-UP DRAFTING	PRB Program Analyst	Prepare initial review findings and meet with PRB Chief to discuss.	
FOLLOW-UP DRAFTING	◇ PRB Chief	Determine if sufficient, appropriate review evidence has been obtained by PRB Program Analyst to provide a reasonable basis for follow-up review conclusions; directs additional fieldwork as necessary. Determine if any issues identified during fieldwork affect the drafting of the follow-up report or require changes to scope, timing, or direction of the review, or require further review within OGE. Determine if additional follow-up is necessary. Determine if review plan and strategy must be adjusted, including nature, timing, and extent of review.	Issues may include significant program deficiencies, further OGE review of advice and counsel samples, or other extraordinary circumstances. Additional follow-up may be necessary if there is insufficient evidence of action taken by an agency to close a recommendation. Limited sample size and additional time requirements may also drive additional follow-up.
FOLLOW-UP DRAFTING	PRB Program Analyst	Draft follow-up memo. Follow-up should assess if specific agency actions or plans are sufficient to close recommendations. Follow-up should also note if recommendations will remain open and why.	Verify accuracy of addressee with agency ethics officials.
FOLLOW-UP DRAFTING	PRB Program Analyst	Provide electronic copy of Draft memo to PRB Chief and schedule meeting to review draft memo.	
FOLLOW-UP DRAFTING	◇ PRB Chief	Review Draft memo. Determine if content is logical, accurate, consistent, and properly formatted.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP DRAFTING	PRB Program Analyst	Complete preliminary edits to memo. Prepare Discussion Draft memo for review by Program Review Branch Group Chief.	Draft memo becomes Discussion Draft memo (to be sent to agencies for discussion) upon completion of preliminary edits from PRB Chief.
FOLLOW-UP DRAFTING	PRB Chief	Review Discussion Draft memo for to ensure that appropriate edits were incorporated.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Complete final edits to memo.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Index Discussion Draft memo. Sign and date Follow-Up Review Procedures Job Aid when indexing is complete.	The draft report is to be indexed using the comments feature in MSWord to ensure that each agency-specific fact presented in the report is supported by an underlying source document. The source documents include the database steps for each program element that are now filed in the review binder and other documents filed in the review binder that were obtained during the course of the review. LINK?
FOLLOW-UP DRAFTING	PRB Program Analyst	Reference Discussion Draft memo. Referencer: sign and date Follow-Up Review Procedures Job Aid when referencing is complete and all issues found during referencing are resolved.	Once indexed, the indices are to be verified by a PRB Program Analyst not involved in the review. The reference is to follow the indices to the source and verify that the source documents support the facts presented in the report.

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP DRAFTING	PRB Program Analyst	Email the completely referenced Discussion Draft memo to the agency. Provide one week for informal comments depending on memo length/complexity. Tailor appropriately stock transmittal language (found here): J:\WORKING\prd\Reviewer Tools\Stock Language	
FOLLOW-UP DRAFTING	PRB Program Analyst	Receive agency response to Discussion Draft . Store electronic agency response in the electronic work paper folder: J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Follow-Up Review\Follow-Up Work Papers	
FOLLOW-UP DRAFTING	PRB Program Analyst	Prepare Final Draft memo for review by PRB Chief. Incorporate any changes, as applicable, from agency comments. Notify PRB Chief of any substantive changes.	Discussion Draft memo becomes Final Draft memo upon inclusion of any changes resulting from any informal comments.
FOLLOW-UP DRAFTING	PRB Chief	Review Final Draft memo to ensure that all further edits have been appropriately incorporated into the report.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Complete any additional edits to the report.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Send the Final Draft memo to the agency. Inform the agency that they have one week if they wish to provide comments. If the agency prefers to send a formal, signed PDF version of their comments, request a MS Word version of the comments for 508-compliance.	Note: formal agency comments are not typically received for a follow-up memo.
FOLLOW-UP DRAFTING	PRB Program Analyst	Notify PRB Chief if agency has not provided formal comments by the due date.	
FOLLOW-UP DRAFTING	PRB Chief	Contact agency and request formal comments with revised due date.	
FOLLOW-UP DRAFTING	PRB Chief	Notify DD for Compliance if agency has not provided formal comments by revised due date.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP DRAFTING	◇ DD for Compliance	Determine if due date should be further revised or report should be published without formal comments. Further escalation on case-by-case basis.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Save the agency PDF and MS Word comments to: J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Follow-Up Review\Follow-Up Work Papers	
FOLLOW-UP DRAFTING	PRB Program Analyst	Add comments as appropriate directly to the MS Word version of the Final Draft memo. If the agency provided a separate, formal document, the memo should reflect the addition of that document at the end of the report.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Complete any final edits to the Final Draft memo. Review memo for spelling, grammar, and typos.	Pay particular attention to words that will not trigger spell check.
FOLLOW-UP DRAFTING	PRB Program Analyst	Forward Final Draft memo to OGE Director for review & approval prior to issuance. Create and save CD Routing slip and use the Routing Slip Instructions here: J:\WORKING\prd\Admin\Documents and Templates\Memos to Director	Ensure that documents are sent in the appropriate format for OGE Director's review.
FOLLOW-UP DRAFTING	PRB Program Analyst	Prepare Chronology File package for DD for Compliance. Create and save cover page for package using the template here: J:\WORKING\prd\Admin\Documents and Templates\Memos to Director\Chron File	The chronology file is a duplicate of the review packet that was sent to the OGE Director.
FOLLOW-UP DRAFTING	PRB Chief	Update Chronology File of DD for Compliance.	
FOLLOW-UP DRAFTING	◇ PRB Program Analyst; PRB Chief; DD for Compliance	Address edits/comments to Final Draft memo received from OGE Director.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP DRAFTING	PRB Program Analyst	Revise Final Draft memo, if necessary, and resubmit to OGE Director for review and approval prior to issuance.	
FOLLOW-UP DRAFTING	PRB Program Analyst	Upon receipt of approved Final Draft memo from OGE Director, notify Agency Assistance Branch Chief of completed follow-up review and extend invitation to discuss follow-up review results.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP PUBLICATION	PRB Program Analyst	Provide Follow-Up Review Procedures Job Aid to the PRB Chief and request a report number.	
FOLLOW-UP PUBLICATION	PRB Chief	Verify completion of Job Aid to this point. Provide report number. Enter report number into Issue Tracker and Report Number spreadsheets.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Record report number provided by PRB Chief on the Follow-Up Review Procedures Job Aid.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Insert report number onto the Final Draft memo.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Ensure report number, date, and page numbers are accurate on Final Draft memo.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Save final follow-up report as " FiscalYear Agency Followup.doc " (i.e. 2012 USDA Followup.doc) in: <i>J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Follow-Up Review\Final Follow-Up Report</i> Note: Following a consistent naming convention is necessary for publishing reports on the website.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Print dated follow-up report and take to the DD for Compliance for signature.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP PUBLICATION	DD for Compliance	Sign Final memo.	Final Draft memo becomes Final memo upon addition of signature of DD for Compliance, report number, and date.
FOLLOW-UP PUBLICATION	PRB Program Analyst	Scan the signed Final memo. Save the PDF version as " FiscalYear Agency Followup.pdf " (i.e. 2012 USDA Followup.pdf) in: J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Follow-Up Review\Final Follow-Up Report	Adjust scan settings to Ricoh/Savin printers (on left side of screen after pressing the scan button) to 400dpi to ensure a good quality scan.
FOLLOW-UP PUBLICATION	PRB Program Analyst	(If comments were provided in PDF format) Merge the signed PDF agency comments with the PDF final report. From the PDF menu, select document, insert pages from file. Choose the PDF version of the agency comments.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Give the PRB Program Support Assistant the signed Final memo for mailing and one copy of the Final memo for the read file. Email the PRB Program Support Assistant the signed PDF version of the Final memo.	Veda Marshall is the PRB Program Support Assistant for this step.
FOLLOW-UP PUBLICATION	PRB Program Support Assistant	Publish Follow-Up Review in accordance with publication guidelines found here: J:\WORKING\prd\Admin\Publication Guidelines Ensure copy of review is provided to Confidential Assistant to Director for OGE Director's read file.	Teresa Weakley is the Confidential Assistant to the Director for this step.
FOLLOW-UP PUBLICATION	PRB Program Analyst	Verify with PRB Program Support Assistant a copy of the Final memo has been sent to the OGE Director's read file.	
FOLLOW-UP PUBLICATION	PRB Program Analyst	Email the Final memo to the DAEO and any appropriate contact to the agency. Tailor appropriate stock transmittal language (found here): J:\WORKING\prd\Reviewer Tools\Stock Language Record date of follow-up memo issuance on Follow-up Review Procedures Job Aid.	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP PUBLICATION	PRB Program Analyst	Email the Final memo to the CD MailGroup. Tailor appropriate stock transmittal language (found here): J:\WORKING\prd\Reviewer Tools\Stock Language	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP POST REVIEW	PRB Program Analyst	Provide PRB Metrics Monitor with the necessary follow-up review data for the issue tracker, including status, follow-up complete date, agency response, and add clarifying information in comments.	Maunda Charles is the PRB Metrics Monitor for this step.
FOLLOW-UP POST REVIEW	PRB Metrics Monitor	Update issue tracker based on input provided by PRB Program Analyst.	
FOLLOW-UP POST REVIEW	PRB Program Analyst	Email the Final memo (both MS Word and PDF versions) to PRB Web Team Representatives for website upload. Place the MS Word and PDF version of the Final memo in: J:\WORKING\prd\Admin\Reports to Migrate	Maunda Charles (PSG1) and Michelle Walker (PSG2) are the Web Team Representatives for this step.
FOLLOW-UP POST REVIEW	PRB Web Team Representative	Upload final report to website. For upload, follow the procedures found here: J:\WORKING\prd\PRD Responsibilities\Website Governance\Procedures to publish reports on the OGE website	
FOLLOW-UP POST REVIEW	PRB Program Analyst	Check on website to ensure follow-up report is published. Copy link to published memo on OGE website for OGE Twitter feed. Record date of follow-up report publication on Follow-Up Review Procedures Job Aid.	
FOLLOW-UP POST REVIEW	PRB Program Analyst	Email link to published follow-up report on OGE website and follow-up report publication date to CD Communication Outreach Member.	Maunda Charles is the Communication Outreach Member for this step.

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP POST REVIEW	CD Communication Outreach Member	Publish tweet in accordance with OGE Policy for the Creation and Use of Official Social Media Accounts: Appendix A, Twitter Policies, Procedures, and Guidelines.	
FOLLOW-UP POST REVIEW	PRB Program Analyst	Draft and forward Accomplishment Report to PRB Chief.	Accomplishment Report should include: <ul style="list-style-type: none"> • Date of follow-up report publication • Primary follow-up report contact/team lead • Brief description of follow-up report • Participants in follow-up review
FOLLOW-UP POST REVIEW	PRB Chief	Review and approve Accomplishment Report. Forward Accomplishment Report to the Confidential Assistant to the Director.	Teresa Weakley is the Confidential Assistant to the Director for this step.
FOLLOW-UP POST REVIEW	PRB Program Analyst	Email the following information to the PRB Web Team Representatives for updating OGE's online report findings tracking system: (pending) <ul style="list-style-type: none"> • Agency Name • Report Number • Report Publication Date • Contact Information for PRB Chief • Status/disposition of open recommendation(s) 	Maunda Charles (PSG1) and Michelle Walker (PSG2) are the Web Team Representatives for this step.
FOLLOW-UP POST REVIEW	PRB Web Team Representative	Update the information in OGE's online report findings tracking system. Notify PRB Program Analyst when upload is complete. (pending)	
FOLLOW-UP POST REVIEW	PRB Program Analyst	Check OGE online report findings database to confirm updated status/disposition of recommendations. Record date of update on Follow-Up Review Procedures Job Aid. (pending)	
FOLLOW-UP POST REVIEW	PRB Program Analyst	Save PDF of electronic work paper database (using Step 4 "Save Electronic Copy of Complete Findings") to: J:\WORKING\prd\Agency Folders\Agency\Program Reviews\Year\Work Papers	

RESPONSIBILITY	EMPLOYEE	ACTIVITY	COMMENT
FOLLOW-UP POST REVIEW	PRB Program Analyst	All PRB Program Analysts assigned to review: Sign and date Follow-Up Review Procedures Job Aid indicating follow-up review is complete.	
FOLLOW-UP POST REVIEW	PRB Chief	Sign and date Follow-Up Review Procedures Job Aid indicating Job Aid steps to this point have been completed by PRB Program Analysts.	
FOLLOW-UP POST REVIEW	PRB Program Analyst	File hard copy work papers alphabetically in the PRD file. Use blue accordion folders for independent agencies. Use red accordion folders for sub-agencies. Label the upper right front of folder with Agency Name, FY of Review, and Folder Number (1 of 2, etc). Keep this Job Aid with the work papers. Notify PRB Chief that work papers have been filed. STOP PROCESSING JOB AID AT THIS POINT	Note: Keep follow-up work papers (including any used to close recommendations) <u>separate</u> from initial review work papers (due to record retention/destruction requirements).

Materials Required Prior to Ethics Program Review

Note: The materials requested for this review cover calendar year 2016.

Please limit your submission to the information requested below. Do not provide additional information (i.e. training from previous calendar years) unless requested by the review team.

Program Administration

1. Agency organization chart which indicates the placement of the ethics office.
2. Listing of ethics officials (full-time and part-time) and their positions. Please note if any ethics officials have limited ethics responsibilities (i.e. only financial disclosure, only advice and counsel and training).
3. Additionally, please list any other agency personnel (specific individuals or classes of personnel) who are not considered ethics officials but still have ethics responsibilities or otherwise support the ethics program; also, please identify their responsibilities.
4. If applicable, please provide contact information for officials within the Human Resources or equivalent office who provide assistance in administering the ethics program. This would include officials who generate master lists of filers, identify new employees for initial ethics orientation, etc.
5. Delegation letters authorizing named ethics officials to coordinate and manage the ethics program. See 5 CFR 2638.202(c).
6. Any available policies and procedures governing the overall administration of the ethics program, including education and training, advice and counsel, ethics agreements, 18 U.S.C. 208 **waivers**, enforcement of ethics laws and regulations (including DOJ/IG referral procedures), special Government employees, the Ethics Pledge, and 1353 travel.
7. Any examples of ethics program support provided in CY2016 by senior agency officials. This may include emails or memoranda sent from senior officials to all agency personnel addressing ethics issues, appearances or participation in ethics training events, or specific mentions of ethics on other occasions.

Public Financial Disclosure

1. Policies and procedures governing the administration of the public financial disclosure system. Please include any procedures which may have been added to account for the collection, review, evaluation, and public availability of the Periodic Transaction Report (OGE Form 278-T). See 5 U.S.C. app 402(d)(1) & (2).
2. List of all PAS officials required to file public financial disclosure reports in CY2016.
3. List of all non-PAS employees required to file public financial disclosure reports in CY2016. Financial disclosure information for special Government employees is requested separately, below.

(Note: If a tracking system (spreadsheet, database, etc.) is used to track filer names and submission, review, and certification dates, please provide the list of filers through the tracking system.)

4. Copies of written requests for filing extensions and the subsequent written approvals for extensions granted over 45 days. See 5 CFR 2634.201(f).
5. Copies of any financial disclosure review training given to supervisors with responsibility for the review and evaluation of public financial disclosure reports.

Confidential Financial Disclosure

1. Policies and procedures governing the administration of the confidential financial disclosure system. See 5 U.S.C. app 402(d)(1) & (2).
2. List of all employees required to file confidential financial disclosure reports in CY2016. Financial disclosure information for special Government employees is requested separately, below.

(Note: If a tracking system (spreadsheet, database, etc.) is used to track filer names and submission, review, and certification dates, please provide the list of filers through the tracking system.)

3. Copies of any financial disclosure review training given to supervisors with responsibility for the review and evaluation of confidential financial disclosure reports.

Initial Ethics Orientation

1. Copy of the Initial Ethics Orientation material provided to new employees in CY2016. See 5 CFR 2638.703.

(Note: If different training material was provided to different groups of employees, please provide the material and identify which material was provided to each group of employees.)

2. Evidence of completed Initial Ethics Orientation for all new employees in CY2016 showing employee start dates and training completion dates (e.g., tracking spreadsheets, email confirmations, sign-in rosters, documentation indicating material is automatically provided during onboarding, etc.). We should be able to select new employees and match them with completed Initial Ethics Orientation.

Annual Ethics Training

1. Copy of the Annual Ethics Training material provided to public filers in CY2016. See 5 CFR 2638.704.
2. Copy of the Annual Ethics Training material provided to other covered employees (if different) in CY2016. See 5 CFR 2638.705.

(Note: If different training material was provided to different groups of employees – political appointees, SES, etc. – please identify which material was provided to each group of employees.)

3. Evidence of completed Annual Ethics Training for all covered employees in CY2016. (e.g., tracking spreadsheet, email confirmations, sign-in rosters, etc.). We should be able to match covered employees with completed Annual Ethics Training.
4. Copy of any additional ethics-related training material provided by the agency in CY2016 (e.g., supervisory training, ethics official training, financial disclosure review training).

Written Advice/Counseling

1. Copies of all ethics advice and counsel issued by a formal letter or memorandum in CY2016.
2. Copies of a sample of advice and counsel provided by email in CY2016 which address (if applicable) financial conflicts of interest, impartiality, post-government employment, gifts, financial disclosure, misuse of position, outside activities, and other ethics topics.

3. Total number of advice and counseling requests received in CY2016. Please provide estimates for those advice and counseling requests that are not formally tracked or recorded.

Conflicts Remedies

1. Copies of screening arrangements for Presidentially appointed, Senate-confirmed (PAS) officials with 18 U.S.C. 208 or 5 CFR 2635.502 recusals in their ethics agreements.
2. Copies of all 18 U.S.C. 208(b)(1) waivers issued in CY2016.

Enforcement

1. Contact information for agency Inspector General or equivalent office.
2. Number of disciplinary actions based wholly or in part upon violations of the criminal conflict of interest statutes (18 U.S.C. §§ 203, 205, 207, 208, and 209).
3. Number of disciplinary actions based wholly or in part upon violations of Standards (5 C.F.R. part 2635).
4. Copy of any memorandum of understanding between the agency and an outside Inspector General's office, if applicable.

Special Government Employees

1. List of any individuals who served for 130 days or less during any 365 days (i.e., temporarily on either a full-time, intermittent, or part-time basis) and are assigned to committees, councils, boards, commissions, etc., identified, if applicable, by SGEs and non-SGEs (representatives).
2. List of any other individuals who served for 130 days or less during any period of 365 days (e.g., experts/consultants), not assigned to committees, councils, boards, commissions, etc., identified, if applicable, by SGEs and non-SGEs (representatives).
3. List of all advisory committees, copies of their charters, lists of their members and contact information for each committee manager/DFO.
4. List of all SGEs required to file public financial disclosure reports in CY2016.

5. List of all SGEs required to file confidential financial disclosure reports in CY2016.
6. List of all SGEs excluded from filing confidential financial disclosure reports (or sections of the report) in CY2016 under 5 CFR 2634.904(b). Please provide any documentation used in making the exclusion determination.
7. Copies of written requests for filing extensions and the subsequent written approvals for extensions granted over 45 days for public financial disclosure-filing SGEs. See 5 CFR 2634.201(f).
8. Copies of any financial disclosure review training provided to any agency officials with responsibility for the review and evaluation of SGE public or confidential financial disclosure reports.
9. Copy of the training material used for SGE Initial Ethics Orientation in CY2016. We should be able to match each new SGE with completed Initial Ethics Orientation.
10. Evidence of completed Initial Ethics Orientation for all new SGEs in CY2016 showing employee start dates and training completion dates (e.g., tracking spreadsheet, email confirmations, sign-in rosters, procedures indicating material is automatically provided, etc.).
11. Copy of the training material used for SGE Annual Ethics Training in CY2016.

(Note: If different training material was provided to different groups of SGEs, please identify which material was provided to each group of SGEs.)
12. Evidence of completed annual ethics training for all covered SGEs in CY2016. (e.g., tracking spreadsheet, email confirmations, sign-in rosters, etc.). We should be able to match each SGE with completed Annual Ethics Training.

OMB Response to OGE Directive Requiring
Production of Agency-Specific Information



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

1-4
A-1

June 3, 2014

MEMORANDUM

TO: Dan Skalla
Chief, Professional Staff Group One
Compliance Division
U.S. Office of Government Ethics

FROM: Jonathan Rackoff
Assistant General Counsel and DAEO
Office of Management and Budget

Mac Reed
Assistant General Counsel and ADAEO
Office of Management and Budget

SUBJECT: OMB Materials Required Prior To Ethics Program Review: CY 2013

Program Administration

1. Please find attached (*see Blue Binder*, Tab 1.1) the current organization chart for the Office of Management and Budget (OMB), which lists "General Counsel" in the "OMB-Wide Support Offices" category. OMB's Ethics Program is organizationally located within OMB's Office of General Counsel (OGC). OMB OGC is composed of three (3) politically appointed managers, one (1) long-serving career manager, six (6) career staff lawyers, one (1) career paralegal, one (1) career legal technician, and one (1) politically appointed confidential assistant. Each of the six career staff lawyers is a relatively senior GS-15 Assistant General Counsel hired as a generalist and capable of performing wide-ranging functions in diverse areas as circumstances and the needs of management require. To define the initial scope of their respective duties, default portfolio lines have been drawn. But organizational needs can and do reshape daily responsibilities organically, according to changing Administration priorities, unanticipated geopolitical events (e.g., national security crises or natural disasters), and low-frequency, high-intensity institutional threats that cannot be delayed (e.g., litigation).

Presently, daily operations of the OMB ethics program are shared, jointly and relatively fluidly, between (2) such Assistant General Counsels: Jonathan E. Rackoff (b)(6) and McGavock ("Mac") D. Reed (b)(6), who serve as OMB's

DAEO and ADAEO, respectively. While Mr. Rackoff and Mr. Reed each perform ethics as a collateral duty, alongside various competing roles and responsibilities, ethics-related performance goals are incorporated as key components into both of their performance appraisals. This reflects the importance of ethics to OMB's institutional culture, despite chronic staffing problems. Accordingly, Mr. Rackoff and Mr. Reed work as a team. In the absence of overflow staffing or any meaningful surge capacity, they regard themselves as jointly and severally liable for all ethics matter that may arise.

Nevertheless, it has proven efficient to allocate initial responsibility for ethics matters between Mr. Rackoff and Mr. Reed according to the category of OMB employee in whom they arise. By default, Mr. Rackoff manages the ethics issues affecting OMB's politically appointed leadership (i.e., PAS, PA, Non-Career SES, Schedule C, and politically appointed SL and Schedule A employees), who usually reside in the Eisenhower Executive Office Building (EEOB). Likewise, Mr. Reed generally handled the ethics needs of OMB's career staff (i.e., Career SES managers, the DAEO, qualifying career SL employees, any Special Government Employees, as well as contractors, fellows, interns, and career employees on detail to OMB from other agencies), who usually reside in the New Executive Office Building (NEOB).

This rough and ready division of labor has certain exceptions. In recent years, Mr. Reed has taken principal responsibility for OMB's responses to OGE's annual questionnaires; has managed—with the aid of OMB OGC's long-serving paralegal, Bessie M. Weaver (b)(6))—OMB's 31 U.S.C. § 1353 travel acceptances; has personally approved the lion's share of speaking and event-attendance requests under 5 C.F.R. § 2635.204(g)(1) and (2), regardless of source; and has led numerous, lecture-style ethics training sessions for large, mixed groups of OMB employees, including both NEOB and EEOB staff.

Mr. Rackoff, meanwhile, has maintained exclusive responsibility for all ethical dimensions of the PAS nomination and confirmation process at OMB, including close support to OMB's Office of Legislative Affairs (LA); has engaged in the lion's share of OMB OGC's complex seeking and post-employment consultations, ranging from recently departed employees striving to comply with 18 U.S.C. § 207, to junior career staff attempting to implement recusals under 5 C.F.R. 2635.604 without unnecessarily disclosing job searches to management; has continued to lead OMB's investigative response to claims of potential ethical misconduct (i.e., in all cases but one since joining the agency); has managed OMB's legal review of and response to legislative initiatives affecting ethics, including the STOCK Act, as well as OGE regulatory actions; and led OMB's analysis of and response to questions agency-wide about ethics restrictions during OMB's numerous unpaid furlough days in 2013, as well as 2013's protracted government shutdown.

With respect to the role of OMB OGC's leadership, OGC's long-serving career SES manager and Deputy General Counsel, Steven D. Aitken, is the rating official for Mr. Rackoff and Mr. Reed. Mr. Aitken plays an overall management and general

oversight role with respect to every OGC portfolio area, ethics included—which ranges from case-specific advice and guidance, to priority setting and resource allocation, to program organization, direction and role. OGC’s politically appointed Deputy General Counsel John Simpkins, by contrast, has direct authority over both the high-altitude policy and granular operational aspects of the ethics program, including, e.g., development and release of guidance documents, timing and contents of ethics training, provision of advice and counsel to senior staff, and day-to-day supervision of Mr. Rackoff and Mr. Reed. At their discretion, Mr. Simpkins and Mr. Aitken will each provide ethics counsel directly to OMB leadership and staff, be it in person or via mass email. During the 2013 government shutdown, for example, Mr. Aitken was “excepted” staff, while Mr. Simpkins, Mr. Rackoff, and Mr. Reed were furloughed. Mr. Aitken took responsibility for managing all OMB ethics needs throughout the pendency of the lapse in appropriations.

Below, please find a summary chart detailing the present composition of OMB OGC by title, portfolio duties, hiring authority, and ethics role.

<i>OMB Office of General Counsel (OGC) Staff</i>			
<i>Title</i>	<i>Portfolio Duties</i>	<i>Hiring Authority</i>	<i>Ethics Program Role</i>
General Counsel and Senior Policy Advisor	Global; Direct Support To OMB Director	Management (Political; Non-Career SES)	Supervisory (Ultimate)
Deputy General Counsel <i>Simpkins</i>	Global; Direct Support To General Counsel; Special Projects	Management (Political; Non-Career SES)	Supervisory (Direct)
Deputy General Counsel <i>Aitken</i>	Global	Management (Career SES)	Supervisory (General; Rating official for DAEO and ADAEO)
Senior Counsel and Policy Advisor	Direct Support To General Counsel; Executive Orders Lead; Special Projects; Appropriations Support; Misc. Projects	Management (Political; Sch A With Not-To-Exceed Date)	None
Assistant General Counsel <i>Reed</i>	FOIA Lead; Ethics Support (AEO); GAO Support; Misc. Projects	Legal Staff (Career; Sch A)	Ethics as collateral duty; all ethics responsibilities shared with DAEO, but default responsibility for day-to-day ethics issues arising from career staff; default responsibility for 31 U.S.C. § 1353 travel acceptance.
Assistant General Counsel	Appropriations Lead; Records Management Lead; Misc. Projects	Legal Staff (Career; Sch A)	None
Assistant General Counsel <i>Rackoff</i>	Regulations Lead; Ethics Lead (DAEO); Statutory Office Support; Oversight Support; Employment Litigation; Misc. Projects	Legal Staff (Career; Sch A)	Ethics as collateral duty; all ethics responsibilities shared with ADAEO, but default responsibility for day-to-day ethics issues arising from political staff, including ethics pledge; non-delegable responsibility for PAS

			nomination/confirmation process.
Assistant General Counsel	Oversight Lead; Statutory Office Support; FOIA support; Misc. Projects	Legal Staff (Career; Sch A)	None
<i>Assistant General Counsel (On Extended Leave)</i>	<i>Appropriations Team; Employment Litigation</i>	<i>Legal Staff (Career; Sch A)</i>	<i>None</i>
Assistant General Counsel	Appropriations Support; Statutory Office Support; Executive Orders Support; Misc. Projects	Legal Staff (Career; Sch A)	None
Paralegal	GAO Lead; Travel Support; Executive Orders Support; FOIA Support; Oversight Support; Misc. Projects	Support Staff (Career; Sch B)	Responsibility for 31 U.S.C. § 1353 semi-annual travel report
Office Manager	Administrative Support	Support Staff (Career; Sch B)	None
Confidential Assistant	Direct Support To General Counsel	Support Staff (Political; Sch C)	None

2. Please find attached (*see Blue Binder, Tab 1.2*) the delegation letter signed by Acting Director Jeffrey D. Zients on August 4, 2010 pursuant to 5 C.F.R. § 2638.202(b) and (c), which appointed Jonathan E. Rackoff and McGavock D. Reed to the positions of Designated Agency Ethics Official and Alternate Designated Agency Ethics Official, respectively, and formally delegated the functional authority to coordinate and manage the ethics program as set out in 5 C.F.R. § 2638.203 to Mr. Rackoff and Mr. Reed.

3. Please *see Blue Binder, Tab 1.3*.

4. Please *see* below:

<i>OMB Management and Operations Division (MOD) Staff</i>			
<i>Name</i>	<i>Title</i>	<i>Contact Information</i>	<i>Ethics Program Role</i>
Julie Miller	Associate Director for Management and Operations	(b)(6)	Supervisory (HR Policy)
Lauren E. Wright	Assistant Director for Management and Operations	(b)(6)	Supervisory (HR Operations)
Sharon A. Warner	Human Capital Specialist	(b)(6)	Support (Identification & Tracking)
Falisa Peoples-Tittle	Organizational Management Specialist	(b)(6)	Support (Compliance & Enforcement)
Amanda R. Kepko	Management Analyst	(b)(6)	Support (Travel)

Public Financial Disclosure

1. Please *see* **White Binder**, Tab 2.1.
2. Please *see* **White Binder**, Tab 2.2.
3. Please *see* **White Binder**, Tab 2.3 (only 1 request/grant of a second 45 days).

Education And Training

1. Please *see* **White Binder**, Tab 3.1.
2. Please *see* **White Binder**, Tab 3.2.
3. Please *see* **White Binder**, Tab 3.3.
4. Please *see* **White Binder**, Tab 3.4.
5. Please *see* **White Binder**, Tab 3.5.
6. Please *see* **White Binder**, Tab 3.6.
7. Please *see* **White Binder**, Tab 3.7.

Written Advice/Counseling

Please *see* **White Binder**, Tab 4.1-4.20.

Agency-Specific Ethics Prohibitions, Restrictions, And Requirements

1. Please *see* **White Binder**, Tab 5.
2. Please *see* **White Binder**, Tab 5.

Conflicts Remedies

1. Please *see* **White Binder**, Tab 6.
2. No 18 U.S.C. 208(b)(1) waivers issued in CY2013 (or during my tenure at OMB).

Enforcement

1. OMB, as a component of the EOP, has no IG or equivalent office. The OMB OGC is the investigative office for the agency, in consultation (where appropriate) with the White House Counsel's Office.
2. None.

Special Government Employees

OMB historically does not – and, records indicate, presently does not – have SGEs.

Travel Payments Under 31 U.S.C. § 1353

1. Please *see* **White Binder**, Tab 7.

Documents Related to OLC and OMB Consultations on
OGE Regulation

RIN: 3209-AA42 (201704) Agency/Sub Agency: 3209 OGE OMB Ref #: 3209-A077
 Stage of Rulemaking: Final Rule Stage Submitted By: Jennifer Matis Submitted Date: 09/14/2016
 Title: Office of Government Ethics and Executive Agency Ethics Program Responsibilities

EO Package History 3209-AA42

Event	User	Event Date
Created	Jennifer Matis (jmatis)	09/08/2016
Submitted	Jennifer Matis (jmatis)	09/14/2016
Pending Review	Jennifer Matis (jmatis)	09/16/2016
Concluded - Consistent without Change	Kevin Herza (kberms)	10/24/2016
Printed in the FR	Alvin Harrod (aharrod)	12/15/2016

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INBOX RULES AGENDA SEARCH AGENCY EO REVIEW REPORTS

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Concluded EO List

Criteria: Status=(Concluded, Published);

[FILTER LIST](#) [VIEW ALL](#)

Date Concluded	Concluded Action	RIN	Agency/Sub	Title	Stage of Rulemaking	Designation	Extended	EO Review Status	EO Review Status Date
05/27/2016	Consistent with Change	3208-AA42	3208 OGE	Office of Government Ethics and Executive Agency Ethics Program Responsibilities	Proposed Rule Stage	SIGNIFICANT	✓	CONCLUDED	

Showing 1 to 1 of 1 entries

First Previous 1 Next Last

List shows EO review packages that were concluded in the last 30 days.

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Monica M. G. Ashar

From: Jennifer Matis
Sent: Thursday, October 27, 2016 5:39 PM
To: Walter M. Shaub; David J. Apol; Shelley K. Finlayson; Diana Veilleux; Seth Jaffe; Monica M. G. Ashar
Cc: Matthew A. Marinec
Subject: FW: Office of the federal Register:Submission Status: ID:W10272016173612344

Part 2638 successfully submitted to the Fed Reg. Note: per Seth, we did not request a special publication date as was previously discussed. The rule will be published as soon as possible in light of the Fed Reg backlog. I will let everyone know as soon as we have a scheduled publication date.

Thanks.

From: noreply@fedreg.gov [<mailto:noreply@fedreg.gov>]
Sent: Thursday, October 27, 2016 5:36 PM
To: Jennifer Matis
Subject: Office of the federal Register:Submission Status: ID:W10272016173612344

Submission ID: W10272016173612344

File Name	Validation Result	Handling File	Validation Result	Upload Status	Remarks
OGE 2016 Part 2638 Final Rule FR Notice.docx.p7m	PASSED			PASSED	

From: [Seth Jaffe](#)
To: "Herms, Kevin W. EOP/OMB"
Cc: [Monica M. G. Ashar](#); [David J. Apol](#)
Subject: RE: OGE final rule at 5 CFR part 2638
Date: Monday, October 24, 2016 1:48:08 PM

Kevin,

Great news! Thank you very much for the update.

Thanks again,
Seth

From: Herms, Kevin W. EOP/OMB [mailto:(b)(6)]
Sent: Monday, October 24, 2016 12:49 PM
To: Seth Jaffe
Cc: Monica M. G. Ashar
Subject: RE: OGE final rule at 5 CFR part 2638

Seth,

Many thanks. We have concluded our review of the rule.

Kevin

From: Seth Jaffe [<mailto:sjaffe@oge.gov>]
Sent: Monday, October 24, 2016 9:02 AM
To: Herms, Kevin W. EOP/OMB (b)(6)
Cc: Monica M. G. Ashar <mmgashar@oge.gov>
Subject: RE: OGE final rule at 5 CFR part 2638

Kevin,

Yes, there have been no changes made to 2638 since our last ROCIS submission after the publication of the proposed rule. (i.e. we received no agency comments in the latest 12866 regulatory review process after the publication of the proposed rule and have made no changes since our September 14th upload into ROCIS).

Thanks,
Seth

From: Herms, Kevin W. EOP/OMB [mailto:(b)(6)]
Sent: Saturday, October 22, 2016 5:06 PM
To: Seth Jaffe
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Hi Seth,

I just want to confirm that no changes have been made to the 2638 rule during the course of our review. That's what my records indicate, but I'm reviewing too many rules and other materials so I want to double check that I haven't missed anything.

Many thanks,
Kevin

From: Seth Jaffe [<mailto:sjaffe@oge.gov>]
Sent: Monday, October 17, 2016 1:22 PM
To: Herms, Kevin W. EOP/OMB (b)(6) >
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Hi Kevin,

Thank you very much for the update.

Seth

From: Herms, Kevin W. EOP/OMB [[\(b\)\(6\)](mailto:(b)(6))]
Sent: Monday, October 17, 2016 1:21 PM
To: Seth Jaffe
Cc: Vincent Salamone; Christopher J. Swartz; David J. Apol; Leigh J. Francis; Jennifer Matis
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Hi Seth,

The 2638 rule is now in clearance. I don't have a specific estimate, but it should be ready within a week or two. I will keep you posted.

Thanks,
Kevin

From: Seth Jaffe [<mailto:sjaffe@oge.gov>]
Sent: Monday, October 17, 2016 12:14 PM
To: Herms, Kevin W. EOP/OMB (b)(6) >
Cc: Vincent Salamone <vjsalamo@oge.gov>; Christopher J. Swartz <cjswartz@oge.gov>; David J. Apol <djapol@oge.gov>; Leigh J. Francis <lfranci@oge.gov>; Jennifer Matis <jmatis@oge.gov>
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Hi Kevin,

Great news!

Thank you very much for all your work on this regulation and for the notification. Everyone here at OGE really appreciates OMB's work on this and your excellent support as our desk officer.

Sorry to pivot so quickly to 5 CFR part 2638 (Executive Branch Ethics Programs) so quickly, but does this mean that we may be able to submit 2638 into ROCIS soon?

Thanks again,
Seth

From: Herms, Kevin W. EOP/OMB [[mailto:\[REDACTED\]](mailto:[REDACTED])]]
Sent: Monday, October 17, 2016 11:36 AM
To: Seth Jaffe
Cc: Vincent Salamone; Christopher J. Swartz; David J. Apol; Leigh J. Francis
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Hi Seth,

We have concluded review of the rule.

Thanks,
Kevin

From: Seth Jaffe [<mailto:sjaffe@oge.gov>]
Sent: Friday, October 14, 2016 4:09 PM
To: Herms, Kevin W. EOP/OMB <[\[REDACTED\]](mailto:[REDACTED])>
Cc: Vincent Salamone <vjsalamo@oge.gov>; Christopher J. Swartz <cjswartz@oge.gov>; David J. Apol <djapol@oge.gov>; Leigh J. Francis <lifranci@oge.gov>
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Hi Kevin,

I have just uploaded the final, clean version of the gifts rule in ROCIS.

Thanks, and I look forward to hearing from you when the rule is cleared.

Thanks again,
Seth

From: Herms, Kevin W. EOP/OMB [[mailto:\[REDACTED\]](mailto:[REDACTED])]]
Sent: Friday, October 14, 2016 1:12 PM
To: Leigh J. Francis
Cc: Seth Jaffe; Vincent Salamone; Christopher J. Swartz; David J. Apol
Subject: RE: For Comment by COB on Monday, September 12 - OGE Rule on Amendment to the Standards Governing Solicitation and Acceptance of Gifts from Outside Sources

Monica M. G. Ashar

From: Jennifer Matis
Sent: Thursday, October 27, 2016 5:39 PM
To: Walter M. Shaub; David J. Apol; Shelley K. Finlayson; Diana Veilleux; Seth Jaffe; Monica M. G. Ashar
Cc: Matthew A. Marinec
Subject: FW: Office of the federal Register:Submission Status: ID:W10272016173612344

Part 2638 successfully submitted to the Fed Reg. Note: per Seth, we did not request a special publication date as was previously discussed. The rule will be published as soon as possible in light of the Fed Reg backlog. I will let everyone know as soon as we have a scheduled publication date.

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Sent: Thursday, October 27, 2016 5:36 PM
To: Jennifer Matis
Subject: Office of the federal Register:Submission Status: ID:W10272016173612344

Submission ID: W10272016173612344

File Name	Validation Result	Handling File	Validation Result	Upload Status	Remarks
OGE 2016 Part 2638 Final Rule FR Notice.docx.p7m	PASSED			PASSED	

Monica M. G. Ashar

From: Seth Jaffe
Sent: Friday, September 02, 2016 11:43 AM
To: 'Herns, Kevin W. EOP/OMB'
Cc: Monica M. G. Ashar; David J. Apol; Walter M. Shaub; Jennifer Matis
Subject: RE: 5 CFR part 2638 (Executive Branch Ethics Program) Draft Final Rule
Attachments: 2638 Final Rule (9-2-16)(CLEAN).docx; 2638 Final Rule (9-2-16)(Track Changes).docx

Hi Kevin,

Per our earlier email exchanges and since OMB's review of 5 CFR part 2634 has concluded, I am submitting OGE's draft final regulation at 5 CFR part 2638 (Executive Branch Ethics Program) for OMB's informal review. Currently, OGE only has 5 CFR § 2635 subpart B (gifts) in ROCIS and the E.O. 12866 regulatory review process.

I have attached a clean copy as well as a redlined version of the regulatory text of OGE's draft final 5 CFR part 2638 for your review.

Please let me know if you need anything else prior to OGE being able to upload the final rule in ROCIS to initiate the 90-day review process. We will wait to upload the regulation in ROCIS until after we get your approval to do so.

Thanks,
Seth

Monica M. G. Ashar

From: David J. Apol
Sent: Monday, October 19, 2015 12:32 PM
To: Monica M. G. Ashar
Cc: Walter M. Shaub
Subject: FW: OGE Draft regulations - parts 2638 and 2634
Attachments: Part 2638 - preamble and text (9-9-15) + olc + PIN.DOCX; 2634 revisions (9-11-15 redline) + olc.docx

Monica,

Here are DOJ's comments on 2638. They have not heard back from every agency, so they note that there may be additional comments provided in the OMB process.

OPM is still working on their comments.

Dave

From: Owens, Annie (OLC) [mailto:(b)(6)]
Sent: Monday, October 19, 2015 12:12 PM
To: David J. Apol
Cc: Koffsky, Daniel L (OLC); Boynton, Brian (OLC)
Subject: OGE Draft regulations - parts 2638 and 2634

Dave:

As we just discussed, attached are two redlines with our comments on parts 2638 and 2634, with any additional DOJ comments to be worked out through the interagency process. Please let us know if you have any questions or if there is anything you'd like to discuss.

Thanks,

Annie

Annie L. Owens
Office of Legal Counsel

(b)(6)

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



SEP 09 2015

Karl Remón Thompson
Principal Deputy Assistant Attorney General
Office of Legal Counsel
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 5229
Washington, DC 20530-0001

Dear Mr. Thompson:

In accordance with section 402 of the Ethics in Government Act and section 201 of Executive Order 12674 as modified, I am enclosing for consultation a proposed rule that would revise part 2638 of title 5 of the Code of Federal Regulations. Part 2638 contains executive branch-wide regulations of the U.S. Office of Government Ethics (OGE) addressing the executive branch ethics program.

This proposed rule is a comprehensive modernization of part 2638. Much of the existing regulation was issued in 1981 when the executive branch-wide ethics program was still in its infancy. The remaining provisions were later added in the early 1990s. With the exception of subpart G, which addresses agency ethics training programs, these regulations have remained largely unchanged since first being issued. In order to better reflect the present-day executive branch ethics program, OGE elected to draft a near-complete revision of part 2638.

Throughout the revision process, OGE solicited input from ethics officials across the executive branch. OGE held more than a dozen meetings, which included focus groups with several agencies, individual meetings with key stakeholders, and a meeting with the inspector general community. OGE also circulated several drafts among participating officials and requested their feedback. Accordingly, this proposed rule reflects extensive input from the broader government ethics community in addition to OGE's own experience.

To facilitate your review, I have enclosed the draft preamble and text of the proposed part 2638. I have also enclosed a timeline that documents OGE's efforts to build consensus regarding the proposed revisions. I am available if you would like to discuss this proposed rule and can be reached at (202) 482-9292. OGE's General Counsel, David J. Apol, can be reached to schedule a meeting or to answer technical questions at (202) 482-9205.

Sincerely,

Walter M. Shaub, Jr.
Director

Enclosures

5 C.F.R. Part 2638 – Timeline of Key Events

The following timeline documents OGE’s efforts to seek feedback and build consensus regarding the proposed revisions to 5 C.F.R. part 2638.

Early March 2015	OGE completes full draft of part 2638.																
March – April	Multiple rounds of internal meetings within, and several rounds of revisions made to the draft of part 2638 based on feedback from OGE staff members.																
April 16	In-person meeting with a focus group of agency ethics officials to discuss the revised draft. The following offices participated in the meeting: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">1. Department of Commerce</td> <td style="width: 50%;">4. Department of Labor</td> </tr> <tr> <td>2. Department of Defense</td> <td>5. Environmental Protection Agency</td> </tr> <tr> <td>3. Department of Energy</td> <td>6. Securities & Exchange Commission</td> </tr> </table>	1. Department of Commerce	4. Department of Labor	2. Department of Defense	5. Environmental Protection Agency	3. Department of Energy	6. Securities & Exchange Commission										
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April 16 – May 1	Additional revisions to draft part 2638 based on feedback from the focus group.																
May 1	Conference call for the focus group to discuss changes made to draft since the April 16 meeting: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">1. Department of Commerce</td> <td style="width: 50%;">5. Department of Labor</td> </tr> <tr> <td>2. Department of Defense</td> <td>6. Environmental Protection Agency</td> </tr> <tr> <td>3. Department of Energy</td> <td>7. Securities & Exchange Commission¹</td> </tr> <tr> <td>4. Department of Justice</td> <td></td> </tr> </table>	1. Department of Commerce	5. Department of Labor	2. Department of Defense	6. Environmental Protection Agency	3. Department of Energy	7. Securities & Exchange Commission ¹	4. Department of Justice									
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2. Department of Defense	6. Environmental Protection Agency																
3. Department of Energy	7. Securities & Exchange Commission ¹																
4. Department of Justice																	
May 1-12	Additional conversations with members of the focus group and additional revisions made.																
May 12	In-person meeting to discuss the further revised draft with agency ethics officials. The following offices participated in the meeting: <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">1. Broadcasting Board of Governors</td> <td style="width: 50%;">9. Fed. Communications Commission</td> </tr> <tr> <td>2. Consumer Fin. Protection Bureau</td> <td>10. Federal Deposit Insurance Corp.</td> </tr> <tr> <td>3. Department of Defense</td> <td>11. Federal Maritime Commission</td> </tr> <tr> <td>4. Department of Energy</td> <td>12. Federal Trade Commission</td> </tr> <tr> <td>5. Dep’t of Health and Human Services</td> <td>13. National Endowment for the Arts</td> </tr> <tr> <td>6. Dep’t of Housing and Urban Dev.</td> <td>14. Nat’l Endowment for the Humanities</td> </tr> <tr> <td>7. Department of the Interior</td> <td>15. Nat’l Transportation Safety Board</td> </tr> <tr> <td>8. Department of the Treasury</td> <td>16. Privacy & Civil Lib. Oversight Board</td> </tr> </table>	1. Broadcasting Board of Governors	9. Fed. Communications Commission	2. Consumer Fin. Protection Bureau	10. Federal Deposit Insurance Corp.	3. Department of Defense	11. Federal Maritime Commission	4. Department of Energy	12. Federal Trade Commission	5. Dep’t of Health and Human Services	13. National Endowment for the Arts	6. Dep’t of Housing and Urban Dev.	14. Nat’l Endowment for the Humanities	7. Department of the Interior	15. Nat’l Transportation Safety Board	8. Department of the Treasury	16. Privacy & Civil Lib. Oversight Board
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¹ SEC did not participate in the call, but received a copy of the revised draft.

<p>May 13</p>	<p>In-person meeting to discuss the further revised draft with agency ethics officials. The following offices participated in the meeting:</p> <table border="0"> <tr> <td>1. African Development Foundation</td> <td>9. Fed. Reserve Syst. Bd. of Governors</td> </tr> <tr> <td>2. Defense Info. Systems Agency</td> <td>10. Millennium Challenge Corporation</td> </tr> <tr> <td>3. Department of Agriculture</td> <td>11. Military Comp. & Retirement Modernization Commission</td> </tr> <tr> <td>4. Department of Defense, OIG</td> <td>12. Nat'l Archives & Records Admin.</td> </tr> <tr> <td>5. Department of Education</td> <td>13. National Science Foundation</td> </tr> <tr> <td>6. Department of Homeland Security</td> <td>14. National Labor Relations Board</td> </tr> <tr> <td>7. Department of State</td> <td>15. Office of the Dir. of Nat'l Intelligence</td> </tr> <tr> <td>8. Fed. Energy Regulatory Commission</td> <td>16. Office of Administration</td> </tr> </table> <p>Conference call to discuss the revised draft with agency ethics officials located outside of the Washington, D.C., metropolitan area. The following offices participated in the meeting:</p> <table border="0"> <tr> <td>1. Defense Commissary Agency</td> <td>3. Small Business Administration</td> </tr> <tr> <td>2. Defense Finance & Accounting Svc.</td> <td>4. Tennessee Valley Authority</td> </tr> </table>	1. African Development Foundation	9. Fed. Reserve Syst. Bd. of Governors	2. Defense Info. Systems Agency	10. Millennium Challenge Corporation	3. Department of Agriculture	11. Military Comp. & Retirement Modernization Commission	4. Department of Defense, OIG	12. Nat'l Archives & Records Admin.	5. Department of Education	13. National Science Foundation	6. Department of Homeland Security	14. National Labor Relations Board	7. Department of State	15. Office of the Dir. of Nat'l Intelligence	8. Fed. Energy Regulatory Commission	16. Office of Administration	1. Defense Commissary Agency	3. Small Business Administration	2. Defense Finance & Accounting Svc.	4. Tennessee Valley Authority						
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<p>May 13 – June 18</p>	<p>Additional revisions made to the draft based on feedback from agency ethics officials.</p>																										
<p>June 18</p>	<p>Conference call for agency ethics officials who attended one of the previous meetings or calls, submitted comments, or otherwise expressed interest in commenting on a revised draft. The further revised draft was circulated and a deadline of July 10, 2015, was set for the next round of comments from agencies. The following agencies RSVP'd to indicate that they would attend the call:</p> <table border="0"> <tr> <td>1. Central Intelligence Agency</td> <td>14. Fed. Reserve Syst. Bd of Governors</td> </tr> <tr> <td>2. Department of Agriculture</td> <td>15. Fed. Energy Regulatory Commission</td> </tr> <tr> <td>3. Department of Defense</td> <td>16. Federal Trade Commission</td> </tr> <tr> <td>4. Department of Defense, OIG</td> <td>17. General Services Administration</td> </tr> <tr> <td>5. Department of Education</td> <td>18. National Archives & Records Admin.</td> </tr> <tr> <td>6. Department of Energy</td> <td>19. National Endowment for the Arts</td> </tr> <tr> <td>7. Department of the Interior</td> <td>20. National Labor Relations Board</td> </tr> <tr> <td>8. Department of Justice</td> <td>21. National Reconnaissance Office</td> </tr> <tr> <td>9. Department of State</td> <td>22. National Science Foundation</td> </tr> <tr> <td>10. Department of the Treasury</td> <td>23. Office of Administration</td> </tr> <tr> <td>11. Environmental Protection Agency</td> <td>24. Securities & Exchange Commission</td> </tr> <tr> <td>12. Federal Bureau of Investigation</td> <td>25. Tennessee Valley Authority</td> </tr> <tr> <td>13. Federal Deposit Insurance Corp.</td> <td></td> </tr> </table>	1. Central Intelligence Agency	14. Fed. Reserve Syst. Bd of Governors	2. Department of Agriculture	15. Fed. Energy Regulatory Commission	3. Department of Defense	16. Federal Trade Commission	4. Department of Defense, OIG	17. General Services Administration	5. Department of Education	18. National Archives & Records Admin.	6. Department of Energy	19. National Endowment for the Arts	7. Department of the Interior	20. National Labor Relations Board	8. Department of Justice	21. National Reconnaissance Office	9. Department of State	22. National Science Foundation	10. Department of the Treasury	23. Office of Administration	11. Environmental Protection Agency	24. Securities & Exchange Commission	12. Federal Bureau of Investigation	25. Tennessee Valley Authority	13. Federal Deposit Insurance Corp.	
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<p>July 10 – July 29</p>	<p>Additional revisions made to the draft based on feedback from agency ethics officials.</p>																										
<p>July 29</p>	<p>Meeting with Inspectors General</p>																										

July 30	Meeting with the Department of Defense
August 2015	Ongoing revisions
August 3	Meeting with Wade Plunkett (ethics official, Office of Personnel Management)
August 17	Meeting with the Office of Legal Counsel, Department of Justice
August 21	Meeting with the Department of State
September 2015	Consultation with the Department of Justice and the Office of Personnel Management
TBD	Revisions
TBD	Preliminary meeting with the Office of Management and Budget
TBD	Formal submission to the Office of Management and Budget
TBD	Revisions
TBD	OMB review process, including executive branch input
TBD	Notice of Proposed Rulemaking
TBD	Revisions
TBD	Final Rulemaking

Sampling of Documents Illustrating Instances When
OGE Exercised Its Authority to Collect
Information and Records from the White House
Office, Pursuant to the Ethics in Government Act



United States
Office of Government Ethics
Suite 500, 1201 New York Avenue, N.W.
Washington, D.C. 20005-3919

May 10, 1991

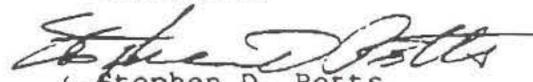
The Honorable C. Boyden Gray
Counsel to the President
The White House
Washington, D.C.

Dear Mr. Gray:

As you know, based upon the corrective action authority of section 402 of the Ethics in Government Act, as amended, this Office issued regulations setting forth the procedures an agency and this Office will follow when, in certain cases, an agency on its own initiative has begun an investigation of the conduct of an employee. In keeping with those regulations, your office notified me of your investigation of (b)(6)'s use of (b)(6). I have now received a copy of your memorandum to (b)(6) containing your findings and recommendations.

In order for this Office to proceed in carrying out its role in reviewing your memorandum, we would appreciate receiving a copy of or access to the documentation you relied upon for the factual statements made in that memorandum.

Sincerely,


Stephen D. Potts
Director

LEG 1-3
JL/jl/vm



United States
Office of Government Ethics
Suite 500, 1201 New York Avenue, N.W.
Washington, DC 20005-3919

August 8, 1991

The Honorable Bob Wise
United States House of Representatives
1421 Longworth House Office Building
Washington, DC 20515

Dear Mr. Wise:

This is in response to your letter of July 31, 1991 in which you asked about the status of this Office's review of the (b)(6) [redacted]. The Office is still in the process of analyzing the information obtained through a review of the documents relied upon by the White House Counsel in issuing his memorandum of May 9, 1991. Because the policy for (b)(6) [redacted] was substantially changed by the President in May, our review was not of an ongoing practice but rather of past conduct. Therefore, I have balanced a desire to complete the review in a very thorough manner with some more pressing needs for that same staff for ongoing matters which required a more immediate response. While I would have preferred for this Office to have completed its review by this time, my staff has simply been unable to do so and still meet other agency obligations. We expect that the August period, when business throughout the government typically slows, should provide the time to finish.

Please be assured that we will provide you with a response to those of your questions we were unable to answer earlier in May when we have completed this review.

Sincerely,

Stephen D. Potts
Director

JL/JL(mlb)
LEG 1-3

THE WHITE HOUSE

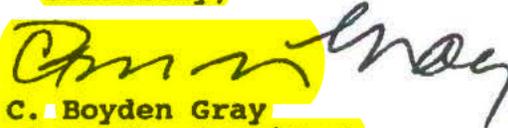
WASHINGTON

April 6, 1992

Dear Mr. Potts:

In your March 23, 1992 letter transmitting your office's analysis of the review conducted by our office of (b)(6), you requested that our office undertake an additional inquiry into several matters noted in the analysis. My office has completed the additional review requested by you, including an inquiry into the matters your office acknowledged were beyond the scope of our May 9, 1991 report. The results of that additional review are contained in full in the enclosed response.

Sincerely,



C. Boyden Gray
Counsel to the President

Enclosure

Mr. Stephen D. Potts
Director
Office of Government Ethics
Suite 500, 1201 New York Avenue, N.W.
Washington, D.C. 20005



United States
Office of Government Ethics
Suite 500, 1201 New York Avenue, N W
Washington, D C 20005-3917

April 7, 1992

The Honorable C. Boyden Gray
Counsel to the President
The White House
Washington, D.C.

Dear Mr. Gray:

I have reviewed your response to our March 23, 1992 review of the May 9, 1991 report prepared by your office regarding (b)(6). I am very pleased with your response and the actions the (b)(6) has chosen to take. I believe this now ends any open questions about the issues raised by (b)(6). I am also especially pleased with the very quick attention you and your staff were able to give to those additional issues which we outlined at the end of our report and with the results of your review of those issues.

I would particularly like to thank your staff for their cooperation and assistance throughout this process and for their unflinching professionalism.

Sincerely,

Stephen D. Potts
Director

THE WHITE HOUSE

WASHINGTON

October 14, 1992

Dear Mr. Potts:

This letter responds to your letter of August 12, 1992, containing the results of the review of the White House Office's ethics program conducted by the Office of Government Ethics (OGE) under Section 402 of the Ethics in Government Act, as amended. This letter also responds specifically to the four recommendations contained in your letter, all of which pertain to financial disclosure requirements.

General comments. We are pleased that OGE recognizes that our Office's "continuing emphasis on counseling and advice services, as well as education and training, are the strong points of [our] program[,] and that "Supplemental written guidance and ethics officials' frequent contact with WHO employees are very responsive and address ethics issues and questions as they arise." We are also pleased that OGE identified no conflict-of-interest issue in the course of its review of a sampling of thirty-seven public financial disclosure reports.

Although OGE's description of this Office's ethics responsibilities notes our Office's review of the financial disclosure reports of persons under consideration for Presidential appointment, OGE apparently did not review our performance of this responsibility in the course of its review.

As you know, the review of financial disclosure reports of prospective Presidential appointees is critical to ensuring the public's confidence in the integrity of the Executive Branch, a cardinal objective of this President. We consider this review responsibility to be a primary, not ancillary, part of the White House Office's ethics program. Our Office devotes a considerable amount of attention and resources to the ethics review of prospective Presidential appointees, as well we should. Clearance by our Office, which is based in large part on our ethics review, is a necessary predicate to nomination by the President.

For many prospective appointees, our review of their financial interests and their outside affiliations during the White House clearance process, and the ethics advice we provide in the course of this review, is their first real introduction to the various ethics restrictions to which they will be subject during their Federal appointment. Their commitment to take all necessary and appropriate measures to avoid a conflict of interest or even the appearance of impropriety is made at this time.

Moreover, we have established an excellent working relationship

with agency ethics officials and with your Office. Together, our effort in the nomination and appointment process has been a significant benefit to the Administration. Our mutual success can be judged by the virtual absence of ethics issues from the confirmation process over the past four years as well as the paucity of reports and allegations of ethics lapses by Presidential appointees in this Administration.

We now turn to the specific recommendations contained in your letter.

The public financial disclosure system. The OGE review made three recommendations:

- (1) Improve procedures for identifying and notifying new entrants of the filing requirements and monitoring their filing;
- (2) Ensure that filers are aware of and comply with filing deadlines and procedures to obtain an extension of time of waiver of the late filing fee;
- (3) Review all public reports within sixty days.

We believe we have satisfied all three recommendations.

(1) Since January 1992, procedures have been in place to ensure that all new entrants are identified and notified of the filing requirements. New entrants consist of all officials who enter the White House as a Commissioned Officer, White House officials who are promoted to the status of a Commissioned Officer, and White House officials who are given a raise in pay that makes them a public filer based on their rate of pay. The White House Personnel Office distributes the public financial disclosure form to all new entrant Commissioned Officers as part of the ethics materials they are given upon entry to the White House. For those White House officials who become new entrants as a result of promotion, the White House Personnel Office notifies the Executive Assistant to the Counsel to the President of the fact and date of promotion, and the Executive Assistant sends the form to the official. As a back-up, for all new entrants, the White House Personnel Office notifies the Alternate Designated Agency Ethics Official of the fact of the hiring or promotion and the official start date or date the promotion becomes effective.

On a monthly basis, the White House Personnel Office sends our Office payroll lists of White House Office employees, divided into six pay categories, with an "additions and deletions" report, and includes copies of all personnel actions designating the applicable pay category for a specific employee. The Administrative Officer of the Office of Policy Development (OPD) also sends our office a monthly listing of OPD personnel,

including a separate listing of changes in personnel, broken down by salary level.

These lists enable our Office to alert White House Office and OPD employees to the public filing requirements to which they may be subject as a result of a promotion in pay or becoming a Commissioned Officer. These lists also assist our Office in identifying those officials who will be subject to a cooling-off period when they leave the White House so that we may brief them on the applicable post-employment restrictions in a timely manner.

Since January 1992, a procedure has been in place to monitor the filing of reports. The Executive Assistant to the Counsel to the President maintains a master list of all public filers and calls the office of any filer whose report has not been filed within a week it is due.

(2) All new entrant and incumbent filers are aware of the filing deadline and of the late filing fee. Since January 1992, the Executive Assistant to the Counsel to the President has sent to each new entrant a short memorandum attached to the financial disclosure form. The memorandum emphasizes the late filing fee, but purposefully does not inform the filer of the procedures to obtain an extension of time or to request a waiver of the late filing fee, and does not even note the 30-day grace period.

A memorandum is also attached to the financial disclosure form that is given to incumbents. Our office notes the deadline and late filing fee in a memorandum requesting that the official submit the form in draft so that our office can review it informally and return the draft form with comments and recommended revisions. Again, the memorandum does not inform the filer of extension or waiver procedures, and does not even note the 30-day grace period.

We wish to discourage requests for extensions of time simply because of the heavy workload and demanding schedule of White House officials. We also believe that apprising officials that there is no personal consequence to filing late so long as it is within the grace period would not promote filing on time. As a filing deadline approaches, we discuss with the filer or the filer's assistant whether an extension of time is needed. Our office drafts the request for extension based on the information provided by the filer, and ensures that the filer signs the request before the filing deadline.

All incumbent reports for calendar year 1991 were timely filed this year; fifty-six officials filed by May 15, and another eight officials filed within the extension of time granted on May 15. No report was filed later than June 10.

(3) Public disclosure reports are now being reviewed within sixty days of filing. In fact, since December 1991, new entrant reports have been reviewed on average within fifteen days of their receipt, and no new entrant report has been reviewed later than sixty days. Termination reports submitted since December 1991 have been reviewed on average within twelve days; in only one case did the review take more than sixty days. (One new entrant report and one termination report that were timely filed and reviewed within thirty days have not been certified, pending resolution of a few remaining issues.) During this time the White House Office experienced a significant deal of turnover as a result in the two changes in the Chief of Staff position, and the departure of several officials to work on the campaign. In addition, for the many new entrants to the White House who were not required to file a report because they moved from one covered position to another within thirty days, our Office reviewed their most recent financial disclosure report on average within thirty days.

This year, a majority of incumbent reports that were required to be filed were reviewed and certified before the May 15 filing deadline. All sixty-nine incumbent reports but one were reviewed within sixty days of receipt; only three reports were not certified within sixty days of filing (one remains pending as of this date), in each case because more time was needed to answer questions and make appropriate revisions. We have followed up as appropriate in all cases.

In the future, for those reports that are not reviewed and certified within sixty days of filing because additional information requested from the filer is pending, we will place a notation to this effect on the report, as recommended by OGE.

The confidential financial disclosure system. OGE concluded that the White House Office has not yet established a confidential financial disclosure system. This is not accurate. All employees of the White House Office, the Office of Policy Development, the President's Foreign Intelligence Advisory Board, the President's Intelligence Oversight Board and the Executive Residence who are not a Commissioned Officer but who are paid a rate of pay between GS-13 and GS-15 are required to complete, upon entry to the White House, a Confidential Statement of Financial Interests (OA-39), as well as a Personal Data Statement, which relates in part to an employee's past and present financial interests, fiduciary obligations and other outside affiliations. This system is required by 3 C.F.R. 100.735-24 (which has now been superseded by 5 C.F.R. 2634.902(c), effective October 5, 1992) and has been in place throughout this Administration.

For the most part during this Administration, these reports were filed in a timely manner. And since December 1991, confidential

reports have been reviewed on average within ten days of filing. However, our Office has not required employees to file annual confidential reports, anticipating -- incorrectly -- OGE's issuance of new confidential filing requirements during this time.

The OGE review recommends that we establish a "confidential financial disclosure system that will meet the requirements of the confidential financial disclosure regulations" published as an interim rule in April 1992 (after OGE completed its review of our Office) and not made effective until October 5, 1992. We believe we have already satisfied this recommendation.

New Subpart I of Part 2634 requires the White House Office to determine the employees who meet the definition of the term "confidential filer." 5 C.F.R. 2634.904. The White House Office has done that. We provided each office and component head with a complete and updated list of employees of that office or component and a relevant summary of the criteria used to determine who should be required to file a confidential report. We asked each of them to return their list noting the employees, if any, who they believe fit the criteria. In many cases, we discussed the filing criteria with the office or component head, or with their deputy or executive assistant.

We now have assembled a list of "confidential filers." However, as you know, the new confidential financial disclosure form, SF-450, has not yet been distributed, and in August OGE authorized agencies to delay the October 31 filing deadlines for both new entrant and annual filers because of form availability problems. The White House Office is poised to disseminate the SF-450 to "confidential filers" once the forms are received.

In closing, your letter notes that OGE will schedule a "brief follow-up review" within six months of your letter. We invite OGE to schedule this follow-up review at any time following your receipt of our response. Please contact Gregory S. Walden of my staff to schedule a mutually convenient time.

Sincerely,



C. Boyden Gray
Counsel to the President

The Honorable Stephen D. Potts
Director
Office of Government Ethics
Suite 500, 1201 New York Avenue, N.W.
Washington, D.C. 20500

POST-EMPLOYMENT CONFLICTS OF INTEREST

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ADMINISTRATIVE LAW AND
GOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 5097 and Related Bills

POST-EMPLOYMENT CONFLICTS OF INTEREST

MAY 21 AND JULY 16, 1986

Serial No. 67



Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1986

63-628 O

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

PDF PAGE NUMBER 191

line is if I disagree with either the general counsel of the agency or the White House counsel, I can kind of make the final decision, because as you know, based on the way that the nomination process is set up, most committees do not act until they receive a letter from me saying these things have been resolved.

Mr. GLICKMAN. OK, now let's get ourselves out of the nomination process right now with respect to existing employees of the government high level employees, particularly of the White House, or high level employees of other agencies. Let's specifically talk about the White House.

How do you relate to the White House counsel and the White House on a continuing basis with respect to these things I just talked to you about, disclosure, post-employment activities and divestiture, when you are not talking about confirmation, but you are just talking about general conduct.

Mr. MARTIN. If a matter arises either through information that comes to one of my attorneys or my staff or through an audit that we might have done, I would either by telephone, or if it is serious enough, by memorandum, request the agency ethics official—and I have done this in the past. It would be the White House counsel's office in the case of the White House—to get the facts for me so that I can make my determinations. If it is matter of allegations of criminality, and at a high level I would have to make determinations under the independent counsel's provisions. So my first query is to get the facts and to confirm that if there is any truth to the allegations. And I would do that with the White House counsel's office as I would with any other ethics official.

Mr. GLICKMAN. Have you done that with respect to high level government people working at the White House?

Mr. MARTIN. Oh, a number of times.

Mr. GLICKMAN. Was it done with respect to Mr. Deaver?

Mr. MARTIN. It was in fact.

Mr. GLICKMAN. By reason of their request to you or your request to them?

Mr. MARTIN. Back in November I read a story about the acid rain matter, and after consulting with my staff, we had questions whether or not there were in fact problems with the representation there. I sent a memorandum to, then Mr. Fielding, requesting that he determine the facts for me and to get back to me.

Mr. GLICKMAN. And did he in fact get back with you?

Mr. MARTIN. After a series of conversation and talks, there were a series of memoranda between myself and Mr. Fielding which finally resulted in a letter from Mr. Walison who replaced Mr. Fielding, which outlined the facts. By that time the GAO had gotten into the—and we were cooperating with GAO in obtaining the facts.

Mr. GLICKMAN. This letter from—you said Mr.—

Mr. MARTIN. Walison. He replaced Mr. Fielding, I think, in April.

Mr. GLICKMAN. Now did that letter basically exonerate Mr. Deaver?

Mr. MARTIN. No, it didn't. It just laid out some facts which I—

Mr. GLICKMAN. Just a factual letter outlining meetings.

Mr. MARTIN. Yes, that's correct.

Bill G

THE WHITE HOUSE

WASHINGTON

October 27, 1988

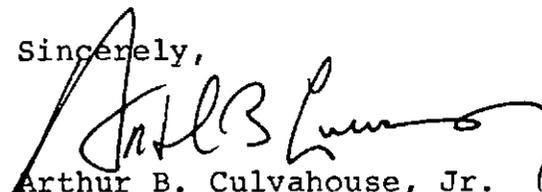
Dear Judge Nebeker:

This responds to your memorandum of October 7, 1988, soliciting agency-specific information with respect to ethics restrictions and gift acceptance authority. I will report on the information applicable to the White House Office.

The White House Office is subject to the Standards of Conduct published in 3 C.F.R. Part 100. In general, these regulations and the statutory provision at 18 U.S.C. § 208 prohibit an employee from acting or appearing to act on matters which could have a direct and predictable effect on the employee's financial interest. The White House Office has no additional restrictions on holding specific types of interests, nor does the Office have agency-specific statutory reporting requirements. We also have no statutory agency gift acceptance authority.

We hope this is responsive to your survey of agency information. Please feel free to contact this office with any additional questions.

Sincerely,



Arthur B. Culvahouse, Jr.
Counsel to the President

The Honorable Frank Q. Nebeker
Director
Office of Government Ethics
1625 K Street, N.W.
Suite 400
Washington, D.C.

THE WHITE HOUSE
WASHINGTON

July 6, 1981

→ DRS
FYI / J
sc / EP
F. L.

Dear Jack:

This acknowledges, belatedly, receipt of your letter of May 19, 1981, stating your wish to monitor compliance by members of the White House Office with the requirements of the public financial disclosure provisions of the Ethics in Government Act of 1978.

As you know, we are still very much involved in the Presidential appointments process. Until we get closer to concluding that process, I appreciate your forbearance in scheduling your compliance visit. Please have your people coordinate your future plans for such a visit with Larry Garrett, whose time will be the most affected.

Thank you, and again my apologies for the delay in responding.

Sincerely,



Fred F. Fielding
Counsel to the President

The Honorable J. Jackson Walter
Director
Office of Government Ethics
1900 E Street, N.W.
Washington, D.C. 20415

THE WHITE HOUSE

WASHINGTON, D.C.

October 30, 1980

NOTE FOR JACK WALTER

FROM: MARILYN MEINKING *MM*

Mike is out of town and
asked that this be sent
to you for your review
and comment.

*OK'd by
phone*

OCT 30 11 01 AM '80

RECEIVED SA OSE

THE WHITE HOUSE
WASHINGTON

File
RF

Dear Mr. Chairman:

Your letter of October 10, 1980, to the President concerning a recent opinion of the Office of Government Ethics has been referred to me for response. Your letter asks that the President take corrective action to reverse a ruling made by the Office of Government Ethics in connection with that Office's interpretation of 18 U.S.C. 207.

The Ethics in Government Act of 1978, which established the Office of Government Ethics, directs that office to issue and interpret regulations on post-employment restrictions. The statute does not contemplate or provide procedures for the President to overrule an opinion of the Office of Government Ethics. Accordingly, because there is no right of appeal to the President, it would be inappropriate for him to review or alter, decisions of the Office of Government Ethics.

The President did propose in 1977 that steps be taken to "curb the revolving door", and the enactment of the Ethics in Government Act of 1978 is a reflection of that commitment by the President and the Congress. The Ethics in Government Act amendments to the federal conflict of interest statutes dealing with post-employment restrictions appear to have served that purpose well.

I regret that I cannot be more helpful in this matter.

Sincerely,

MICHAEL H. CARDOZO
Deputy Counsel to the President

The Honorable L. H. Fountain
Chairman, Intergovernmental Relations
and Human Resources Subcommittee
of the Committee on Government
Operations
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

February 17, 1989

Dear Judge Nebeker:

In accordance with the Ethics in Government Act of 1978, as amended, and the regulations implemented thereunder (specifically 5 C.F.R. section 738.202(c)), I am writing to notify you that I have designated C. Boyden Gray, Counsel to the President, as the Designated Agency Ethics Official for the White House Office within the Executive Office of the President. I have also designated Amy L. Schwartz, Associate Counsel to the President, as Alternate Agency Ethics Official. Mr. Gray has in turn designated the following individuals to serve as deputy ethics officials: Lee Liberman, Associate Counsel to the President, Patricia Bryan, Associate Counsel to the President, and Arnold Intrater, General Counsel, Office of Administration.

A copy of the delegation of authority is enclosed.

Sincerely,



The Honorable Frank Nebeker
Director
Office of Government Ethics
Suite 400
1625 K Street, N.W.
Washington, D.C. 20044

THE WHITE HOUSE
WASHINGTON

May 3, 1988

MEMORANDUM FOR PHILLIP D. BRADY
DEPUTY COUNSEL TO THE PRESIDENT

FROM: ARTHUR B. CULVAHOUSE, JR.
COUNSEL TO THE PRESIDENT

As the Designated Agency Ethics Official for the White House Office, I hereby appoint you to serve as the Alternate Designated Agency Ethics Official to carry out the responsibilities and duties as set forth in part 738, Title 5 of the Code of Federal Regulations. For your information, Kathleen D. Koch and Arnold Intrater are Deputy Agency Ethics Officials.

cc:Frank Q. Nebeker

THE WHITE HOUSE
WASHINGTON

April 10, 1987

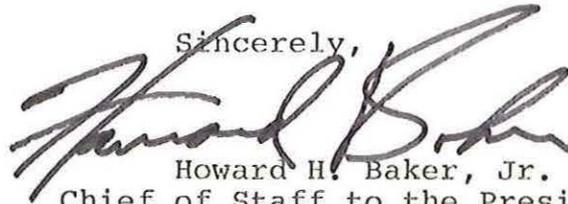
Don
Gary *JW*
Jack
Bob
~~*MB*~~
DS
VM
4-20-87

Dear Mr. Martin:

In compliance with the Ethics in Government Act of 1978, as amended, and the regulations promulgated thereunder (specifically those set forth in 5 CFR §738.202(c)), this is

to notify your office that I have appointed Arthur B. Culvahouse, Jr., Counsel to the President, as the individual to serve as the designated agency ethics official for the White House Office. I have further designated Jay B. Stephens, Deputy Counsel to the President, as the individual to act and perform this function in the absence of Mr. Culvahouse, and Kathleen D. Koch, an Assistant Counsel, and Arnold Intrater, General Counsel, Office of Administration, to serve as deputies.

Sincerely,



Howard H. Baker, Jr.
Chief of Staff to the President

Mr. David H. Martin
Director
Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

THE WHITE HOUSE

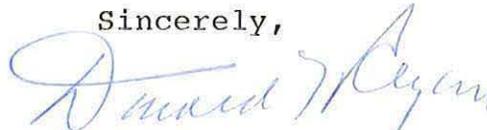
WASHINGTON

April 22, 1986

Dear Mr. Martin:

In compliance with the Ethics in Government Act of 1978, as amended, and the regulations promulgated thereunder (specifically those set forth in 5 CFR §738.202(c)), this is to notify your office that I have appointed Peter J. Wallison, Counsel to the President, as the individual to serve as the designated agency ethics official for the White House Office. I have further designated Jay B. Stephens, Deputy Counsel to the President, as the individual to act and perform this function in the absence of Mr. Wallison, and Nancy F. Janes, Assistant Counsel in the Office of the Counsel to the President, to serve as a deputy.

Sincerely,



Donald T. Regan
Chief of Staff

Mr. David H. Martin
Director
Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

THE WHITE HOUSE
WASHINGTON

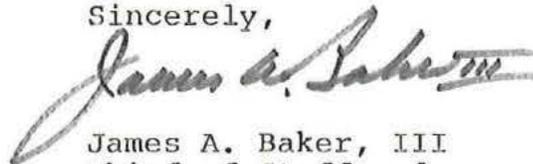
~~D Scott~~
~~Jack~~
Bob F. App
James

March 29, 1984

Dear Mr. Martin:

By letter dated November 24, 1981, I appointed Richard A. Hauser, Deputy Counsel to the President, and J. Michael Luttig, Assistant Counsel, to be Alternate Designated Agency Ethics Officials. On September 14, 1982, I appointed Sherrie M. Cooksey, Associate Counsel to the President, to be an Alternate Designated Agency Ethics Official to replace J. Michael Luttig. In order to comply with the provisions of 5 C.F.R. § 738.202, the above-referenced appointments are hereby rescinded. As stated in my letter of February 19, 1981, Fred F. Fielding, Counsel to the President, is the Designated Agency Ethics Official and by letter dated November 29, 1983, H. Lawrence Garrett III, Associate Counsel to the President, is the Alternate Designated Agency Ethics Official.

Sincerely,



James A. Baker, III
Chief of Staff and
Assistant to the President

The Honorable David Martin
Director, Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

cc: Fred F. Fielding
Richard A. Hauser
Sherrie M. Cooksey
H. Lawrence Garrett III

THE WHITE HOUSE

WASHINGTON

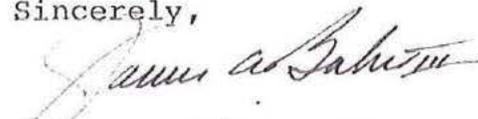
November 29, 1983

Dear Mr. Martin:

In compliance with the Ethics in Government Act of 1978, as amended, and the regulations promulgated thereunder (specifically those set forth in 5 CFR 738.202 (c)), this is to notify your office that I have appointed H. Lawrence Garrett III, Associate Counsel to the President, as an Alternate Designated Agency Ethics Official for the White House Office.

As stated in my February 19, 1981 letter to J. Jackson Walter, Fred F. Fielding, Counsel to the President, is the Designated Agency Ethics Official. Pursuant to letters dated November 24, 1981 to J. Jackson Walter and September 14, 1982 to David R. Scott, Richard A. Hauser and Sherrie M. Cooksey shall remain as Alternate Designated Agency Ethics Officials.

Sincerely,



James A. Baker, III
Chief of Staff and
Assistant to the President

Mr. David Martin
Director
Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

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1983 DEC -2 PM 2:19

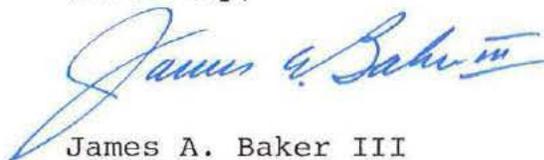
THE WHITE HOUSE
WASHINGTON

November 24, 1981

Dear Mr. Walter:

In compliance with the Ethics in Government Act of 1978, as amended, and the regulations promulgated thereunder (specifically those set forth in 5 CFR § 738.202(c), this is to notify your office that I have appointed Richard A. Hauser, Esquire, Deputy Counsel to the President, and J. Michael Luttig, Assistant Counsel, alternate designated agency ethics officials for the White House Office. These designations supersede those contained in my letter to you dated February 19, 1981.

Sincerely,



James A. Baker III
Chief of Staff and
Assistant to the President

Mr. J. Jackson Walter
Director
Office of Government Ethics
Office of Personnel Management
Washington, D. C. 20415

THE WHITE HOUSE

WASHINGTON

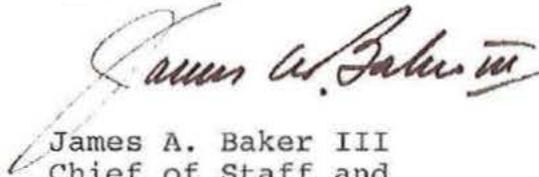
February 19, 1981

Handwritten notes and initials in the top right corner, including "2/19/81", "472", "J", "SHP", "me", and "MBS".

Dear Mr. Walter:

In compliance with the Ethics in Government Act of 1978, as amended, and the regulations promulgated thereunder (specifically those set forth in 5 CFR §738.202(c)), this is to notify your office that I have appointed Fred F. Fielding, Esq., Counsel to the President, as the individual to serve as the designated agency ethics official for the White House Office. I have further designated Lawrence Garrett, Assistant Counsel in the Office of Counsel to the President, as the individual to act and perform this function in the absence of Mr. Fielding.

Sincerely,



James A. Baker III
Chief of Staff and
Assistant to the President

Mr. J. Jackson Walter
Director
Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

Attachment

Faint, illegible markings or stamps at the bottom of the page.

United States of America
Office of
Government Ethics

Office of Personnel Management
Washington, D.C. 20415

File 1-2-2
APR 26 1979

M E M O R A N D U M

SUBJECT: Matters under the Ethics in Government Act Concerning the White House and Executive Office of the President

FROM: Bernhardt K. Wruble /s/ Director

TO: Mike Cardozo, Senior Associate Counsel

As we discussed, the following are matters which require attention and coordination at the White House and EOP:

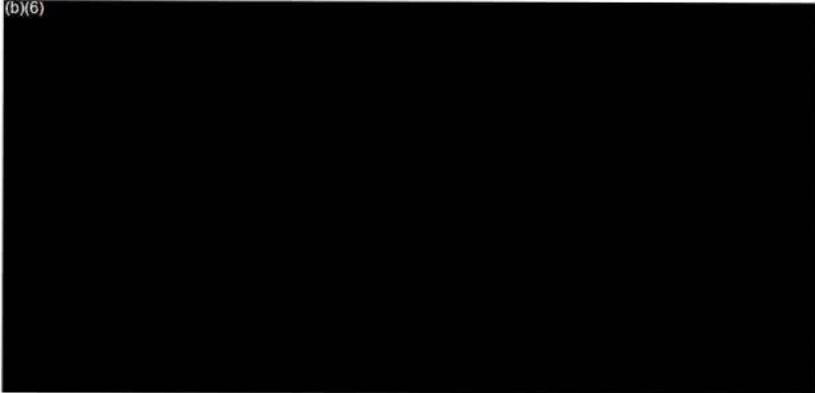
1. On February 26, 1979, we issued a memorandum requesting executive organizations to provide us with the name of their "designated agency ethics official." The following elements of the EOP and the White House have not formally complied with this request:

The White House Office
The Office of Administration

2. The following is a list of the designated agency officials who have been designated. Of these, three have failed to file the financial disclosure report required by statute within 30 days of designation. Three other individuals have not filed a disclosure report, although the report is not yet overdue. A list reflecting the foregoing follows:

WHITE HOUSE ETHICS OFFICIALS AND STATUS OF FINANCIAL

DISCLOSURE REPORTS

<u>Office</u>	<u>Ethics Official</u>	<u>Date Designated</u>	<u>Form 278A Status</u>
		28 Feb 79	Overdue
		28 Feb 79	Overdue
		21 Apr 79	Not filed
		12 Apr 79	Not filed

Office

Officials

Designated

Form 278A
Status

6 Apr 79

Not filed

Filed

Filed

Filed

Filed

3. We have sent forms and other material to the Office of Administration for distribution. It is important that other elements of the EOP and WH become aware of the availability of such material from the Office of Administration.

4. The EOP-WH should systematically take steps to make sure that each person required to file a financial disclosure report on May 15, 1979, pursuant to section 201(f) of the Act is advised and in fact files the report. In this connection, we have issued a memorandum, and are about to issue a regulation, specifying the people who are required to report under subsections 201(f)(3) and (5) of the Act. A copy of the draft regulation is attached at Tab A.

5. The EOP and the WH should currently be engaged in the process of determining which employees should or should not be designated as "Senior Employees" under section 737.25 of the recently issued post-employment conflict-of-interest regulations. A report for those classified at or above GS-17 or earning \$52,429 or more is required by May 15, 1979. Other positions must be submitted for designation by June 30, 1979. It is essential that the EOP and WH participate fully in this process. If high-level staff who make less than \$52,429 but have significant responsibility are not submitted for designation pursuant to section 737.25(b)(2), it might raise questions about the White House's own compliance with the spirit of the Ethics in Government Act.*

6. Also attached is a copy of my memorandum to you of March 6, 1979, regarding procedures to be followed with respect to the financial disclosure forms of Presidential nominees. We should decide exactly how this should be handled and then make sure the procedure is followed. (Memorandum is attached at Tab B.)

7. Dave Reich informs me that there is apparently a problem still outstanding with respect to where Presidentially-appointed chairmen or members of various

* While this memorandum was being prepared, the Domestic Policy Staff submitted the designation of Senior Employees attached hereto at Tab C.

regional commissions should file their financial disclosure reports and who should review them. Indeed it is not clear to us that all of these people have been informed of the requirements of the Act. Such commissions include the Missouri River Basin Commission, the Appalachian Regional Commission and the Regional Action Planning Commissions listed at pages 162-3 of the U.S. Government Manual. Reich believes that the forms should be filed with the department or agency in which the commission is nominally "housed," such as the Departments of the Interior or Commerce on the basis that these departments have regional offices throughout the country and could determine whether, for example, land owned by a reporting individual created a conflict with the functions and programs of the commission. There are two problems for which we need WH cooperation:

- (1) Reich is not sure that we have a list of all such commissions and believes that the WH does; and
- (2) We need the WH to direct, or concur in our directing, where each reporting individual should file. (If any of these individuals serves fewer than 60 days, we should be informed of that as well.)

3



United States
Office of Government Ethics

P.O. Box 14108
Washington, D.C. 20044

Barbara

January 31, 1989

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Frank Q. Nebeker
Director

SUBJECT: Required Annual Review of Senior Employee Designations
Made Pursuant to 18 U.S.C. § 207(d)(1)

This memorandum initiates the annual review of Senior Employee designations in order to establish the reach of the one-year "cooling off" provisions of the post-employment conflict of interest law, 18 U.S.C. § 207(c). Section 737.25(b)(1) of the final regulations (5 C.F.R. Part 737) requires that each agency head submit to the Director, Office of Government Ethics, a report consisting of: (i) a description of all positions classified at GS-17 or above in the General Schedule; those in any other pay system, the rate of pay for which is at least that of grade GS-17; those in the Senior Executive Service (SES); and those active duty uniformed service officers serving in pay grades 0-7 and 0-8; (ii) the agency's recommendation as to those positions that should not be designated, based on standards established in the regulations or for any other reason; and (iii) the basis and reasons for each such recommendation.

To facilitate this year's review and updating process, we are attaching a schedule of positions currently designated in your agency (Attachment A), a schedule of those positions exempted (Attachment B), and a schedule of all automatically designated positions pursuant to § 207(d)(1)(A) and (B) (Attachment C). Together, the three attachments theoretically describe the universe of potentially designatable positions within your agency. The current listing may be found in Federal Register, Vol. 53, No. 232, Friday, December 2, 1988.

To expedite this process, we ask that where possible you use the attachments as your report, returning annotated copies of the attachments to this Office not later than May 1, 1989. We also ask that you review all designated and exempted positions in light of past experience to ensure, to your satisfaction, that all positions have been appropriately designated or exempted by this Office. Recommendations should be supported by an explanation of the standards employed. In those cases involving newly created positions, a position description should accompany the recommendation. Any recommended changes will be considered and appropriate action will be taken in our annual review.

Attachments

THE WHITE HOUSE
WASHINGTON

August 15, 1989

Dear Judge Nebeker:

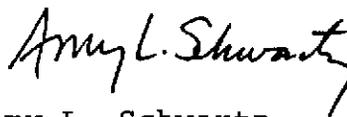
I received today your letter of August 8, 1989 to the Counsel to the President regarding the designation of Senior Employee positions. I assume that you have by now received my letter of August 8, 1989, providing you with a list of Senior Employee positions in the White House Office and Office of Policy Development.

It was not clear from your letter of August 8 whether you were now requesting a list of Senior Employee positions for the entire Executive Office of the President. Your January memorandum was addressed to all Designated Agency Ethics Officials, and Mr. Gray is Designated Agency Ethics Official (and I am the Alternate) for the White House Office and Office of Policy Development only. The January memorandum accordingly provided supporting material only on prior Senior Employee positions in the White House Office.

Notwithstanding the subsequent classification of the Executive Office of the President as one agency for the purposes of 18 U.S.C. 207, there remain separate Designated Agency Ethics Officials for other offices within the Executive Office of the President. I assume that those DAEOs received your January memorandum, including supporting material about prior Senior Employee positions in their respective offices, and are in the process of responding to your request. Should you have any problem obtaining information from the other DAEOs, I would be happy to work with you to encourage them to supply the needed information.

Please feel free to call me at 456-2674 if you have any questions.

Sincerely,



Amy L. Schwartz
Associate Counsel to the President

The Honorable Frank Q. Nebeker
Director
Office of Government Ethics
P.O. Box 14108
Washington D.C. 20044

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SECRET
THE WHITE HOUSE

THE WHITE HOUSE
WASHINGTON

August 8, 1989

Dear Judge Nebeker:

This letter responds to your request for information about Senior Employee positions in the White House Office and Office of Policy Development.

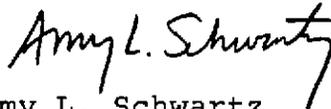
Attached is a list of those positions on the White House Office payroll paid at Executive Level II. We consider these positions to be "automatically designated" pursuant to 18 U.S.C. 207(d)(1)(A). I have been informed by the Director of the White House Personnel Office that there are no positions on the White House payroll that are filled at other levels in the Executive Schedule.

I am also informed that the White House payroll includes no positions in the Senior Executive Service or in the commissioned uniformed services at grades 0-7 or higher. There are also no positions paid at a level at or above GS-17 (or a comparable rate) that are not already on the list of automatically designated positions. Accordingly, I do not believe that there are any positions in the universe eligible for designation as Senior Employee positions.

As for the Office of Policy Development, it is my understanding that the payroll of that office does not include any Executive Level positions, any positions paid at or above the GS-17 rate (or a comparable rate), any positions in the Senior Executive Service, or any positions in the commission uniformed services at grades 0-7 or higher.

Please let me know if you have any questions.

Sincerely,



Amy L. Schwartz
Associate Counsel to the President

Enclosure

The Honorable Frank Q. Nebeker
Director, Office of Government Ethics
P.O. Box 14108
Washington D.C. 20044

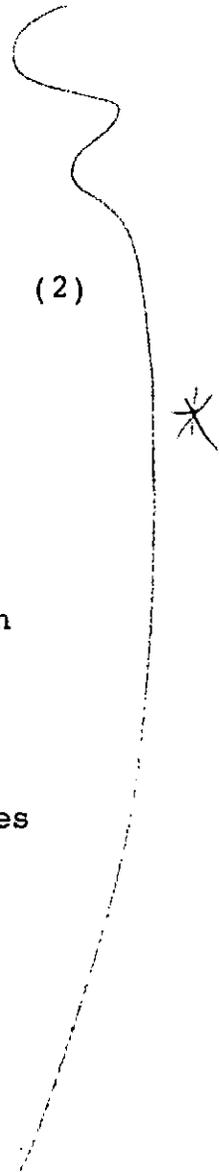
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/ march
upaid

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE OFFICE

POSITIONS PAID AT EXECUTIVE LEVEL II

- EL: II Chief of Staff to the President
- II Assistant to the President and Secretary to the Cabinet
- II Assistant to the President for Issues Analysis
- II Assistant to the President and Deputy to the Chief of Staff (2)
- II Assistant to the President for Communications
- II Assistant to the President and Press Secretary
- II Counsel to the President
- II Assistant to the President for Legislative Affairs
- II Assistant to the President for Management and Administration
- II Assistant to the President for Economic & Domestic Policy
- II Assistant to the President for National Security Affairs
- II Assistant to President for Special Activities and Initiatives
- II Assistant to the President for Presidential Personnel
- II Assistant to the President and Deputy for National Security Affairs



AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT
(THE WHITE HOUSE OFFICE)

POSITIONS: NO SECTION 207(d) (1) (C) DESIGNATIONS

EXECUTIVE OFFICE OF THE PRESIDENT
THE WHITE HOUSE OFFICE

Exemptions

NONE

EXECUTIVE OFFICE OF THE PRESIDENT
THE WHITE HOUSE OFFICE

Executive Level Positions

EL-II * Chief of Staff to the President

EL-II * Assistant to the President and Secretary to the Cabinet

EL-II * Assistant to the President for Issues Analysis

EL-II * Assistant to the President and Deputy to the Chief of Staff (2)

EL-II * Assistant to the President for Communications

EL-II * Assistant to the President and Press Secretary

EL-II * Counsel to the President

EL-II * Assistant to the President for Legislative Affairs

EL-II * Assistant to the President for Management and Administration

EL-II * Assistant to the President for Economic & Domestic Policy

EL-II * Assistant to the President for National Security Affairs

EL-II * Assistant to President for Special Activities and Initiatives

EL-II * Assistant to the President for Presidential Personnel

EL-II * Assistant to the President and Deputy for National Security Affairs



OFFICE OF THE VICE PRESIDENT
WASHINGTON

September 12, 1989

MEMORANDUM FOR THE ACTING DIRECTOR
OFFICE OF GOVERNMENT ETHICS
ATTENTION: YVONNE WRIGHT

FROM: DIANE G. WEINSTEIN *DW*
COUNSELLOR TO THE VICE PRESIDENT

SUBJECT: SENIOR EMPLOYEE DESIGNATION

This responds to your memorandum of January 31, 1989 requesting a report on positions within the Office of the Vice President subject to Senior Employee designations for purposes of the Government Ethics Act's post employment conflict of interest provision, 18 USC 207.

As you requested, the schedules provided as attachments to your request have been annotated to show the executive branch positions within this office that are at the Executive Level and paid at the GS-17 rate of pay or above.

Please call me at 456-2816 if you have any questions regarding the foregoing.

cc: William Kristol

another copy sent
8/31/89

Deane Weinstein

456-2816

will call back

AGENCY:

EXECUTIVE OFFICE OF THE PRESIDENT
(OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

FAX 456-7044 Jon
271

POSITIONS:

AD

Chief of Staff

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE VICE PRESIDENT

Exemptions

AD

Executive Assistant to Mrs. Bush

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE VICE PRESIDENT

Executive Level Positions

NONE



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

January 29, 2003

The Honorable Alberto R. Gonzales
Counsel to the President
The White House
Washington, DC 20500-0002

Dear Judge Gonzales:

The Office of Government Ethics (OGE) recently completed a review of the ethics program at the White House Office (WHO). Our objectives were to assess the ethics program's effectiveness and the quality of its management. This review was conducted during December 2002. The following is a summary of our findings and conclusions.

ADMINISTRATION

As WHO's Designated Agency Ethics Official (DAEO), you have overall responsibility for managing its ethics program. However, the day-to-day functions of the program are overseen by an Associate Counsel, who serves as the Alternate DAEO. The Alternate DAEO is currently assisted by three ethics counselors who have been detailed to WHO to aid in administering its ethics program.

HIGHLIGHTS

WHO has a well-managed ethics program. During her relatively brief tenure, the Alternate DAEO has formalized, in writing and in practice, the administration of virtually every program element, resulting in an organized and efficient program. Not only does this systematic approach enhance the extant program, but will help to ensure its success under the guidance of future ethics officials.

FINANCIAL DISCLOSURE SYSTEMS

The Alternate DAEO has developed comprehensive written procedures for administering the public financial disclosure system. To evaluate the effectiveness of these procedures, we examined 30 of the 45 annual and termination public financial disclosure reports required to be filed in 2002 and forwarded to OGE in accordance with 5 C F R. § 2634.602(c)(1)(v). All of the reports we examined were filed, reviewed, and forwarded to OGE in a timely manner.

We also examined 48 of the 77 public reports filed in 2002 which were not required to be forwarded to OGE. All were filed

timely and all but two were reviewed and certified timely.¹ Moreover, the review of these reports by WHO ethics officials appeared thorough, as our examination revealed no substantive deficiencies

Six of the public filers were issued 18 U.S.C. § 208(b)(1) waivers, about which, according to the waiver documents, OGE had been consulted. Also, copies of all the waivers were forwarded to OGE as required.

WHO also has detailed written procedures for administering its confidential financial disclosure system. To assess this system, we examined 25 of the 26 confidential reports required to be filed by regular WHO employees in 2002.² Twenty-four of the 25 reports were filed timely and all were reviewed and certified timely. As with the public reports, we did not identify any substantive deficiencies during our examination

WHO is only responsible for one Federal advisory committee, the President's Homeland Security Advisory Council (Council), the members of which are special Government employees (SGE) appointed by the President. All 16 of the OGE Form 450s filed by current members of the Council were filed, reviewed, and certified in a timely manner and did not contain any substantive deficiencies.

Thirteen of the 16 Council members were issued 18 U.S.C. § 208(b)(3) waivers. As with the (b)(1) waivers, the waiver documents stated that OGE had been consulted in each case and copies of all the waivers were forwarded to OGE.

EDUCATION AND TRAINING PROGRAM

To meet the initial ethics orientation requirement, the Office of White House Personnel provides all incoming employees with a copy of the Standards of Ethical Conduct for Employees of the Executive Branch. Employees must certify that they have received this booklet and will review it, attend required training sessions, and complete a financial disclosure form, if applicable

In addition, upon entering on duty in the spring of 2002, the Alternate DAEO met individually with WHO Assistants and Deputy Assistants to the President in order to avail them of her services and to foster a cooperative relationship. She has also instituted a practice whereby all newly-appointed Commissioned Officers (employees holding a commission of appointment from the President) meet with her individually and are provided a one-on-one initial orientation

¹An additional seven reports had been recently filed and were still under review at the time of our examination

²The remaining filer received a filing extension and thus his report had not yet been filed at the time of our review.

Pursuant to 5 C F.R § 2638 705, all employees of the Executive Office of the President are required to receive annual ethics training To meet this requirement for WHO, the Alternate DAEO personally provides numerous training courses, at least monthly, for a variety of employees. Each course is specifically tailored to the needs of the particular audience. She also provides live briefings throughout the year for other non-covered WHO personnel, such as White House Interns and Fellows According to a WHO ethics counselor, all covered WHO employees received an annual ethics briefing in 2002

In addition to the initial orientations and annual briefings, outgoing employees are required to meet with the Alternate DAEO as part of the check-out process. During the meeting, the Alternate DAEO briefs departing employees on the post-employment restrictions and provides them written summaries of these restrictions Until the check-out process is complete, employees cannot receive their final paycheck.

ADVICE AND COUNSELING SERVICES

The OGE Desk Officer assigned to WHO examined a sample of the written advice and counseling rendered by WHO ethics officials in 2002. The advice covered a wide range of subjects including providing letters of recommendation, conflicts of interest, co-sponsorship of events, gift acceptances, speaking, and fund-raising. The Desk Officer found the advice to be thorough and accurate.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

WHO has written procedures for accepting travel payments from non-Federal sources under 31 U S.C. § 1353 and the implementing General Services Administration regulation at 41 C F R. part 304-1. To evaluate these procedures we examined a sample of the 140 payments in excess of \$250 per event accepted by WHO from the period beginning October 1, 2001 and ending September 30, 2002. All the payments included in our sample appeared to be appropriately accepted and reported to OGE in compliance with the law and regulation.

CONCLUSIONS

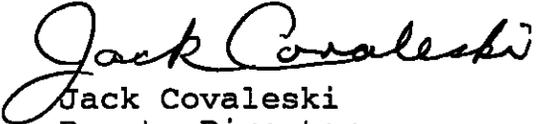
We again commend WHO for its well-functioning ethics program. In particular, we laud the efforts of the Alternate DAEO to ensure the program's efficient administration, both now and in the future. We were also particularly impressed with her ongoing practice of providing tailored, useful ethics training to a variety of audiences.

In closing, I wish to thank you, the Alternate DAEO, and the rest of the WHO staff for your efforts on behalf of the ethics

Judge Alberto R. Gonzales
Page 4

program. Please contact me at 202-208-8000, extension 1120, or have a member of your staff contact Dale Christopher at extension 1130, if we may be of further assistance

Sincerely,


Jack Covalesski
Deputy Director
Office of Agency Programs

cc: Nanette Everson
Associate Counsel to the President
The White House

Report Number 03- 006

OFFICE OF GOVERNMENT ETHICS
PROGRAM REVIEW DIVISION

REPORT PROCESSING ROUTING SLIP

AGENCY WHITS HOUSE OFFICE (WHOO)
(Identify all locations/components covered by report) (Audit tracking system code)

STAFF D. Christopher / C. Klouner

Title	Initials or Signature	Date
Director*		
General Counsel*		
Deputy Director, OAP	<i>J. Covaleski</i>	1-29-03
PRD edit	<i>[Signature]</i>	27 Jan 03
Desk Officer review (to be completed by the following date: _____)	<i>Daw</i>	1-27-03
Chief, PRD	<i>S.P.</i>	1-24-03
Referencer	<i>DC</i>	1/23/03
Ass't to Chief, PRD*	<i>[Signature]</i>	1/21/03
Team Leader	<i>DC</i>	1/18/03

*When required

PERTINENT NOTES:

Rept # 03-006

FOR PRD USE:

Secretary, PRD Checklist <input checked="" type="checkbox"/>	Team Leader Checklist <input checked="" type="checkbox"/>
<ul style="list-style-type: none"> enter date of report into tracking system (matched to report date) 	<ul style="list-style-type: none"> check that tracking system shows locations/components reviewed
<ul style="list-style-type: none"> place copy of report in power file folder (including report processing routing slip) 	<ul style="list-style-type: none"> continuously update tracking system during report processing
<ul style="list-style-type: none"> update power file listing when report is filed in folder 	<ul style="list-style-type: none"> check that tracking system shows report recommendations
<ul style="list-style-type: none"> distribute internal copies of report (as necessary) 	<ul style="list-style-type: none"> place copy of report on P: Drive indicate file name used _____

THE ROUTING SLIP WILL BECOME PART OF THE PERMANENT REPORT FILE AFTER REPORT IS ISSUED AND SHOULD BE RETURNED TO PRD SECRETARY

Form date: 02/02



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

January 29, 2003

The Honorable Alberto R. Gonzales
Counsel to the President
The White House
Washington, DC 20500-0002

Dear Judge Gonzales:

The Office of Government Ethics (OGE) recently completed a review of the ethics program at the White House Office (WHO). Our objectives were to assess the ethics program's effectiveness and the quality of its management. This review was conducted during December 2002. The following is a summary of our findings and conclusions.

ADMINISTRATION

As WHO's Designated Agency Ethics Official (DAEO), you have overall responsibility for managing its ethics program. However, the day-to-day functions of the program are overseen by an Associate Counsel, who serves as the Alternate DAEO. The Alternate DAEO is currently assisted by three ethics counselors who have been detailed to WHO to aid in administering its ethics program.

HIGHLIGHTS

WHO has a well-managed ethics program. During her relatively brief tenure, the Alternate DAEO has formalized, in writing and in practice, the administration of virtually every program element, resulting in an organized and efficient program. Not only does this systematic approach enhance the extant program, but will help to ensure its success under the guidance of future ethics officials.

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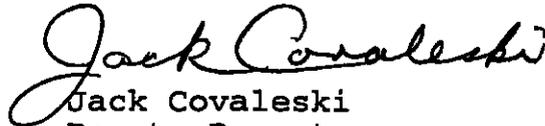
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Judge Alberto R Gonzales
Page 4

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Sincerely,



Jack Covaleski
Deputy Director
Office of Agency Programs

cc· Nanette Everson
Associate Counsel to the President
The White House

Report Number 03- 006



United States
Office of Government Ethics

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

February 28, 1996

The Honorable Jack Quinn
Counsel to the President
The White House
Washington, DC 20500

Dear Mr Quinn:

The Office of Government Ethics (OGE) has completed its review of the White House Office's (WHO) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Act). Our objectives were to measure the ethics program's effectiveness and compliance with applicable ethics statutes and regulations. To achieve our objectives, we examined the following program elements: the public and confidential financial disclosure systems, the ethics education and training program, the counseling and advice services, and the acceptance of travel expenses from non-Federal sources under 31 U S C § 1353. The review was conducted during January and February 1996.

We found that WHO's ethics program¹ contains the elements essential for a sound program and works to keep its employees aware of the requirements for ethical conduct. We would like to acknowledge WHO's ethics staff who provided their assistance and cooperation during the review. We commend them for their commitment to effectively carrying out their role in maintaining integrity in public service.

PUBLIC FINANCIAL DISCLOSURE SYSTEM

WHO has effectively implemented practices and procedures to ensure that public financial disclosure reports are filed and reviewed according to applicable statutes and regulations. Written procedures establish guidance for the collection, review, and maintenance of public and confidential financial disclosure reports, in accordance with the requirement established by the Act.

¹Two Alternate Designated Agency Ethics Officials (ADAEO) administer the day-to-day operations of the program serving employees of WHO, the Office of Policy Development, the Executive Residence, and the President's Foreign Intelligence Advisory Board. For the purposes of this report, we will refer to information provided by either ADAEO as provided by "the ADAEO."

The Honorable Jack Quinn
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The use of a financial disclosure tracking system also assists program management

We examined 76 of the public reports submitted during 1995 and 1996² and found that they were generally filed and reviewed timely, in accordance with 5 C F R part 2634. Although most reports were filed timely, we found that two new entrant reports, which were past due, had not yet been filed. According to the ADAEO, follow-up has been conducted and once the reports are submitted either the \$200 late filing fee will be assessed or a waiver of the fee will be requested from OGE, pursuant to 5 C.F.R. § 2634.704.

In addition, we identified one employee who appeared to have not filed a termination report. According to the ADAEO, the report could have been filed as a combination annual/termination report during the prior reporting year. Research will continue in order to resolve this issue.

The technical and substantive reviews conducted by WHO's ethics officials, including initial reviews conducted by staff detailed to WHO from other executive branch agencies, appeared thorough and well documented. As a result, we found few technical and no substantive deficiencies.

The Executive Office of the President (EOP) is working with OGE to issue regulations for EOP's employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch, with a requirement for prior approval of outside employment.³ Although EOP requires prior approval for most outside employment, no employee who is appointed by the President to a full-time noncareer position in the executive branch (except those employees appointed pursuant to 3 U.S.C. § 105 and 3 U.S.C. § 107(a) at salaries below the minimum rate of basic pay for a GS-9 of the General Schedule) is permitted to receive any earned income for any outside employment performed during that Presidential appointment, pursuant to Executive Order 12731. During our review of the financial disclosure reports, we found that employees fitting the

²Although one of WHO's primary ethics responsibilities is the review of financial disclosure reports of prospective Presidential appointees, we did not include this aspect of their ethics program in our review. The scope of our review included new entrant, incumbent, and termination reports that were not required to be transmitted to the Director of OGE under 5 C F R § 2634.602(c)(1).

³The EOP will also repeal WHO's old standards of conduct regulations at 3 C F R. part 100 and replace those provisions with a single section that provides cross-reference to 5 C F R parts 2634 and 2635, and to EOP's new supplemental regulations

The Honorable Jack Quinn
Page 3

above criteria, who had reported outside employment, had terminated it

CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

WHO has implemented generally effective procedures to ensure that confidential reports are filed and reviewed according to applicable statutes and regulations

We reviewed all 59 of the annual confidential reports required to be filed during 1995 and found that they were submitted timely, in accordance with 5 C.F.R part 2634. However, we found that 7 of the 13 reports required to be submitted by new entrants into covered positions were not filed within the required 30-day time frame. In fact, we found that most of these employees were not identified as filers and did not file their reports until the 1995 annual filing cycle. As a result of discussions on this issue, the ADAEO revised the procedures to include identification by supervisors in conjunction with the ethics staff, as was already the practice during the annual filing cycle.

The confidential reports were generally reviewed in a timely manner, however, some delays occurred, extending the review period to 90 days or more. According to the ADAEO, the current confidential report review period extended longer than usual because of an influx of Presidential nominee financial disclosure reports whose review took priority, the November 1995 Governmentwide furlough, and the office closures caused by "the blizzard of '96 "

The confidential reports appeared to be thoroughly reviewed and contained no substantive and few technical deficiencies

ETHICS EDUCATION AND TRAINING PROGRAM

WHO has established an ethics education and training program that effectively serves WHO's employees and provides required information, in compliance with OGE's training regulations at 5 C F R part 2638.

According to the ADAEO, required initial ethics orientation materials are provided to new employees as part of the new employee orientation conducted by the Office of Personnel, usually on the first Monday after entrance on duty. Additionally, employees view an OGE ethics video

Annual ethics training for 1995 was provided to approximately 900 employees, including those employees normally serviced by WHO's ethics program and also to the staffs of the Office of the Vice President, the National Security Council, the Council of Economic Advisers, the Office of Science and Technology Policy, and the

Office of National Drug Control Policy Classroom training included skits and discussions focusing on the most germane topics. Our review of the training materials revealed WHO's efforts to make the information transmitted relevant, interesting, entertaining, and memorable for the attendees.

WHO's training tracking system facilitated monitoring attendance at the annual training sessions. We found that WHO had successfully trained all but approximately 30 employees. Already aware of those who had not attended, the ADAEO told us that those employees were scheduled to attend a make-up session which would be conducted by another office within EOP.

In addition to compliance with the mandatory training requirements, WHO has taken proactive steps to provide additional relevant ethics educational materials to employees including reminders on ethics obligations and the acceptance of gifts and invitations. Also, the ADAEO has recently developed "user friendly" materials on seeking-employment and post-employment statutes and regulations for distribution to employees on an as-requested basis. Post-employment issues are also addressed during annual ethics training.

ADVICE AND COUNSELING SERVICES

In accordance with 5 C F.R. § 2638.203(b)(7), which requires the Designated Agency Ethics Official to develop and maintain an ethics counseling program, WHO has an active advice and counseling program that appears to be responsive to employee needs.⁴

According to the ADAEO, a majority of the ethics advice requested was asked for and answered verbally. However, both formal and informal written opinions were also provided, as appropriate. The advice provided covered a wide variety of topics, including financial disclosure, outside activities, cosponsorship of events, use of Government resources, fundraising, post-employment rules, and acceptance of gifts. In order to further provide employees with accurate guidance on the acceptance of gifts, a gift acceptance review procedure requires the disclosure of the receipt of most gifts and an approval/disapproval determination.

As previously mentioned, the ADAEO discusses post-employment issues during annual training and has also developed "user friendly" seeking-employment and post-employment materials for distribution to individuals with standard questions on these

⁴In addition to providing counseling to WHO's employees, the ethics officials also consult with ethics officials at other EOP offices, executive branch agencies, and OGE.

The Honorable Jack Quinn
Page 5

topics Additionally, individual post-employment counseling is provided on an as-requested basis.

We examined a sample of written advice provided to us by the ADAEO and found that it was thorough and consistent with applicable ethics statutes and regulations

OTHER ISSUES

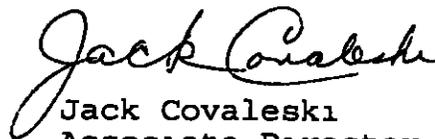
We reviewed a sample of WHO's documents supporting and authorizing reimbursements for travel, subsistence, and related expenses from non-Federal sources accepted from April 1, 1995 through September 30, 1995, and found that they were in compliance with the General Services Administration's interim rule and WHO's acceptance procedures

CONCLUSIONS

WHO's ethics program complies with applicable ethics statutes and regulations The various elements of the program are effectively administered by capable and experienced staff Priority is placed on maintaining strong financial disclosure systems In addition, through the proactive ethics education and training program and responsive counseling and advice services, employees are constantly kept aware of the requirements for ethical conduct

In closing, I thank you for your efforts on behalf of the ethics program A brief follow-up review is customarily scheduled within six months after an ethics program review, however, because no improvements to your program were recommended, follow-up is not necessary Please contact Phyllis Hoffer at 202-523-5757, extension 1184, if we can be of further assistance.

Sincerely,



Jack Covalleski
Associate Director
Office of Program Assistance
and Review

Report Number 96-010

THE WHITE HOUSE

WASHINGTON

October 14, 1992

Dear Mr. Potts:

This letter responds to your letter of August 12, 1992, containing the results of the review of the White House Office's ethics program conducted by the Office of Government Ethics (OGE) under Section 402 of the Ethics in Government Act, as amended.

This letter also responds specifically to the four recommendations contained in your letter, all of which pertain to financial disclosure requirements.

General comments. We are pleased that OGE recognizes that our Office's "continuing emphasis on counseling and advice services, as well as education and training, are the strong points of [our] program[,] and that "Supplemental written guidance and ethics officials' frequent contact with WHO employees are very responsive and address ethics issues and questions as they arise." We are also pleased that OGE identified no conflict-of-interest issue in the course of its review of a sampling of thirty-seven public financial disclosure reports.

Although OGE's description of this Office's ethics responsibilities notes our Office's review of the financial disclosure reports of persons under consideration for Presidential appointment, OGE apparently did not review our performance of this responsibility in the course of its review.

As you know, the review of financial disclosure reports of prospective Presidential appointees is critical to ensuring the public's confidence in the integrity of the Executive Branch, a cardinal objective of this President. We consider this review responsibility to be a primary, not ancillary, part of the White House Office's ethics program. Our Office devotes a considerable amount of attention and resources to the ethics review of prospective Presidential appointees, as well we should. Clearance by our Office, which is based in large part on our ethics review, is a necessary predicate to nomination by the President.

For many prospective appointees, our review of their financial interests and their outside affiliations during the White House clearance process, and the ethics advice we provide in the course of this review, is their first real introduction to the various ethics restrictions to which they will be subject during their Federal appointment. Their commitment to take all necessary and appropriate measures to avoid a conflict of interest or even the appearance of impropriety is made at this time.

Moreover, we have established an excellent working relationship

with agency ethics officials and with your Office. Together, our effort in the nomination and appointment process has been a significant benefit to the Administration. Our mutual success can be judged by the virtual absence of ethics issues from the confirmation process over the past four years as well as the paucity of reports and allegations of ethics lapses by Presidential appointees in this Administration.

We now turn to the specific recommendations contained in your letter.

The public financial disclosure system. The OGE review made three recommendations:

- (1) Improve procedures for identifying and notifying new entrants of the filing requirements and monitoring their filing;
- (2) Ensure that filers are aware of and comply with filing deadlines and procedures to obtain an extension of time of waiver of the late filing fee;
- (3) Review all public reports within sixty days.

We believe we have satisfied all three recommendations.

(1) Since January 1992, procedures have been in place to ensure that all new entrants are identified and notified of the filing requirements. New entrants consist of all officials who enter the White House as a Commissioned Officer, White House officials who are promoted to the status of a Commissioned Officer, and White House officials who are given a raise in pay that makes them a public filer based on their rate of pay. The White House Personnel Office distributes the public financial disclosure form to all new entrant Commissioned Officers as part of the ethics materials they are given upon entry to the White House. For those White House officials who become new entrants as a result of promotion, the White House Personnel Office notifies the Executive Assistant to the Counsel to the President of the fact and date of promotion, and the Executive Assistant sends the form to the official. As a back-up, for all new entrants, the White House Personnel Office notifies the Alternate Designated Agency Ethics Official of the fact of the hiring or promotion and the official start date or date the promotion becomes effective.

On a monthly basis, the White House Personnel Office sends our Office payroll lists of White House Office employees, divided into six pay categories, with an "additions and deletions" report, and includes copies of all personnel actions designating the applicable pay category for a specific employee. The Administrative Officer of the Office of Policy Development (OPD) also sends our office a monthly listing of OPD personnel,

including a separate listing of changes in personnel, broken down by salary level.

These lists enable our Office to alert White House Office and OPD employees to the public filing requirements to which they may be subject as a result of a promotion in pay or becoming a Commissioned Officer. These lists also assist our Office in identifying those officials who will be subject to a cooling-off period when they leave the White House so that we may brief them on the applicable post-employment restrictions in a timely manner.

Since January 1992, a procedure has been in place to monitor the filing of reports. The Executive Assistant to the Counsel to the President maintains a master list of all public filers and calls the office of any filer whose report has not been filed within a week it is due.

(2) All new entrant and incumbent filers are aware of the filing deadline and of the late filing fee. Since January 1992, the Executive Assistant to the Counsel to the President has sent to each new entrant a short memorandum attached to the financial disclosure form. The memorandum emphasizes the late filing fee, but purposefully does not inform the filer of the procedures to obtain an extension of time or to request a waiver of the late filing fee, and does not even note the 30-day grace period.

A memorandum is also attached to the financial disclosure form that is given to incumbents. Our office notes the deadline and late filing fee in a memorandum requesting that the official submit the form in draft so that our office can review it informally and return the draft form with comments and recommended revisions. Again, the memorandum does not inform the filer of extension or waiver procedures, and does not even note the 30-day grace period.

We wish to discourage requests for extensions of time simply because of the heavy workload and demanding schedule of White House officials. We also believe that apprising officials that there is no personal consequence to filing late so long as it is within the grace period would not promote filing on time. As a filing deadline approaches, we discuss with the filer or the filer's assistant whether an extension of time is needed. Our office drafts the request for extension based on the information provided by the filer, and ensures that the filer signs the request before the filing deadline.

All incumbent reports for calendar year 1991 were timely filed this year; fifty-six officials filed by May 15, and another eight officials filed within the extension of time granted on May 15. No report was filed later than June 10.

(3) Public disclosure reports are now being reviewed within sixty days of filing. In fact, since December 1991, new entrant reports have been reviewed on average within fifteen days of their receipt, and no new entrant report has been reviewed later than sixty days. Termination reports submitted since December 1991 have been reviewed on average within twelve days; in only one case did the review take more than sixty days. (One new entrant report and one termination report that were timely filed and reviewed within thirty days have not been certified, pending resolution of a few remaining issues.) During this time the White House Office experienced a significant deal of turnover as a result in the two changes in the Chief of Staff position, and the departure of several officials to work on the campaign. In addition, for the many new entrants to the White House who were not required to file a report because they moved from one covered position to another within thirty days, our Office reviewed their most recent financial disclosure report on average within thirty days.

This year, a majority of incumbent reports that were required to be filed were reviewed and certified before the May 15 filing deadline. All sixty-nine incumbent reports but one were reviewed within sixty days of receipt; only three reports were not certified within sixty days of filing (one remains pending as of this date), in each case because more time was needed to answer questions and make appropriate revisions. We have followed up as appropriate in all cases.

In the future, for those reports that are not reviewed and certified within sixty days of filing because additional information requested from the filer is pending, we will place a notation to this effect on the report, as recommended by OGE.

The confidential financial disclosure system. OGE concluded that the White House Office has not yet established a confidential financial disclosure system. This is not accurate. All employees of the White House Office, the Office of Policy Development, the President's Foreign Intelligence Advisory Board, the President's Intelligence Oversight Board and the Executive Residence who are not a Commissioned Officer but who are paid a rate of pay between GS-13 and GS-15 are required to complete, upon entry to the White House, a Confidential Statement of Financial Interests (OA-39), as well as a Personal Data Statement, which relates in part to an employee's past and present financial interests, fiduciary obligations and other outside affiliations. This system is required by 3 C.F.R. 100.735-24 (which has now been superseded by 5 C.F.R. 2634.902(c), effective October 5, 1992) and has been in place throughout this Administration.

For the most part during this Administration, these reports were filed in a timely manner. And since December 1991, confidential

reports have been reviewed on average within ten days of filing. However, our Office has not required employees to file annual confidential reports, anticipating -- incorrectly -- OGE's issuance of new confidential filing requirements during this time.

The OGE review recommends that we establish a "confidential financial disclosure system that will meet the requirements of the confidential financial disclosure regulations" published as an interim rule in April 1992 (after OGE completed its review of our Office) and not made effective until October 5, 1992. We believe we have already satisfied this recommendation.

New Subpart I of Part 2634 requires the White House Office to determine the employees who meet the definition of the term "confidential filer." 5 C.F.R. 2634.904. The White House Office has done that. We provided each office and component head with a complete and updated list of employees of that office or component and a relevant summary of the criteria used to determine who should be required to file a confidential report. We asked each of them to return their list noting the employees, if any, who they believe fit the criteria. In many cases, we discussed the filing criteria with the office or component head, or with their deputy or executive assistant.

We now have assembled a list of "confidential filers." However, as you know, the new confidential financial disclosure form, SF-450, has not yet been distributed, and in August OGE authorized agencies to delay the October 31 filing deadlines for both new entrant and annual filers because of form availability problems. The White House Office is poised to disseminate the SF-450 to "confidential filers" once the forms are received.

In closing, your letter notes that OGE will schedule a "brief follow-up review" within six months of your letter. We invite OGE to schedule this follow-up review at any time following your receipt of our response. Please contact Gregory S. Walden of my staff to schedule a mutually convenient time.

Sincerely,



C. Boyden Gray
Counsel to the President

The Honorable Stephen D. Potts
Director
Office of Government Ethics
Suite 500, 1201 New York Avenue, N.W.
Washington, D.C. 20500



United States
Office of Government Ethics
Suite 500, 1201 New York Avenue, NW
Washington, DC 20005-3917

August 12, 1992

The Honorable C. Boyden Gray
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Gray:

The Office of Government Ethics (OGE) recently completed its review of the White House Office's (WHO) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's effectiveness and compliance with applicable ethics laws and regulations. To achieve our objective, we examined the following program elements: the standards of conduct, the ethics officials' duties and responsibilities, the public and confidential financial disclosure systems, ethics education and training, and the counseling and advice services. This review was conducted during January and February 1992.

WHO has developed a program which includes most of the elements necessary for an effective ethics program. The continuing emphasis on counseling and advice services, as well as education and training, are the strong points of the program. Although these program elements are effective, some improvements are needed to maintain the integrity of the ethics program. Public financial disclosure procedures, for example, should be improved in terms of the timeliness in collecting new entrant reports and the review of new entrant and termination reports. The implementation of a confidential financial disclosure system also needs to be addressed.

Background

The Counsel to the President is the Designated Agency Ethics Official (DAEO). The Alternate DAEO and Deputy Ethics Official administer the day-to-day operations of the program, serving employees of WHO, the Office of Policy Development (OPD), the Executive Residence, the President's Foreign Intelligence Advisory Board, and the President's Intelligence Oversight Board. These employees are subject to the Executive Office of the President (EOP) standards of conduct at 3 C.F.R. part 100.

In addition to administering WHO's ethics program, the Alternate DAEO and Deputy Ethics Official, on occasion, receive referrals for ethics advice from, and disseminate advice to, ethics officials at other EOP components and executive branch agencies and

departments. They also provide information and guidance to interested parties of non-Federal entities. Moreover, WHO ethics officials are responsible for reviewing public financial disclosure reports of individuals nominated to positions in the executive branch as Presidential appointments (PA) and Presidential appointments by and with the advice and consent of the Senate (PAS). In 1991, the Office of the Counsel to the President was responsible for reviewing approximately 250 PA and PAS nominee public financial disclosure reports.

Public Financial Disclosure System Has Minor Problems

Seventy-seven employees were required to file public financial disclosure reports during the 1991 filing cycle. We examined 37 public reports which consisted of 9 new entrant, 23 incumbent, and 5 termination reports. Our examination disclosed that a total of 33 reports were filed in a timely manner and 4 new entrant reports were filed late. Of the four late reports, three were from employees who were promoted to covered positions in 1991. According to the Alternate DAEO, the collection of the \$200 late filing fee authorized by the Ethics Reform Act of 1989 was not enforced because ethics officials had not apprised the filers of the requirement to file financial disclosure reports within 30 days of their date of promotion, as required at 5 C.F.R. § 2634.201(b). The remaining new entrant report was filed five and a half months after the employee's entrance on duty. At the time of our review the filer had not been notified in regard to paying the \$200 late filing fee nor advised to request a waiver of the late filing fee.

The provisions of 5 C.F.R. § 2634.605(a) require the DAEO to review public reports within 60 days after filing. (See 57 Federal Register 11800 and 11823 [April 7, 1992]). Of the 37 public reports examined, 28 reports (76 percent) were reviewed within 60 days. The Alternate DAEO stated that the late review of some reports occurs because the review of new entrant and termination reports does not receive the same priority as the review of incumbent reports. He also stated that the timeliness of public report review was being addressed. During our examination, we saw evidence of ethics officials conducting more timely reviews. We identified only a few technical deficiencies in the reports we reviewed and, moreover, no conflict of interest issues.

A Confidential Financial Disclosure System Has Not Been Implemented

WHO has not established a confidential financial disclosure system, as required by 5 C.F.R. § 735.403. Based on our discussions with ethics officials, a small number of GS 13 - 15

employees would probably be required to file confidential reports under the new confidential financial disclosure regulations at subpart I of 5 C.F.R. part 2634 which are effective October 5, 1992. (See 57 Federal Register 11800, 11826-11829 [April 7, 1992]). All other employees that hold significant policy-making positions are required to file public financial disclosure reports.

Given the Government-wide trend toward uniformity in ethics regulations and the standardization of financial disclosure reporting, WHO will be required to establish a confidential reporting system under the new standardized confidential financial disclosure regulation. This would strengthen the ethics program and enhance WHO's ability to identify and resolve any potential or actual conflicts of interest.

DAEO Maintains an Active Ethics Education and Training Program

Section 2638.203 of title 5, Code of Federal Regulations, outlines the responsibilities and duties of the DAEO. Specifically, the DAEO shall ensure that an education and training program for agency employees concerning ethics laws, regulations and standards of conduct including post-employment restrictions is developed and conducted in coordination with OGE.

In 1991 WHO conducted no formal ethics training. In September 1990, annual ethics training was made available to all WHO employees, including employees of the President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board. The training consisted of approximately three one and one half-hour sessions. The course syllabus indicates that this training was comprehensive and tailored to the needs of WHO's various types of employees. The files also indicate that ethics officials made themselves available to provide briefings to the 12 Assistants to the President and their staff as an alternative to attending the regular briefings.

Although there are currently no structured standards of conduct briefings given to new employees, each new employee receives a packet of ethics related materials upon their arrival. One of four different packets is provided to a new employee depending on his or her pay grade or appointment (i.e., GS-16 and above, detailee, etc.). The packets include financial disclosure forms/personnel data sheets, instructions, and ethics memoranda on topics such as outside earned income, post-employment, acceptance of meals, and conflicts of interest. The packets also include the EOP standards of conduct regulations. We examined the information contained in these packets and believe that it satisfactorily apprises new WHO employees of the basic ethics requirements.

In addition to including ethics memoranda in the new employee packets, the DAEO periodically circulates memoranda to all employees throughout the year, in order to keep them informed of current executive branch-wide ethics regulations. We obtained 18 memoranda issued during 1989 through 1991. These memoranda covered issues such as reimbursement for travel expenses, political activities, gift acceptance, and the mixing of political and official travel. The memoranda covered the various ethics issues WHO employees may encounter. For example, on December 11, 1990, the DAEO issued policy guidance on Holiday Season Gift Acceptance and on November 27, 1991, he issued policy guidance on Political Activity (as it relates to WHO employees' individual political activities on behalf of the Bush/Quayle campaign).

We believe WHO ethics officials have made substantial efforts in providing ethics education and training. WHO's current education and training program should provide a solid foundation for implementing the requirements of the new ethics training regulations issued as a final rule by OGE at subpart G of 5 C.F.R. part 2638.

Ethics Counseling and Advice Services
Appear Consistent with Ethics Laws
and Regulations

Pursuant to 5 C.F.R. § 2638.203(b)(7) the DAEO has developed and maintains a counseling program to meet the needs of WHO employees. The majority of the advice rendered is verbal and informal. To evaluate the effectiveness of the agency's counseling services, we examined all of the written advice provided during 1990 and 1991. This amounted to 157 written determinations. Eighty-four determinations pertained to accepting reimbursement for travel expenses from non-Federal sources, accepting foreign gifts, and accepting gifts from prohibited sources. The written determinations were consistent with applicable ethics laws and regulations.

The Alternate DAEO provides departing senior and very senior employees a tailored 30-minute briefing on the post-employment restrictions, emphasizing particular statutes and regulations of which employees need to be aware with respect to their former positions and official duties. In addition to the briefing, an individualized post-employment restriction memorandum is prepared for each terminating official subject to the one year "cooling off" period.

In addition to providing advice to WHO employees, ethics officials provide ethics advice to other EOP components, and executive branch agencies, as well as non-Federal entities. For example, our review disclosed that two EOP components, and seven

executive branch agencies received written determinations from WHO, or confirmations of their own determinations, on issues such as outside earned income, outside activities, gift acceptance, participating in widely-attended functions, and travel. Additionally, six non-Federal entities requested advice on issues such as interaction with Federal employees in the procurement process, and whether Federal employees can accept awards or participate on an award nominating committee.

WHO granted 14 waivers under 18 U.S.C. § 208 during 1990 and 1991. All waivers were issued in accordance with Executive Order 12731, section 301(d), whereby agencies are required to consult with OGE, where practicable, prior to granting any waivers. According to the Alternate DAEO, WHO ethics officials have an ironclad rule to consult with OGE before issuing any waivers.

Conclusions

WHO ethics officials have developed the structural foundation for an effective ethics program. The ethics education and training program ensures that WHO employees are aware of Federal conflict of interest statutes and the principles of ethical conduct. WHO's counseling and advice to employees, other EOP components, executive branch agencies, and non-Federal entities is consistent with applicable regulations. Supplemental written guidance and ethics officials' frequent contact with WHO employees are very responsive and address ethics issues and questions as they arise.

In addition to the need to establish a confidential financial disclosure system, we found deficiencies in some aspects of the public financial disclosure system. Improvements are needed in the system to identify and notify employees who have been promoted to covered positions to file new entrant public reports. Also, new entrant and termination reports should be reviewed and certified in a timely manner.

Recommendations

We recommend that you:

1. Improve the procedures for identifying and notifying new entrant public report filers of the filing requirements and monitoring the filing of reports. For example, ensure that your office is notified of all promotions to covered positions throughout the year for public filing requirements.

The Honorable C. Boyden Gray
Page 6

2. Ensure that new entrant and incumbent public filers are aware of and comply with : a) the appropriate filing deadline, b) the procedures to request a filing extension, if appropriate and c) the procedures to request a waiver of the \$200 late filing fee, if appropriate.
3. Review all public financial disclosure reports within 60 days. In cases where certification has been delayed because additional information requested from the filer is pending, make a notation to this effect on the disclosure report and follow-up as appropriate with the filer.
4. Establish a confidential financial disclosure system that will meet the requirements of the confidential financial disclosure regulations issued as a interim rule by OGE at subpart I of 5 C.F.R. part 2634 (effective October 5, 1992).

In closing, we wish to thank you for your efforts on behalf of the ethics program. Please advise OGE within 60 days of the actions you have taken or plan to take concerning these recommendations. A brief follow-up review will be scheduled within six months from the date of this letter report. In view of the corrective action authority vested with the Director of the Office of Government Ethics under subsection 402(b)(9) of the Ethics Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that WHO implement action to correct deficiencies in a timely manner. If we can be of any further assistance, please contact DeEtte Spencer at 523-5757, extension 1154.

Sincerely,



Stephen D. Potts
Director

Report Number 92-031



United States
Office of Government Ethics

P O Box 14108
Washington D C 20044

APR 11 1988

Arthur B. Culvahouse, Jr.
Counsel to the President
Executive Office of the President
White House Office
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Culvahouse:

On January 20, 1988, Mr. Daryl Selden of my staff completed a review of the public financial disclosure reports filed by members of the Executive Office of the President (White House Office) that are not required to be sent to my office. This review was conducted as a continuing part of OGE's monitoring and compliance program. While we raised questions concerning several disclosure reports, Ms. Kathy Koch, Assistant Counsel to the President, resolved all the issues we raised. The disclosure report of Mr. Henry Gandy apparently had been lost. Mr. Selden will review it when a copy has been received from him and forwarded for review.

I would like to thank you and your staff for the courtesy extended to Mr. Selden during this review. If you have any questions, please call me or Mr. Selden at 632-7642.

Sincerely,


Frank Q. Nebeker
Director

ETH 7-1 EOP-WHO
MCD EOP-WHO
DSelden/en

United States of America
**Office of
Government Ethics**

Office of Personnel Management
Washington, D C. 20415

NOV 26 1982

MEMORANDUM

SUBJECT: Review of White House Public Financial Disclosure Reports

FROM: Mary Biesenbach ^{MB} and Ed Pratt ^{EP}
Management Analysts

TO: David R. Scott ^{DRS}
Acting Director

THROUGH: Jack Covaleski ^{JC}
Chief, Monitoring and Compliance Division

On November 17, 1982, we met with Ms. Sherrie Cooksey - Assistant Counsel to the President and Alternate Designated Agency Ethics Official. Ms. Cooksey is responsible for reviewing the public financial disclosure reports filed by White House officials although Ms. Cooksey's predecessor, Mr. Michael Luttig, reviewed most of the reports filed in 1982 before leaving the White House in May.

We reviewed a total of 56 reports which represented the reports filed by all but 1 of the officials indicated on 2 lists of White House officials required to file, and the reports of 8 officials not on either list. The 1 official listed who had not filed was Mr. James Brady - the Press Secretary. The 8 unlisted filers were either on detail to the White House and whose salaries were being paid by another agency, or were terminees.

Some recurring discrepancies noted based on our review of the reports included:

- non-Federal government positions from which the individual terminated during 1981 prior to the date of appointment not reported;
- income and honoraria received in 1981 prior to the date of appointment not reported;
- other types of inconsistencies between what was reported in 1981 and what was reported this year;
- valuation methods missing and no date of purchase shown where "C" was used as the method of valuation;
- interest rates, dates and/or terms of liabilities not indicated; and

- questions at the top of Schedule A related to the interests of a spouse or dependent child not answered.

We also noted in several instances the previous report filed by the official was not in the file folder, and no independent verifications were being made with the Internal Revenue Service to determine whether the donor of a gift or reimbursement was a "26 USC 501(c)(3)" organization. Ms. Cooksey replied that she would start doing independent verifications.

The review of the reports by the White House appears to have improved since our last visit in 1981. This was evidenced by Mr. Luttig's detailed review notes and the corresponding corrections made and additional information added to the reports. Attached is a copy of a detailed list of discrepancies by filer which we sent to Ms. Cooksey for her consideration and possible corrective action.

✓ Ms. Cooksey later informed us that Michael Luttig had an informal agreement with Jack Walter to the effect that positions held in the early part of the previous year, and reported on the new entrant report need not be reported on the first annual report. (incumbent) '81)

Attachment

United States of America
**Office of
Government Ethics**

Office of Personnel Management
Washington, D.C. 20415

MEMORANDUM

SEP 17 1981

SUBJECT: Visit to the White House
FROM: Ed Pratt ^{E.P.} and Mary Biesenbach ^{MB}
TO: J. Jackson Walter, Director, OGE
James Pont, Deputy Director
THROUGH: Jack Covaleski *Jack Covaleski*

On September 10 and 11, 1981, we met with H. Lawrence Garrett, alternate Designated Agency Ethics Official in The Office of the Counsel to the President. The purpose of our visit was to evaluate the systems for collecting and reviewing both public and confidential financial disclosure reports filed by the staff assigned to the White House Office, and to review both kinds of reports.

Although Fred Fielding is the Designated Agency Ethics Official (DAEO), the alternate told us he bears most of the responsibility for financial disclosure, including signing the public statements. Both the public and confidential filings are stored in the alternate DAEO's office and include filings from other than the immediate White House staff such as the Office of Policy Development and the National Security Council. A number of the reports were filed by individuals detailed from other agencies, and the alternate said he is still attempting to ascertain if there are any more detailees for whom he has no report, and if so, to obtain their reports.

There were thirteen public reports (SF 278's) on file from the Office of Policy Development, two from the National Security Council, and two from detailees. Also the alternate DAEO had voluntarily filed an SF 278. In addition to these, a computer run showed there to be 73 eligible filers within the immediate White House Office. Out of the total of 91 expected reports, we located and reviewed 83. The discrepancy was explained as follows: Three were still on the alternate DAEO's desk because he has problems with them; two were in the Office of Government Ethics because the filers have been nominated for other positions within government; two only entered the Government in August and were still within the filing deadline; and one, that of Press Secretary James Brady (wounded in March), had not been collected.

We have reviewed all 83 public reports and identified the following discrepancies:

- the "Compensation in Excess of \$5,000 Paid by One Source" section on Schedule D of many of the reports was not completed;
- dates, interest rates, and terms of several liabilities were not indicated;
- the holdings of several trusts and estates on one report were not separately valued along with the income derived from each holding;

- the date of an honorarium was missing;
- the valuation methods were missing on one report while "C" was used several times as the method of valuation on another report without the corresponding dates of purchase being indicated; and
- the amounts of receivables were not reported on Schedule A of one report for which compensation owed to the filer was indicated on Schedule D under the "Relations with Other Employers" section.

The alternate DAEO informed us he did not believe it was always necessary to complete the "Compensation in Excess of \$5,000 Paid to One Source" section if the amount of salary was reported on Schedule A. Another reason for not completing the section was that a list of clients from whom compensation in excess of \$5,000 was received was frequently contained in the personal background information the White House obtained in addition to the SF 278 information. We gave the alternate a copy of a list of all the discrepancies noted above and the reports to which they applied, and he agreed to correct them where he deemed it to be appropriate.

The alternate DAEO assured us all officials had been thoroughly briefed on the danger of conflict of interest, and he relies on their judgment to refrain from taking action on matters in which there is a potential for conflict. Only one filer of either a public or confidential disclosure report has executed a written recusal, and this was initiated by the filer himself. No divestitures have occurred or been recommended.

There were 77 confidential statements on file. These included nine from the Office of Policy Development, seven detailed from other agencies, nine in other miscellaneous jobs and one temporary consultant, all of whom were not on the computer run of persons earning between approximately \$32,000 and \$50,000 a year used to account for most filers. We were unable to locate a form for only one person on the computer list and the alternate DAEO said he remembered it had been collected but apparently was misfiled. He said he ensured timely submission of the reports by holding up building passes to the White House until the report was received.

We reviewed approximately half of the confidential reports and found no problems. The alternate DAEO had not initialed all the reports, but told us he had reviewed them all.



United States
Office of Government Ethics
201 New York Avenue, NW - Suite 500
Washington, DC 20005-5017

February 28, 1996

The Honorable Jack Quinn
Counsel to the President
The White House
Washington, DC 20500

Dear Mr Quinn

The Office of Government Ethics (OGE) has completed its review of the White House Office's (WHO) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Act). Our objectives were to measure the ethics program's effectiveness and compliance with applicable ethics statutes and regulations. To achieve our objectives, we examined the following program elements: the public and confidential financial disclosure systems, the ethics education and training program, the counseling and advice services, and the acceptance of travel expenses from non-Federal sources under 31 U.S.C. § 1353. The review was conducted during January and February 1996.

We found that WHO's ethics program¹ contains the elements essential for a sound program and works to keep its employees aware of the requirements for ethical conduct. We would like to acknowledge WHO's ethics staff who provided their assistance and cooperation during the review. We commend them for their commitment to effectively carrying out their role in maintaining integrity in public service.

PUBLIC FINANCIAL DISCLOSURE SYSTEM

WHO has effectively implemented practices and procedures to ensure that public financial disclosure reports are filed and reviewed according to applicable statutes and regulations. Written procedures establish guidance for the collection, review, and maintenance of public and confidential financial disclosure reports, in accordance with the requirement established by the Act.

¹Two Alternate Designated Agency Ethics Officials (ADAEO) administer the day-to-day operations of the program serving employees of WHO, the Office of Policy Development, the Executive Residence, and the President's Foreign Intelligence Advisory Board. For the purposes of this report, we will refer to information provided by either ADAEO as provided by "the ADAEO."

The Honorable Jack Quinn
Page 2

The use of a financial disclosure tracking system also assists program management

We examined 76 of the public reports submitted during 1995 and 1996² and found that they were generally filed and reviewed timely, in accordance with 5 C F R part 2634. Although most reports were filed timely, we found that two new entrant reports, which were past due, had not yet been filed. According to the ADAEO, follow-up has been conducted and once the reports are submitted either the \$200 late filing fee will be assessed or a waiver of the fee will be requested from OGE, pursuant to 5 C F R § 2634.704.

In addition, we identified one employee who appeared to have not filed a termination report. According to the ADAEO, the report could have been filed as a combination annual/termination report during the prior reporting year. Research will continue in order to resolve this issue.

The technical and substantive reviews conducted by WHO's ethics officials, including initial reviews conducted by staff detailed to WHO from other executive branch agencies, appeared thorough and well documented. As a result, we found few technical and no substantive deficiencies.

The Executive Office of the President (EOP) is working with OGE to issue regulations for EOP's employees that supplement the Standards of Ethical Conduct for Employees of the Executive Branch, with a requirement for prior approval of outside employment.³ Although EOP requires prior approval for most outside employment, no employee who is appointed by the President to a full-time noncareer position in the executive branch (except those employees appointed pursuant to 3 U.S.C. § 105 and 3 U.S.C. § 107(a) at salaries below the minimum rate of basic pay for a GS-9 of the General Schedule) is permitted to receive any earned income for any outside employment performed during that Presidential appointment, pursuant to Executive Order 12731. During our review of the financial disclosure reports, we found that employees fitting the

²Although one of WHO's primary ethics responsibilities is the review of financial disclosure reports of prospective Presidential appointees, we did not include this aspect of their ethics program in our review. The scope of our review included new entrant, incumbent, and termination reports that were not required to be transmitted to the Director of OGE under 5 C F R § 2634.602(c)(1).

³The EOP will also repeal WHO's old standards of conduct regulations at 3 C F R part 100 and replace those provisions with a single section that provides cross-reference to 5 C F R. parts 2634 and 2635, and to EOP's new supplemental regulations.

above criteria, who had reported outside employment, had terminated it

CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

WHO has implemented generally effective procedures to ensure that confidential reports are filed and reviewed according to applicable statutes and regulations

We reviewed all 59 of the annual confidential reports required to be filed during 1995 and found that they were submitted timely, in accordance with 5 C F.R part 2634. However, we found that 7 of the 13 reports required to be submitted by new entrants into covered positions were not filed within the required 30-day time frame. In fact, we found that most of these employees were not identified as filers and did not file their reports until the 1995 annual filing cycle. As a result of discussions on this issue, the ADAEO revised the procedures to include identification by supervisors in conjunction with the ethics staff, as was already the practice during the annual filing cycle.

The confidential reports were generally reviewed in a timely manner; however, some delays occurred, extending the review period to 90 days or more. According to the ADAEO, the current confidential report review period extended longer than usual because of an influx of Presidential nominee financial disclosure reports whose review took priority, the November 1995 Governmentwide furlough, and the office closures caused by "the blizzard of '96."

The confidential reports appeared to be thoroughly reviewed and contained no substantive and few technical deficiencies.

ETHICS EDUCATION AND TRAINING PROGRAM

WHO has established an ethics education and training program that effectively serves WHO's employees and provides required information, in compliance with OGE's training regulations at 5 C F R part 2638.

According to the ADAEO, required initial ethics orientation materials are provided to new employees as part of the new employee orientation conducted by the Office of Personnel, usually on the first Monday after entrance on duty. Additionally, employees view an OGE ethics video.

Annual ethics training for 1995 was provided to approximately 900 employees, including those employees normally serviced by WHO's ethics program and also to the staffs of the Office of the Vice President, the National Security Council, the Council of Economic Advisers, the Office of Science and Technology Policy, and the

Office of National Drug Control Policy Classroom training included skits and discussions focusing on the most germane topics. Our review of the training materials revealed WHO's efforts to make the information transmitted relevant, interesting, entertaining, and memorable for the attendees.

WHO's training tracking system facilitated monitoring attendance at the annual training sessions. We found that WHO had successfully trained all but approximately 30 employees. Already aware of those who had not attended, the ADAEO told us that those employees were scheduled to attend a make-up session which would be conducted by another office within EOP.

In addition to compliance with the mandatory training requirements, WHO has taken proactive steps to provide additional relevant ethics educational materials to employees including reminders on ethics obligations and the acceptance of gifts and invitations. Also, the ADAEO has recently developed "user friendly" materials on seeking-employment and post-employment statutes and regulations for distribution to employees on an as-requested basis. Post-employment issues are also addressed during annual ethics training.

ADVICE AND COUNSELING SERVICES

In accordance with 5 C F R § 2638 203(b)(7), which requires the Designated Agency Ethics Official to develop and maintain an ethics counseling program, WHO has an active advice and counseling program that appears to be responsive to employee needs.⁴

According to the ADAEO, a majority of the ethics advice requested was asked for and answered verbally. However, both formal and informal written opinions were also provided, as appropriate. The advice provided covered a wide variety of topics, including financial disclosure, outside activities, cosponsorship of events, use of Government resources, fundraising, post-employment rules, and acceptance of gifts. In order to further provide employees with accurate guidance on the acceptance of gifts, a gift acceptance review procedure requires the disclosure of the receipt of most gifts and an approval/disapproval determination.

As previously mentioned, the ADAEO discusses post-employment issues during annual training and has also developed "user friendly" seeking-employment and post-employment materials for distribution to individuals with standard questions on these

⁴In addition to providing counseling to WHO's employees, the ethics officials also consult with ethics officials at other EOP offices, executive branch agencies, and OGE.

The Honorable Jack Quinn
Page 5

topics. Additionally, individual post-employment counseling is provided on an as-requested basis.

We examined a sample of written advice provided to us by the ADAEO and found that it was thorough and consistent with applicable ethics statutes and regulations.

OTHER ISSUES

We reviewed a sample of WHO's documents supporting and authorizing reimbursements for travel, subsistence, and related expenses from non-Federal sources accepted from April 1, 1995 through September 30, 1995, and found that they were in compliance with the General Services Administration's interim rule and WHO's acceptance procedures.

CONCLUSIONS

WHO's ethics program complies with applicable ethics statutes and regulations. The various elements of the program are effectively administered by capable and experienced staff. Priority is placed on maintaining strong financial disclosure systems. In addition, through the proactive ethics education and training program and responsive counseling and advice services, employees are constantly kept aware of the requirements for ethical conduct.

In closing, I thank you for your efforts on behalf of the ethics program. A brief follow-up review is customarily scheduled within six months after an ethics program review, however, because no improvements to your program were recommended, follow-up is not necessary. Please contact Phyllis Hoffer at 202-523-5757, extension 1184, if we can be of further assistance.

Sincerely,



Jack Covaleski
Associate Director
Office of Program Assistance
and Review

Report Number 96-010



United States
Office of Government Ethics
1201 New York Avenue N.W. Suite 500
Washington DC 20005-3917

December 19, 1995

The Honorable Jack Quinn
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Quinn:

As part of our agency monitoring activities, the Office of Government Ethics has scheduled a review of the White House Office's ethics program. As arranged with Ms Whalen, our visit is scheduled to begin on Monday, January 22 at 10:00 a.m. The scope of the review will include ethics program administration, financial disclosure systems, ethics education and training, ethics advice and counseling, and other ethics-related issues.

We have provided Ms Whalen with a copy of the enclosed list which identifies information that we generally request and examine during a routine review of an agency's ethics program. Also, we plan to meet with her c. December 21 to explain our review procedures. This assistance should facilitate preparation for the review.

If you have any questions, please contact Phyllis Hoffer at 202-523-5757, extension 1184.

Sincerely,

A handwritten signature in cursive script that reads "Ed Pratt".

Ed Pratt
Chief
Program Review Division

Enclosure

UNITED STATES OFFICE OF GOVERNMENT ETHICS



2015 AGENCY ETHICS PROGRAM QUESTIONNAIRE

PART 1. INTRODUCTION

Executive branch agencies are required to submit an annual report to the United States Office of Government Ethics (OGE) concerning certain aspects of their ethics programs (Section 402(e)(1) of the Ethics in Government Act of 1978, as amended). Your response(s) to this Questionnaire serves as your annual report.

OGE uses the data collected by the Annual Agency Ethics Program Questionnaire (Questionnaire) to compile information about the entire executive branch ethics program in order to share information about the program with the public, Congress, and the ethics community. OGE also uses the information to carry out its oversight role, to gain knowledge about individual programs as well the overall program, and to make informed decisions about resource allocations and priorities. Lastly, OGE will post responses, unedited, on OGE's website. Therefore, please ensure your responses are suitable for publication.

OGE encourages each agency to use the annual completion of the Questionnaire as an opportunity to evaluate your ethics program.

DUE DATE: By regulation, the Questionnaire is due to OGE by February 1, 2016. (5 CFR § 2638.602(a))

PART 2. INSTRUCTIONS

Your response to this Questionnaire should reflect the 2015 calendar year (i.e., 1/1/2015 through 12/31/2015), except where specified. The answers provided should reflect your agency in total. OGE will only accept one submission per an agency. Throughout the Questionnaire you will be offered an opportunity to provide comments. Please also use these sections to explain discrepancies between levels of required activity and actual activity or significant changes since last year. After OGE has reviewed your Questionnaire submission, you may be contacted for follow-up.

How do I save a draft of my response?

At a minimum, you must choose your agency from the drop down menu and add an email address in the point of contact section at the end of the Questionnaire. Then you can select "Click Exit and Save a Draft". You will be prompted to click "Okay". The next screen will have your unique link to the survey. You can either bookmark, save the link as a favorite, or copy the link and save it in a secure location. The questionnaire application will also send an email with the link, but spam filtering may prevent the email from getting through. Please wait for the email before leaving the saved draft page if you have not otherwise saved the link.

How do I access my saved draft and edit the Questionnaire?

Copy and paste your unique hyperlink into your browser or choose the link from your favorites tab on your browser. Select "Edit Questionnaire". You may now begin to edit your Questionnaire response.

If you have any questions, contact Brandon Steele at (202) 482-9209 or at basteel@oge.gov.

PART 3. DEFINITIONS

Agency Head: For purposes of this Questionnaire, in the case of an agency headed by more than one person, the chair or comparable member of such agency.

D.C Metro Area: For purposes of this Questionnaire, D.C. Metro Area means the District of Columbia, DC; Calvert County, MD; Charles County, MD; Prince George's County, MD; Arlington County, VA; Clarke County, VA; Culpeper County, VA; Fairfax County, VA; Fauquier County, VA; Loudoun County, VA; Prince William County, VA; Rappahannock County, VA; Spotsylvania County, VA; Stafford County, VA; Warren County, VA; Alexandria city, VA; Fairfax city, VA; Falls Church city, VA; Fredericksburg city, VA; Manassas city, VA; Manassas Park city, VA; Jefferson County, WV; Silver Spring-Frederick-Rockville, MD Metropolitan Division Frederick County, and Montgomery County.

Full-time Agency Employees: For purposes of this Questionnaire, the term full-time agency employees includes employees detailed to another agency. It also includes officers but does not include enlisted members of the uniformed services.

Special Government Employee (SGE): For purposes of this Questionnaire, the term "special Government employee" (SGE) means an officer or employee who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not more than 130 days during any period of 365 consecutive days. The term "SGE" does not include enlisted members of the Armed Forces. It does, however, include these categories of officers or employees:

- Part-time United States commissioners;
- Reserve officers of the Armed Forces and officers of the National Guard of the United States (unless otherwise officers or employees of the United States) while on active duty solely for training or serving involuntarily.

PART 4. ORGANIZATION/RESOURCES

1. Agency

- White House

2. Employees

- Number of full-time agency employees as of December 31, 2015 481

3. Information about the DAEO

- Vacant (As of December 31, 2015)? No
- When did the position become vacant? (enter Month/Year) /

- DAEO Name

- **DAEO Title** Counsel to the President
- **Time in current DAEO position** 1 - 4 years
- **Total years performing ethics duties** 2
- **DAEO Grade Level** Executive Schedule
- **Percent of time spent on ethics** 0-25%
- **Was the DAEO eligible to retire as of December 31, 2015?** No
- **Is the DAEO** Political employee

4. Information about the ADAEO

- **Position Vacant (As of December 31, 2015)?** No
- **When did the position become vacant? (enter Month/Year)** /
- **ADAEO Name** Dana Remus
- **ADAEO Title** Senior Counsel to the President
- **Time in current ADAEO position (years)** Less than 1 year
- **Total years performing ethics duties** 1
- **ADAEO Grade Level** SES or equivalent
- **Percent of time spent on ethics** 51-75%
- **Was the ADAEO eligible to retire as of December 31, 2015?** No
- **Is the ADAEO** Political employee

5. Number of employees who performed ethics program duties in 2015; e.g., financial disclosure, education and training, advice and counseling, program administration.

<u>Duty Station</u>	<u>Approximate amount of time spent each week performing ethics duties</u>					<u>TOTAL</u>
	Less than 1 hour per week (up to .025 FTE*)	1-10 hours per week (up to .25 FTE*)	11-20 hours per week (up to .5 FTE*)	21-30 hours per week (up to .75 FTE*)	31-40 hours per week (up to 1 FTE*)	
D.C. Metro area	0	2	1	0	12	15
Outside the D.C. Metro area	0	0	0	0	0	0
TOTAL	0	2	1	0	12	15

* FTE = Full Time Equivalent

Example: The table below provides an example of an agency with 13 employees that performed ethics program duties in 2015.

<u>EXAMPLE</u> <u>Duty Station</u>	<u>Approximate amount of time spent each week performing ethics duties</u>					<u>TOTAL</u>
	Less than 1 hour per week (up to .025 FTE*)	1-10 hours per week (up to .25 FTE*)	11-20 hours per week (up to .5 FTE*)	21-30 hours per week (up to .75 FTE*)	31-40 hours per week (up to 1 FTE*)	
D.C. Metro area	1	0	2	2	1	6
Outside the D.C. Metro area	1	3	3	0	0	7
TOTAL	2	3	5	2	1	13

6. Does the DAEO/ADAEO have supervisory authority over the employees identified in question #5?

- Select Yes or No Yes (skip to #8)

7. Indicate which elements of the ethics program have been delegated outside of the supervisory chain of the DAEO or ADAEO.

- Check all that apply
- Specify Other
NA

8. Do contractors support the ethics program?

- Select Yes or No No (go to #10)

9. Describe the extent of their support.

- Describe

10. Identify the agency ethics officials who have ethics duties as a distinct element in their performance standards.

- Check all that apply
None

ADDITIONAL COMMENTS FOR PART 4. Please indicate the question number to which the comment corresponds.

- Additional Comments

PART 5. PROGRAM ADMINISTRATION

11. Use the following scale to rate the amount of time your agency spends to administer each item. The first six categories exclude time devoted to SGE's.

- **Time Spent Scale:**

1 = No time 2 = Limitedx x3 = Moderate 4 = Significantx 5 = Very significant

- **Advice and counseling** 4
- **Confidential financial disclosure program** 2
- **Disciplinary process for violations** 1
- **Education and training** 4
- **Outside activity approval** 2
- **Public financial disclosure program** 4
- **Special Government employees' activities** 1
- **Other (specify below, and rate at right)**

12. Are additional resources needed for the ethics program? e.g. budgetary, human capital, technology?

- **Select Yes or No** No (go to #14)

13. If you answered YES to 12. above, which additional resources are needed? Select all that apply.

- **Select type of resources**
- **Specify Other**
NA

14. My agency's leadership (e.g., the agency head, senior executives, and first-line managers) demonstrates support for the ethics program.

- **Select Yes or No** Yes

15. Did the agency head meet with the ethics staff to discuss the strengths and weaknesses of the ethics program in 2015?

- **Select Yes or No** Yes

16. Which of the following tools did your agency use to ensure short- and long-term continuity of operations (succession planning) of its ethics program in 2015? Check all that apply.

- **Professional Development**

Developmental assignments (e.g., detail assignments, cross training, job rotation, use of agency developmental programs such as interns, fellows, or leadership development)
 Structured courses (e.g., classroom training, webinars, online modules, etc.)
 Provided by OGE, Provided by my agency

- **Specify Other**
NA

- **Programatic tools**

Written standard operating procedures, Job Aids, Knowledge library (intranet, videos, shared drives)

- **Specify Other**
NA

17. Did your agency (e.g., ethics office, Inspector General, General Counsel) conduct a self-assessment to evaluate any aspect of the ethics program in 2015?

- **Select Yes or No** Yes (go to #18)

18. What did you assess?

- **Check all that apply** Consistency of advice and counsel, Knowledge and skills of ethics officials, Employee satisfaction with training offered, Timeliness of advice and counsel
- **Specify Other**
NA

19. Do you have written policies procedures in place for the following?

- **Check all that apply** Collection of public financial disclosure reports, Review/evaluation of public financial disclosure reports

20. Does your agency provide ethics program services for any board, commission, or agency that is independent of your agency?

- **Select Yes or No** No

- If Yes (please provide the names of the boards and commissions)

21. Please list any significant accomplishments your ethics program achieved in 2015.

- **Significant accomplishments**
Annual Ethics Training was provided to the entire White House.

22. Please list the greatest challenges facing your ethics program in the short term (next 1-3 years).

- **Greatest challenges**
Planning for the Presidential Transition

ADDITIONAL COMMENTS FOR PART 5. Please indicate the question number to which the comment corresponds.

- **Additional Comments**

PART 6. EDUCATION AND TRAINING

23. How many employees (including Special Government Employees) were required to receive Initial Ethics Orientation (IEO) by December 31, 2015.

- | | |
|--|-----|
| • Number required | 178 |
| • a. How many of those employees received IEO within the 90 day requirement? | 178 |
| • b. How many of those employees received IEO beyond the 90 day requirement? | 0 |
| • c. How many of those employee have not received IEO as of today? | 0 |
| • If applicable, please explain why some employees received IEO beyond the 90 day requirement or have yet to receive IEO.
The three employees who have not yet received IEO training have not reached the 90 day mark yet. | |

Example: An employee came on board December 15, 2015. You do not need to count the employee toward the number of employees who were required to have received IEO in calendar year 2015 because you have until March 2015 to provide the employee IEO.

24. Is IEO part of your agency's on-boarding process for new employees?

- **Select Yes or No** Yes

25. How do you deliver IEO to new employees?

- **Check all that apply** Classroom instruction (in-person), One-on-one briefings, Video, Written materials
- **Specify Other**
NA

26. Who developed the the IEO training materials?

- **Check all that apply**
My agency
 - **How did you access the training materials? Check all that apply.**
 - **Specify Other**
NA
- **Specify Other**
NA

27. Required Annual Ethics Training* (verbal and written)

<u>Type of covered employees (Include SGE filers)</u>	<u># Required</u>	<u>Received (Of those Required)</u>
Public filers (OGE Form 278) – PAS	0	0
Public filers (OGE Form 278) - non-PAS	147	147
Confidential filers (OGE Form 450, 450A, and OGE-approved alternative confidential financial disclosure forms)	21	21
Other employees required by 2638.705(a) (employees appointed by the President; employees of the Executive Office of the President; Contracting Officers; other employees designated by the head of the agency or his or her designee based on their official duties.)	315	315
TOTAL	483	483

* **Note about counting: Only include those employees that were required by 5 C.F.R. § 2638.705 to receive**

annual ethics training, either verbal or written, during the calendar year.

- If applicable, please explain discrepancies between the number of employees who were required to receive training and the number of employees who received training

28. How do you deliver annual ethics training to employees required to receive training?

- **Check all that apply** Classroom instruction (in-person), Video
- **Specify Other**
NA

29. Who developed the annual training materials?

- **Check all that apply**
My agency
- How did you access the training materials? Check all that apply.
 - **Specify Other**
NA

30. Did you provide annual ethics training to other employees not otherwise required by regulation to receive training?

- **Select Yes or No** Yes

31. Did you provide additional, specialized ethics training during 2015?

- **Select Yes or No** No (go to #33)

32. Which groups did you target?

- **Check all that apply**
- **Specify Other**
NA

ADDITIONAL COMMENTS FOR PART 6. Please indicate the question number to which the comment corresponds.

- **Additional Comments**

PART 7. ADVICE AND COUNSELING

33. From the list below, select the three topics that your employees most frequently sought guidance on in 2015.

- Awards
- Conflicting financial interests
- Gift acceptance (excluding awards and travel, subsistence, and related expenses from non-federal sources)
- Financial Disclosure Reporting
- Impartiality in performance of official duties
- Misuse of position, Government resources and information
- Outside employment/activities
- Post-employment restrictions
- Travel, subsistence, and related expenses from non-federal sources
- Other (specify)

- **Selection 1** Post-employment restrictions
- **Selection 2** Conflicting financial interests
- **Selection 3** Travel, subsistence, and related expenses from non-federal sources

- **Explain Other 1** NA
- **Explain Other 2** NA
- **Explain Other 3** NA

34. Has your agency ethics program implemented any of the following practices?

- **Check all that apply**
 Guided discussion among staff, Memorialize advice and counsel
 Some
 Use advice and counsel templates, Use a database Check all that apply
 to track timeliness

- **Specify Other**
 NA

35. Number of notification statements of negotiation or recusal under section 17(a) of the STOCK Act submitted to the ethics office in 2015?

- **Enter total** 31

36. How do you make employees aware of the availability of post-employment counseling?

- **Check all that apply** Part of out-processing, Emails, Training

- Specify Other
NA

ADDITIONAL COMMENTS FOR PART 7. Please indicate the question number to which the comment corresponds.

- Additional Comments

PART 8. FINANCIAL DISCLOSURE

37. Report the number of public financial disclosure reports (OGE Form 278) required to be filed by December 31, 2015, excluding SGEs, and the number of reports actually filed (i.e., received in hand) by December 31, 2015.

OGE Form 278 Reports Required to be Filed in CY 2015

OGE Form 278 Reports		PAS ²	Non-Career SES ³	Career SES ³	Schedule C	Other ⁴
Nominee/New Entrant	Required	0	0	0	0	46
	Filed	0	0	0	0	45
Annual	Required	0	0	0	0	101
	Filed	0	0	0	0	101
Termination	Required	0	0	0	0	37
	Filed	0	0	0	0	30
Combination ¹	Required	0	0	0	0	5
	Filed	0	0	0	0	5
Total	Required	0	0	0	0	189
	Filed	0	0	0	0	181

¹ Includes reports filed to satisfy both annual and termination requirements, as well as new entrant and termination requirements.

² Presidential appointees confirmed by the Senate.

³ Senior Executive Service, Senior Foreign Service, Senior Cryptologic Service, Defense Intelligence Senior Executive Service, etc.

⁴ Includes members of the Uniformed Services, Administrative Law Judges, Senior Level employees (SES Equivalent), etc.

Example: For new entrant and termination reports: If an employee starts/ leaves the agency on December 15, 2015, and s/he files a new entrant/termination report prior to the end of the calendar year, then you can include the report in your required and filed numbers. If, on January 1, the employee has not filed a new entrant/termination report, then you do not have to count that report in your required numbers, because it was not required to be filed until January 15. You instead would include the employee in your 2016 Questionnaire's new entrant numbers in 2017.

- If applicable, please explain discrepancies between the number of reports required to be filed and the actual number of reports filed.
The eight filers who have not yet filed have all received extensions.

38. Extension and late fees for new entrant, annual, termination, and combination public financial disclosure reports, excluding SGEs.*

	Granted filing extension	Granted waivers of late filing fee	Paid late filing fee
• Number of OGE	24	0	1

Form 278 Reports

39. Number of periodic transaction reports filed, excluding SGEs.*

- Periodic Transaction Reports Filed 39

* Note about counting: Count the total number of periodic transaction reports filed. Example 1: If two employees each file 5 periodic transaction reports during the calendar year, report "10" in the table above. Example 2: If an employee files one report each month, each report is counted separately. Report "12" in the table.

40. Extensions and late fees for periodic transaction reports, excluding SGEs.

	Granted filing extension	Granted waivers of late filing fee	Paid late filing fee
• Number of OGE Form 278 T Reports	1	1	0

41. Number of public financial disclosure filers reported in calendar year 2015 to the Attorney General for failure to file.

- Enter total 0

42. How many requests for public financial disclosure reports did you receive in 2015.

- Enter total 158

43. Does your agency use an automated system (e.g., Excel, Access, custom database) to track the administration of the financial disclosure program?

- Select Yes or No Yes

44. Did you receive timely notification of all new entrant employees required to file financial disclosure reports?

- Select Yes or No Yes

45. Does your agency require an intermediate review by someone other than ethics staff (e.g., supervisors and team leads) for public financial disclosure reports?

- Select Yes or No No

46. What steps do you take to collect delinquent public financial disclosure reports? Check all that apply.

- Check all that apply Repeated reminders to the filer

- Specify Other

NA

47. Does your agency use an electronic financial disclosure filing system (e-filing system)? Note: This includes Integrity.

- **Select Yes or No** No (go to Part 9)

48. Which system does your agency use?

- **Select one**
 - **Specify Other**
NA

49. Indicate your fiscal year 2015 actual and fiscal year 2016 projected costs for using the e-filing system. Note: Do not include costs to operate *Integrity*.

- | | |
|--|----|
| a) Total FY 2015 actual costs | \$ |
| b) Total FY 2016 projected costs | \$ |
| c) amount paid to a non-federal vendor in 2015 | \$ |
| d) amount projected to be paid to a non-federal vendor in 2016 | \$ |
| e) amount paid to a federal agency in 2015 | \$ |
| f) amount projected to be paid to a federal agency in 2016 | \$ |
| g) amount for all internal costs associated with operating an e-filing system (e.g., FTE, overhead, etc.) in FY 2015 | \$ |
| h) amount projected for all internal costs associated with operating an e-filing system (e.g., FTE, overhead, etc.) in FY 2016 | \$ |
| i) number of public financial disclosure filers who filed in electronically in 2015 | |
| j) number of public financial disclosure filers projected to file electronically in FY 2016 | |
| k) number of confidential financial disclosure filers who filed electronically in FY 2015 | |
| l) number of confidential financial disclosure filers projected to file | |

electronically in FY 2016

50. Indicate which forms your agency uses the e-filing system for.

- Check all that apply

ADDITIONAL COMMENTS FOR PART 8. Please indicate the question number to which the comment corresponds.

- Additional Comments

PART 9. CONFIDENTIAL FINANCIAL DISCLOSURE

51. Report the number of confidential financial disclosure reports required to be filed by December 31, 2015, excluding SGEs, and the number of reports actually filed by December 31, 2015.

- Confidential financial disclosure reports required to be filed in CY 2015:

	# Required to File (By December 31)	#Filed
OGE Form 450/450A	21	450: 21 450A: 0
OGE-approved alternative form	0	0
Total	21	21

Example: For new entrant reports: If an employee starts the agency on December 15, 2015, and files a new entrant report prior to the end of the calendar year, then you can include the report in your required and filed numbers. If, on January 1, the employee has not filed a new entrant report, then you do not have to count that report in your required numbers, because it was not required to be filed until January 15. You instead would include the employee in your 2016 Questionnaire's new entrant numbers in 2017.

If applicable, please explain discrepancies between the number of reports required to be filed and the actual number of reports filed below.

- Explain, if applicable

52. Number of OGE 450, 450A, or OGE-approved alternative forms granted filing extensions in 2015.

- Enter number 2

53. What steps do you take to collect delinquent confidential financial disclosure reports?

- Check all that apply Repeated reminders to the filer

- **Specify Other**
NA

ADDITIONAL COMMENTS FOR PART 9. Please indicate the question number to which the comment corresponds.

- **Additional Comments**

PART 10. REMEDIES AND ENFORCEMENT OF STANDARDS OF CONDUCT, CRIMINAL, AND CIVIL STATUTES

54. Number of public financial disclosure filers who took specific remedial actions because of information on a new entrant, annual, or termination report (e.g., divestiture, resignation from outside position, written disqualification, 18 U.S.C. § 208 waiver, reassignment, etc.) in 2015.

- **Enter number**

Don't know/don't track

55. Number of individual remedial actions taken because of information on a new entrant, annual, or termination public financial disclosure (OGE Form 278) report in 2015.

- **Recusals**
- **Divestitures**
- **Resignations from outside positions**
- **Reassignments**
- **Other not listed (please specify below)**
- **Specify Other**
NA

Don't know/don't track

56. Number of public financial disclosure filers who took specific remedial actions because of information on periodic transaction reports (e.g., divestiture, resignation from outside position, written disqualification, U.S.C. § 208 waiver, reassignment, etc.) in 2015.

- **Enter number**

Don't know/don't track

57. Number of remedial actions taken because of information on a periodic transaction report in 2015.

- Recusals
- Divestitures
- Reassignments
- Other not listed (please specify below)
- Specify Other
NA

Don't know/don't track

58. Number of § 208(b)(1) waivers granted in 2015.

- Enter number 0

59. Number of § 208(b)(1) waivers provided to OGE in 2015.

- Enter number 0

60. Number of § 208(b)(3) waivers granted in 2015.

- Enter number 0

61. Number of § 208(b)(3) waivers provided to OGE in 2015.

- Enter number 0

62. Number of disciplinary actions taken based wholly or in part upon violations of the Standards of Conduct provisions (5 CFR part 2635) in 2015. For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents.

- Enter number 0

a. Of those, how many were disciplinary actions taken based wholly or in part upon violations of:

- Subpart A 0
- Subpart B 0
- Subpart C 0
- Subpart D 0
- Subpart E 0
- Subpart F 0
- Subpart G 0
- Subpart H 0

63. Number of disciplinary actions taken based wholly or in part upon violations of the criminal conflict of interest statutes, 18 U.S.C. §§ 203, 205, 207, 208, and 209 in 2015. For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents.

- Enter number 0

a. Of those, how many were disciplinary actions taken based wholly or in part upon violations of:

- 18 U.S.C. §203 0
- 18 U.S.C. §205 0
- 18 U.S.C. §207 0
- 18 U.S.C. §208 0
- 18 U.S.C. §209 0

64. Number of referrals made to the Department of Justice of potential violations of the criminal conflict of interest statutes in 2015.

- Enter number 0

a. How many of those referrals were accepted for 0

prosecution

b. How many of those referrals were declined for prosecution 0

c. How many of those referrals resulted in disciplinary or corrective action 0

65. Which individual(s) is responsible for filing the Notification of Conflict of Interest Referral (Form 202)?

- **Check all that apply** DAEO/ADAEO, General Counsel
 - **Specify Other**
NA

66. Did you submit all referral(s) and disposition(s) of the referral(s) to OGE via OGE Form 202 (as required by 5 CFR 2638.603(c)).

- **Select answer** Not Applicable

ADDITIONAL COMMENTS FOR PART 10. Please indicate the question number to which the comment corresponds.

- **Additional Comments**

PART 11. ADVISORY COMMITTEES & SPECIAL GOVERNMENT EMPLOYEES (SGEs)

67. Does your agency have any FACA or Non-FACA advisory committees, boards, or commissions?

- **Select Yes or No** No (go to #72)

68. Number of FACA advisory committees.

- **Enter number**

69. Number of FACA advisory committee members.

- **Enter number**

70. Number of non-FACA advisory committees, boards, or commissions.

- **Enter number**

71. Number of non-FACA advisory committee, board, or commission members.

- Enter number

72. Does your agency have any SGEs (as of December 31, 2015)?

- Select Yes or No Yes (go to #73)

73. Number of Special Government Employees (SGEs) as of December 31, 2015.

- Enter number 3

74. Does your agency have written policies or procedures for designating SGE status.

- Select Answer No

- Specify why
NA

75. Does the written policy or procedure include consultation with the ethics office?

- Select Answer Not applicable (specify why below)

- Specify why
There is no written policy

76. Does the ethics office provide training to SGEs, who serve on committees or participate in board meetings, prior to attendance at their first committee or board meeting?

- Select Answer Yes (go to #77)

77. If yes, which office provides the training?

- Enter office
Ethics Office

78. Report the number of SGE public and confidential financial disclosure reports required to be filed by December 31, 2015 and the number of reports actually filed by December 31, 2015.

- Financial disclosure reports required to be filed by SGEs in CY 2015:

Type of SGE	Confidential Reports (OGE Form 450 or OGE- Approved Alternative Form)		Public Reports (OGE Form 278)	
	required	filed	required	filed
Advisory Committee Members (FACA)	0	0	0	0
Advisory Committee Members (non-FACA)	0	0	0	0
Experts/Consultants	3	3	0	0
Board Members	0	0	0	0
Commissioners	0	0	0	0
Other	0	0	0	0
TOTAL	3	3	0	0

Example: For new entrant reports: If an employee starts with the agency on December 15, 2015, and files a new entrant report prior to the end of the calendar year, then you can include the report in your required and filed numbers. If, on January 1, the employee has not filed a new entrant report, then you do not have to count that report in your required numbers, because it was not required to be filed until January 15. You instead would include the employee in your 2015 Questionnaire's new entrant numbers in 2016.

- If applicable, please explain discrepancies between the number of reports required to be filed and the actual number of reports filed.

79. Number of SGEs excluded from all or a portion of the confidential filing requirements per 5 C.F.R. 2634.904(b).

- Enter number 0

80. Extensions and late filing fees for SGE financial disclosure reports.

	Granted filing extension	Granted waivers of late filing fee	Paid late filing fee
• Number of OGE Form 278 Reports	0	0	0

81. Number of SGE OGE Form 450 Reports or OGE-Approved Alternative Form filers granted filing extensions.

- Enter number 0

ADDITIONAL COMMENTS FOR PART 11. Please indicate the question number to which the comment corresponds.

- Additional Comments

ADDITIONAL QUESTIONNAIRE COMMENTS:

- Additional Comments

REAUTHORIZATION OF THE OFFICE OF
GOVERNMENT ETHICS

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 461

To extend the authorization of appropriations for the Office
of Government Ethics for five years

together with

ADDITIONAL VIEWS



APRIL 14 (legislative day, APRIL 12), 1983.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1983

11-010 O

B. SAFEGUARD THE INDEPENDENCE OF THE OGE

A major issue discussed at the Oversight Subcommittee's hearing was the independence of the OGE. In many instances, the Office must rule on sensitive issues involving political appointees and other high-ranking officials. For the OGE to perform its role of preventing conflicts of interest and monitoring compliance with the ethics laws by agencies and officials, it is crucial that the Director act independently and free from political pressure. For example, the Director must conduct objective reviews of the financial disclosure statements of top-level presidential appointees and be aggressive in requiring an official to take remedial action to resolve conflict-of-interest problems. Unless the Director is insulated from political pressure from the White House or the OPM, he or she could be forced to compromise on what action the official must take. Similarly, when the Director is called on to determine whether an incumbent official has breached ethical standards, the OGE could be encouraged by an administration to "go easy" on the official.

Public confidence in government is served when the public is sure that its officials are abiding by ethical standards and are free from conflicts of interest. The Congress created the OGE as an institutional check to monitor the ethics program and to prevent conflicts of interest in the Executive Branch. This institutional check is effective only when the Office can act objectively and without fear of reprisal.

Based on its investigation and hearing, the Committee has concluded that throughout its five-year history, the OGE has acted independently and free from pressure from the White House, the Department of Justice, or its parent agency, the Office of Personnel Management. The Committee believes that the present Administration has been very supportive of the OGE, both during the transition period and on an ongoing basis. For example, the OGE has fostered a close working relationship with Fred Fielding, the White House Legal Counsel, who is the DAEO for the White House. This relationship and support were particularly evident during the 1980 transition period, during which Mr. Fielding actively participated in advising nominees and potential nominees of how to resolve or prevent conflict-of-interest problems. This cooperative relationship enabled the OGE to perform its role effectively and resulted in a smooth transition from one administration to the next. Both the OGE's Acting Director, David Scott, and the former Director, J. Jackson Walter, testified that the OGE has not been pressured by the Administration. Their testimony is particularly persuasive as they have served at the OGE under both Democratic and Republican Administrations.

While the Committee commends the present administration for its strong commitment to the independence of the OGE, there is no guarantee that future administrations will be as supportive of, or not interfere with, the Office. Thus, the OGE's structure must be framed in a manner that insulates the Office from political pressure. Under present law, few such safeguards exist: all regulations proposed by the OGE are subject to approval of the Office of Personnel Management and the budget and staff levels of the Office are determined solely by the OPM. If a future administration de-

sired to emasculate the Office, if could easily do so by refusing to approve the Office's proposed regulations or by severely reducing the size of the Office's already small operating budget and staff. Similarly, the Director of the Office is vulnerable to potential influence from the White House. Because the Director serves at the pleasure of the President, the danger exists for a President to influence a director's decisions with the threat of removal. Even in instances when the Director of the Office is acting independently, there may be a public perception that he is not.

At the Subcommittee's hearing, Senator Levin stressed the importance of having structural safeguards to guarantee the independence of the OGE:

Senator LEVIN. I do not admire a structure which has the head of an agency rendering ethics opinions on high administration officials being beholden to the President for his job.

Whatever the issue is, I do not care if it is this Administration or any other administration, and it has nothing to do with which administration it is, I think the appearance of an Ethics Office, an Ethics Office rendering opinions on those kinds of questions when the head of that office can be removed at will by the President of the United States, undermines and diminishes the credibility of those opinions. The appearance is not as credible as it should be.

The Committee determined that structural changes are necessary to insulate the Office and its Director from unwarranted interference from either the White House or its parent agency, thus improving the integrity of the overall ethics system in the Executive Branch. Accordingly, S. 461 amends Title IV of the Ethics Act to:

Make the Director removable for only "good cause" and establish a set term of 5 years for the Director

By amending the removal standard and providing the Director with a set term of office, S. 461 would better insulate the Director from actual or perceived influence from the Administration. The Committee believes that the "good cause" standard will pass constitutional scrutiny because the tasks of the Director—developing, monitoring and enforcing conflict-of-interest and ethical standards for the Executive Branch—require freedom from Executive interference. As Justice Frankfurter stated in *Weiner v. United States*, (357 U.S. 349 (1953)), "It is quite evident . . . that one who holds his office during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will." A good cause standard will correct this problem.

The "good cause" standard strikes an appropriate balance between the need to guarantee independence and the need to safeguard against abuses of power by the Director. If the President determines that the Director is overstepping his or her statutory authority or abusing his or her office, the President can state reasons for his decision to remove the Director.

A five-year term for the Director would also provide continuity in the management and the policies of the Office, which is especial-

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2015

This report implements 31 U.S.C. § 1353. It does not supersede other reports that may have to be filed when travel expenses are accepted under other authority. For definitions and policies, see 41 CFR part 304-1.

**EXECUTIVE OFFICE OF THE PRESIDENT
WHITE HOUSE OFFICE**

Agency Contact: Sam Houshower Sam B Houshower@who.eop.gov

REPORTING PERIOD: X OCTOBER 1, 2014- MARCH 31, 2015
REPORTING PERIOD: APRIL 1 - SEPTEMBER 30, 2015
NEGATIVE REPORT

No	TRAVELER	EVENT DESCRIPTION & EVENT SPONSOR	EVENT DATE(S) [MM/DD/YYYY-MM/DD/YYYY]:	LOCATION AND TRAVEL DATE(S) [MM/DD/YYYY-MM/DD/YYYY]	BENEFIT SOURCE	BENEFIT DESCRIPTION	PAYMENT BY CHECK	PAYMENT IN-KIND	TOTAL AMOUNT	
EX	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE					
	John Smith	Conference on Asia-Pacific Relations	8/11/2011	San Francisco, CA		Asia Pacific Forum Pacific Rim Foundation	Hotel		X	\$280.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Air Transportation	X		\$825.00	
	Secretary	Asia-Pacific Forum	8/12/2011	8/11/2011-8/13/2011		Meals		X	\$120.00	
1	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE					
	Kyle Liernan	Speaking about "It's On Us" at Radcliffe forum	10/8/2014	Cambridge, MA		Harvard University, Radcliffe Institute	Air Transportation		x	\$428.16
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)						
	Associate Director of Public Engagement	Harvard University, Radcliffe Institute	10/8/2014	10/7/2014-10/8/2014						

2	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Marlon Marshall	"The Politics & Process of Implementing Healthcare Reform"	10/14/2014	Cambridge, MA	Harvard University, Institute of Politics	Air Transportation		x	\$424.56
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President & Principal Deputy Director of Public Engagement	Harvard University, Institute of Politics	10/14/2014	10/14/2014-10/15/2014		Hotel		x	\$365.09
3	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Noemie Levy	White House Civic Learning & National Service Summit	10/16/2014	Medford, MA	Tufts University	Air Transportation		x	\$689.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Policy Assistant	Tufts University	10/16/2014	10/15/2014-10/17/2014		Hotel		x	\$300.00
4	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roberto Rodriguez	White House Civic Learning & National Service Summit	10/16/2014	Medford, MA	Tufts University	Air Transportation		x	\$689.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Deputy Assistant to the President for Education Policy	Tufts University	10/16/2014	10/15/2014-10/17/2014		Hotel		x	\$300.00

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
5	Jonathan Greenblatt	White House Civic Learning & National Service Summit	10/15/2014	Medford, MA	Tufts University	Air Transportation		x	\$1,341.40
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$400.00
	Special Assistant to the President & Director of Social Innovation & Civic Participation	Tufts University	10/15/2014	10/15/2014-10/17/2014					
6	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Sam Kass	"Eat Brighter!" Town Hall at the Produce Marketing Association Fresh Summit Convention & Exposition	10/17/2014	Anaheim, CA	Produce Marketing Association	Air Transportation		x	\$816.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$630.00
	Let's Move! Executive Director	Produce Marketing Association Foundation	10/17/2014	10/16/2014-10/17/2014		Ground Transportation		x	\$15.41
7	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Cecilia Munoz	2014 Annual Conference of Grantmakers for Children, Youth and Families	10/17/2014	Detriot, MI	Third Sector New England	Air Transportation & Ground Transportation		x	\$548.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$195.35
	Assistant to the President & Director of the Domestic Policy Council	Employers Council on Flexible Compensation	10/17/2014	10/16/2014-10/18/2014					

8	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Raina Thiele	Alaskan Federation of Natives (AFN) NCAI Tribal Conference	10/18/2014	Anchorage, AL	National Congress of American Indians	Air Transportation		x	\$1,069.10
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$800.00
	Associate Director of Public Engagement	National Congress of American Indians	10/23/2014	10/18/2014-10/23/2014		Conference fee Incidentals		x	\$200.00 \$30.00
9	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Jonathan Greenblatt	Speaking at Wharton Climate Change Event	10/21/2014	Philadelphia, PA	Wharton School of Business	Train Transportation		x	\$168.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$180.00
	Special Assistant to the President & Director of Social Innovation & Civic Participation	Wharton School of Business	10/21/2014	10/20/2014-10/21/2014		Ground Transportation		x	\$14.00
10	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roberto Rodriguez	Grantmakers for Education's 18th Annual Conference	10/22/2014	Miami, FL	Campaign for Grade Level Reading (lodging and meals); Early Childhood Funders Collaborative (transportation)	Air Transportation		x	\$490.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$498.00
	Deputy Assistant to the President for Education Policy	Campaign for Grade Level Reading & Early Childhood Funders Collaborative	10/24/2014	10/22/2014-10/24/2014		Ground Transportation Meals		x	\$80.00 \$165.00

11	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roy Austin	National Juvenile Defender Center's 2014 Leadership Conference	10/24/2014	Louisville, KY	National Juvenile Defender Center	Air Transportation		x	\$415.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Deputy Assistant to the President for Urban Affairs, Justice & Opportunity	National Juvenile Defender Center	10/24/2014	10/24/2014					
12	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Jodi Gillette	American Indians' 71st Annual Convention	10/26/2014	Atlanta, GA	National Congress of American Indians	Air Transportation		x	\$724.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$100.00
	Senior Policy Advisor for Native American Affairs	National Congress of American Indians	10/28/2014	10/26/2014-10/28/2014		Meals Ground Transportation		x	\$100.00 \$29.00
13	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Raina Thiele	American Indians 71st Annual Convention	10/28/2014	Atlanta, GA	National Congress of American Indians	Air Transportation		x	\$536.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$184.44
	Associate Director, Office of Public Engagement	National Congress of American Indians	10/29/2014	10/28/2014-10/29/2014					

14	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Sam Kass	James Beard Foundation Panel on Food Consumption in Communities	10/28/2014	New York, NY	James Beard Foundation	Air Transportation		x	\$342.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$154.00
	Let's Move! Executive Director	James Beard Foundation	10/28/2014	10/27/2014-10/28/2014					
15	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Douglass Brooks	AIDS Resource Center of Wisconsin Annual Stakeholder Event	10/27/2014	Milwaukee, WI	AIDS Resource Center of Wisconsin	Air Transportation	x		\$413.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel	x		\$150.00
	Director of the Office of National AIDS Policy	AIDS Resource Center of Wisconsin	10/28/2014	10/27/2014-10/28/2014					
16	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roberto Rodriguez	PRE4CLE Roundtable	10/28/2014	Cleveland, OH	PRE4CLE	Air Transportation		x	\$888.19
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel	x		\$462.49
	Deputy Assistant to the President for Education Policy	PRE4CLE	10/28/2014	10/27/2014-10/28/2014					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
17	James Kvaal	Speaking at "Higher Education Reconsidered: Executing Change to Drive Collective Impact" hosted by SUNY	10/29/2014	New York, NY	The State University of New York (SUNY)	Air Transportation & Ground Transportation		x	\$511.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$303.00
	Deputy Assistant to the President & Deputy Director of Domestic Policy Council	The State University of New York (SUNY)	10/29/2014	10/29/2014-10/30/2014		Reception Conference fee		x	\$50.00 \$300.00
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
18	Melissa Rogers	Panel Discussion	10/29/2014	New York, NY	New York University	Air Transportation		x	\$132.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$300.00
	Special Assistant to the President & Executive Director of the White House Office of Faith-Based & Neighborhood Partnerships	New York University	10/29/2014	10/29/2014-10/30/2014		Meals		x	\$75.00
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
19	Crystal Brown	California Black Health Network Heroes Awards Gala Event	10/31/2014	Sacramento, CA	California Black Health Network	Air Transportation		x	\$1,980.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$200.00
	Senior Director, Office of Cabinet Affairs	California Black Health Network	11/2/2014	10/31/2014-11/2/2014		Meals		x	\$150.00

20	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Kyle Lierman	"It's On Us" Campaign Meeting	11/3/2014	New York, NY	Center for American Progress	Train Transportation		x	\$266.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Associate Director of Public Engagement	Center for American Progress	11/4/2014	11/3/2014-11/4/2014					
21	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Luke Tate	Panel on Equitable Neighborhood Development	11/5/2014	San Antonio, TX	National Association for Latino Community Asset Builders	Air Transportation		x	\$409.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Senior Policy Advisor, Domestic Policy Council	National Association for Latino Community Asset Builders	11/6/2014	11/6/2014		Hotel		x	\$122.04
22	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Michael Smith	Grad National Summit	11/6/2014	Springfield, MA	United Way of Pioneer Valley	Air Transportation		x	\$361.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President & Senior Director of Cabinet Affairs for My Brother's Keeper	United Way of Pioneer Valley	11/6/2014	11/6/2014					

23	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roberto Rodriguez	Discussion on Connected	11/6/2014	Miami, FL	Connect to Compete Inc.	Air Transportation		x	\$628.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Deputy Assistant to the President for Education Policy	Connect to Compete Inc.	11/6/2014	11/6/2014					
24	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Jonathan Greenblatt	Calvert Foundation Conference	11/10/2014	Colorado Springs, CO	Calvert Foundation	Air Transportation		x	\$280.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President & Director of Social Innovation & Civic Participation	Calvert Foundation	11/11/2014	11/10/2014-11/11/2014		Hotel		x	\$120.00
25	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Sam Kass	The New York Times Food for Tomorrow Conference	11/11/2014	Stone Barns, NY	The New York Times	Train Transportation		x	\$530.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Executive Director of Let's Move! & Senior Policy Advisor	The New York Times	11/12/2014	11/11/2014-11/12/2014					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
26	Crystal Brown	National Convening Council Conference	11/12/2014	Philadelphia, PA	New Venture Fund	Train Transportation & Ground Transportation		x	\$200.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Meals		x	\$100.00
	Senior Director, Office of Cabinet Affairs	New Venture Fund	11/12/2014	11/12/2014					
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
27	Rohan Patel	Baptist Joint Commission Luncheon	11/12/2014	New York, NY	National Resources Defense Council	Train Transportation		x	\$253.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President & Deputy Director of Intergovernmental Affairs	National Resources Defense Council	11/12/2014	11/12/2014					
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
28	Michael Smith	Speaking at My Brother's Keeper Local Action Summits	11/12/2014	Houston, TX; Compton, NJ; Gary, IN; Indianapolis, IN; & Green Bay, WI	New Venture Fund	Air Transportation & Rental Car		x	\$2,555.36
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel			\$1,086.06
	Special Assistant to the President & Senior Director of Cabinet Affairs for My Brother's Keeper	New Venture Fund	11/19/2014	11/12/2014-11/19/2014					

29	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	John Podesta	The Hamilton Project Panel	11/14/2014	New York, NY	Brookings Institution	Air Transportation		x	\$400.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$409.00
	Counselor to the President	Brookings Institution's "The Hamilton Project"	11/15/2014	11/14/2014-11/15/2014		Meals Ground Transportation		x	\$105 \$75
30	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Ajita Talwalker Menon	2014 Graduate & Professional Financial Aid Conference	11/15/2014	Huntington Beach, CA	Access Group	Air Transportation		x	\$1,351.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$202.52
	Senior Policy Advisor for Higher Education	Access Group	11/15/2014	11/14/2014-11/15/2014		Ground Transportation		x	\$196.00
31	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Jonathan Greenblatt	Independent Sector National Conference: "Impact Investing - Where Sectors Converge"	11/17/2014	Seattle, WA	Independent Sector	Train Transportation & Ground Transportation	x	x	\$1,050.49
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)				x	\$160.00
	Special Assistant to the President & Director of Social Innovation & Civic Participation	Independent Sector	11/17/2015	11/17/2014-11/18/2014					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
32	David Wilkinson	White House Regional Summit on Pay for Success	11/18/2014	Bridgeport, CT	Nonprofit Finance Fund	Train Transportation		x	\$281.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$136.85
	Senior Policy Advisor in the Office of Social Innovation & Civic Participation	Nonprofit Finance Fund	11/18/2014	11/17/2014-11/18/2014					
33	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Dan Utech	AWEA Wind Energy Fall Symposium 2014	11/19/2014	San Diego, CA	Wind Energy Foundation	Air Transportation		x	\$604.19
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$208.31
Special Assistant to the President for Energy & Climate Change	Wind Energy Foundation	11/19/2014	11/18/2014-11/19/2014		Meals		x	\$96.68	
34	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Dan Utech	Pipeline Safety Trust Annual Conference	11/20/2014	New Orleans, LA	Pipeline Safety Trust	Air Transportation		x	\$138.10
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$249.76
Special Assistant to the President for Energy & Climate Change	Pipeline Safety Trust	11/20/2014	11/19/2014-11/20/2014		Meals Ground Transportation		x	\$62.10 \$79.60	
35	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Elyse Cohen	90th Annual Congress of Cities and Exposition	11/19/2014	Cambridge, MA	Harvard Graduate School of Education	Air Transportation		x	\$516.56
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$319.31
Deputy Director, Lets Move!	National League of Cities	11/21/2014	11/19/2014-11/21/2014		Ground Transportation		x	\$174.44	

36	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Jonathan Greenblatt	White House Regional Summit on Pay for Success	12/4/2014	Chicago, IL	Nonprofit Finance Fund	Air Transportation		x	\$694.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$193.22
	Special Assistant to the President & Director of Social Innovation & Civic Participation	Nonprofit Finance Fund	12/4/2014	12/3/2014-12/4/2014					
37	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	David Wilkinson	White House Regional Summit on Pay for Success	12/4/2014	Chicago, IL	Nonprofit Finance Fund	Air Transportation		x	\$733.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$193.22
	Senior Policy Advisor in the Office of Social Innovation & Civic Participation	Nonprofit Finance Fund	12/4/2014	12/3/2014-12/4/2014					
38	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Luke Tate	Millennial Trains Project	12/4/2014	Portland, OR	The Center on Philanthropy & Public Policy	Air Transportation		x	\$427.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Lodging & Meals		x	\$321.24
	Senior Policy Advisor, Domestic Policy Council	The Center on Philanthropy & Public Policy	12/4/2014	12/3/2014-12/5/2014					

39	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Katie Fallon	Bipartisan Program for Newly Elected Members of Congress	12/4/2014	Cambridge, MA	Harvard University Institute of Politics	Air Transportation		x	\$399.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$279.00
	Assistant to the President & Director of Legislative Affairs	Harvard University Institute of Politics	12/4/2014	12/3/2014-12/5/2014					
40	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Elias Alcantara	Urban Male Leadership Program: Fall Finale Breakfast Ceremony	12/5/2015	New York, NY	Lehman College	Train Transportation		x	\$272.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Associate Director of White House Office of Intergovernmental Affairs	Lehman College	12/5/2014	12/5/2014					
41	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Sam Kass	Feed Your Mind	12/4/2014	Chicago, IL	Pilot Light	Air Transportation		x	\$723.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Let's Move! Executive Director	Pilot Light	12/5/2014	12/5/2014					

42	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Kyle Lierman	Speaking about "It's On Us" at Mashable Summit	12/5/2015	New York, NY	The Nelson-Atkins Museum of Art	Air Transportation		x	\$503.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$641.93
	Associate Director of Public Engagement	Center for American Progress	12/5/2015	12/5/2015		Ground Transportation		x	\$74.21
43	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Aditi Hardikar	Speaking at Enrollment Events	12/13/2014	Austin, San Marcos, El Paso, TX	Out2Enroll	Air Transportation		x	\$905.31
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Taxi		x	\$404.95
	Associate Director of Public Engagement	Out2Enroll	12/16/2014	12/13/2014-12/16/2014					
44	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roberto Rodriguez	King Country: Building & Sustaining an Early Learning Community	1/8/2015	Seattle, WA	The Bezos Family Foundation	Air Transportation		x	\$921.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$239.00
	Deputy Assistant to the President for Education Policy	The Bezos Family Foundation	1/7/2015	1/6/2015-1/7/2015					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
45	Michael Smith	My Brother's Keeper Newark Breakfast Launch	1/7/2015	Newark, NJ	National Venture Fund	Train Transportation		x	\$316.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$241.60
	Special Assistant to the President & Senior Director of Cabinet Affairs for My Brother's Keeper	National Venture Fund	1/8/2015	1/7/2015-1/8/2015					
46	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Aditi Hardikar	Equality Illinois Stakeholder Meeting	1/15/2015	Chicago, IL	Equality Illinois	Air Transportation		x	\$337.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$149.00
	Associate Director of Public Engagement	Equality Illinois	1/15/2015	1/14/2015-1/15/2015					
47	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Aditi Hardikar	Sin City Shootout Sports Festival	1/15/2015	Las Vegas, NV	Sin City Shootout	Air Transportation		x	\$460.73
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$460.32
	Associate Director of Public Engagement	Sin City Shootout	1/17/2015	1/16/2015-1/17/2015					

48	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Douglas Brooks	2015 African American MSM Leadership Conference on HIV/AIDS	1/15/2015	Atlanta, GA	National AIDS & Education Services for Minorities	Air Transportation		x	\$340.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$135.00
	Director of the Office of National AIDS Policy	National AIDS & Education Services for Minorities	1/16/2015	1/15/2015-1/16/2015					
49	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Felicia Escobar	Remarks at MCLE Day	1/16/2015	Los Angeles, CA	Mexican American Bar Association of Los Angeles County	Air Transportation			\$472.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President for Immigration Policy	Mexican American Bar Association of Los Angeles County	1/19/2015	1/16/2015-1/19/2015					
50	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	David Wilkinson	An Evening of Innovation	1/21/2015	Salt Lake City, UT	Salt Lake County Mayor's Office	Air Transportation		x	\$718.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$469.53
	Senior Policy Advisor in the Office of Social Innovation & Civic Participation	Salt Lake County Mayor's Office	1/21/2015	1/20/2015-1/26/2015					

51	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Broderick Johnson	Ensuring Success for Men of color: Leveraging Evidence to Drive Better Policy, Practice, & Effective Investment	1/29/2015	Ann Arbor, MI	University of Michigan's National Center for Institutional Diversity	Air Transportation & Ground Transportation		x	\$889.52
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Assistant to the President & Cabinet Secretary	University of Michigan's National Center for Institutional Diversity	1/29/2015	1/29/2015					
52	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Roy Austin	New York University Panel	2/2/2015	New York, NY	New York University School of Law	Train Transportation		x	\$422.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Deputy Assistant to the President for Urban Affairs, Justice & Opportunity	New York University School of Law	2/2/2015	2/2/2015					
53	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Michael Smith	Alden Baptist Church Third Annual Men's Prayer Breakfast	2/6/2015	Springfield, MA	The Alden Baptist Church	Air Transportation		x	\$266.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President & Senior Director of Cabinet Affairs for My Brother's Keeper	The Alden Baptist Church	2/7/2015	2/6/2015-2/7/2015		Hotel		x	\$112.82
						Rental Car		x	\$48.81

54	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Michael Smith	Yale Philanthropy Conference	2/13/2015	New Haven, CT	Yale School of Management	Air Transportation		x	\$617.10
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Special Assistant to the President & Senior Director of Cabinet Affairs for My Brother's Keeper	Yale School of Management	2/14/2015	2/13/2015-2/14/2015					
55	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Aditi Hardikar	Lesbians Who Tech Summit	2/26/2015	San Francisco, CA	Astraea Foundation	Air Transportation		x	\$521.70
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Associate Director of Public Engagement	Astraea Foundation	3/1/2015	2/26/2015-3/1/2015		Hotel		x	\$799.17
56	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Monique Dorsainvil	Lesbians Who Tech Summit	2/27/2015	San Francisco, CA	Astraea Foundation	Air Transportation		x	\$505.70
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Director of Planning & Events, Office of Public Engagement & Intergovernmental Affairs	Astraea Foundation	3/1/2015	2/26/2015-3/1/2015					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
57	Julie Rodriguez	Rodolfo Gonzales Library Grand Opening	2/27/2015	Denver, CO	Escuela Tlatelolco Centro de Estudios	Air Transportation		x	\$578.64
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Deputy Director of Office of Public Engagement & Special Assistant to the President	Escuela Tlatelolco Centro de Estudios	3/1/2015	2/27/2015-3/1/2015					
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
58	David Wilkinson	Capital One Tech Jobs Philanthropic Announcement	3/4/2015	New York, NY	Women Who Code	Train Transportation		x	\$382.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Director of the Office of Social Innovation & Civic Participation	Women Who Code	3/5/2015	3/4/2015-3/5/2015					
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
59	Deb Eschmeyer	TEDxManhattan "Changing the Way We Eat"	3/6/2015	New York, NY	Change Food	Train Transportation		x	\$371.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Let's Move! Executive Director	Change Food	3/7/2015	3/6/2015-3/7/2015					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
60	Jodi Gillette	Sunday at the Met - The Plains Indians: Artists of Earth and Sky	3/15/2015	New York, NY	The Metropolitan Museum of Art	Train Transportation		x	\$192.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Meals		x	\$38.00
	Special Assistant to the President for Native American Affairs	The Metropolitan Museum of Art	3/15/2015	3/15/2015					
61	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	Julie Rodriguez	National Migrant Education Conference	3/21/2015	Seattle, WA	National Association of State Directors of Migrant Education	Air Transportation & Ground Transportation		x	\$616.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$199.27
	Special Assistant to the President & Deputy Director of the Office of Public Engagement	National Association of State Directors of Migrant Education	3/23/2015	3/21/2015-3/23/2015		Incidentals		x	\$150.00
62	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
	David Wilkinson	Gathering of Leaders	3/24/2015	Monterrey Bay, CA	New Profit Inc.	Air Transportation		x	\$1,180.20
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$1,370.55
	Director of the Office of Social Innovation & Civic Participation	New Profit Inc.	3/27/2015	3/24/2015-3/27/2015					

	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
63	Michael Smith	The 5th Annual Engaging Urban Commuter Students in Leadership Conference	3/24/2015	Bronx, NY	Lehman College	Train Transportation		x	\$425.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)		Hotel		x	\$159.83
	Special Assistant to the President & Senior Director of Cabinet Affairs for My Brother's Keeper	Lehman College	3/25/2015	3/24/2015-3/25/2015					
	TRAVELER NAME	EVENT DESCRIPTION	BEGINNING DATE [MM/DD/YYYY]	LOCATION	BENEFIT SOURCE				
64	Broderick Johnson	My Brother's Keeper Newark Breakfast Launch	3/31/2015	Philadelphia, PA	City of Philadelphia	Train Transportation		x	\$312.00
	TRAVELER TITLE	EVENT SPONSOR	ENDING DATE [MM/DD/YYYY]	TRAVEL DATE(S)					
	Assistant to the President & Cabinet Secretary	City of Philadelphia	3/31/2015	3/31/2015					

REAUTHORIZATION OF THE OFFICE OF
GOVERNMENT ETHICS

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 461

To extend the authorization of appropriations for the Office
of Government Ethics for five years

together with

ADDITIONAL VIEWS



APRIL 14 (legislative day, APRIL 12), 1983.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1983

11-010 O

B. SAFEGUARD THE INDEPENDENCE OF THE OGE

A major issue discussed at the Oversight Subcommittee's hearing was the independence of the OGE. In many instances, the Office must rule on sensitive issues involving political appointees and other high-ranking officials. For the OGE to perform its role of preventing conflicts of interest and monitoring compliance with the ethics laws by agencies and officials, it is crucial that the Director act independently and free from political pressure. For example, the Director must conduct objective reviews of the financial disclosure statements of top-level presidential appointees and be aggressive in requiring an official to take remedial action to resolve conflict-of-interest problems. Unless the Director is insulated from political pressure from the White House or the OPM, he or she could be forced to compromise on what action the official must take. Similarly, when the Director is called on to determine whether an incumbent official has breached ethical standards, the OGE could be encouraged by an administration to "go easy" on the official.

Public confidence in government is served when the public is sure that its officials are abiding by ethical standards and are free from conflicts of interest. The Congress created the OGE as an institutional check to monitor the ethics program and to prevent conflicts of interest in the Executive Branch. This institutional check is effective only when the Office can act objectively and without fear of reprisal.

Based on its investigation and hearing, the Committee has concluded that throughout its five-year history, the OGE has acted independently and free from pressure from the White House, the Department of Justice, or its parent agency, the Office of Personnel Management. The Committee believes that the present Administration has been very supportive of the OGE, both during the transition period and on an ongoing basis. For example, the OGE has fostered a close working relationship with Fred Fielding, the White House Legal Counsel, who is the DAEO for the White House. This relationship and support were particularly evident during the 1980 transition period, during which Mr. Fielding actively participated in advising nominees and potential nominees of how to resolve or prevent conflict-of-interest problems. This cooperative relationship enabled the OGE to perform its role effectively and resulted in a smooth transition from one administration to the next. Both the OGE's Acting Director, David Scott, and the former Director, J. Jackson Walter, testified that the OGE has not been pressured by the Administration. Their testimony is particularly persuasive as they have served at the OGE under both Democratic and Republican Administrations.

While the Committee commends the present administration for its strong commitment to the independence of the OGE, there is no guarantee that future administrations will be as supportive of, or not interfere with, the Office. Thus, the OGE's structure must be framed in a manner that insulates the Office from political pressure. Under present law, few such safeguards exist: all regulations proposed by the OGE are subject to approval of the Office of Personnel Management and the budget and staff levels of the Office are determined solely by the OPM. If a future administration de-

sired to emasculate the Office, if could easily do so by refusing to approve the Office's proposed regulations or by severely reducing the size of the Office's already small operating budget and staff. Similarly, the Director of the Office is vulnerable to potential influence from the White House. Because the Director serves at the pleasure of the President, the danger exists for a President to influence a director's decisions with the threat of removal. Even in instances when the Director of the Office is acting independently, there may be a public perception that he is not.

At the Subcommittee's hearing, Senator Levin stressed the importance of having structural safeguards to guarantee the independence of the OGE:

Senator LEVIN. I do not admire a structure which has the head of an agency rendering ethics opinions on high administration officials being beholden to the President for his job.

Whatever the issue is, I do not care if it is this Administration or any other administration, and it has nothing to do with which administration it is, I think the appearance of an Ethics Office, an Ethics Office rendering opinions on those kinds of questions when the head of that office can be removed at will by the President of the United States, undermines and diminishes the credibility of those opinions. The appearance is not as credible as it should be.

The Committee determined that structural changes are necessary to insulate the Office and its Director from unwarranted interference from either the White House or its parent agency, thus improving the integrity of the overall ethics system in the Executive Branch. Accordingly, S. 461 amends Title IV of the Ethics Act to:

Make the Director removable for only "good cause" and establish a set term of 5 years for the Director

By amending the removal standard and providing the Director with a set term of office, S. 461 would better insulate the Director from actual or perceived influence from the Administration. The Committee believes that the "good cause" standard will pass constitutional scrutiny because the tasks of the Director—developing, monitoring and enforcing conflict-of-interest and ethical standards for the Executive Branch—require freedom from Executive interference. As Justice Frankfurter stated in *Weiner v. United States*, (357 U.S. 349 (1953)), "It is quite evident . . . that one who holds his office during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will." A good cause standard will correct this problem.

The "good cause" standard strikes an appropriate balance between the need to guarantee independence and the need to safeguard against abuses of power by the Director. If the President determines that the Director is overstepping his or her statutory authority or abusing his or her office, the President can state reasons for his decision to remove the Director.

A five-year term for the Director would also provide continuity in the management and the policies of the Office, which is especial-

Limited Waiver Pursuant to Section 3 of Executive Order 13490

After consultation with the Principal Deputy Counsel to the President, I hereby waive the requirements of paragraph 2 of the Ethics Pledge of Mr. Robert F. Bauer solely with respect to his former client the Democratic National Committee (DNC), and with respect to his former employer Perkins Coie LLP (Perkins Coie) in its capacity as counsel to the DNC and to President Barack Obama in his personal capacity. This waiver is necessary so that Mr. Bauer, when representing the interests of the President and the United States as Counsel to the President, may participate appropriately in such matters as the President's SF-278 Personal Financial Disclosure Form, due May 15, 2010, in which Perkins Coie represents the President, and in evaluating the campaign finance decision in *RNC v. FEC*, in which Mr. Bauer previously appeared on behalf of the DNC to support the government's position.

Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (EO), Section 1, requires all covered political appointees to abide by several commitments. One of those commitments provides that a covered appointee may not for a period of two years from the date of his appointment participate in any particular matter involving specific parties that is directly and substantially related to his former employers or former clients. (Ethics Pledge, Paragraph 2.) For purposes of applying this restriction, the term "particular matter" has been interpreted to include "meetings or other communications relating to the performance of one's official duties with a former employer or client." DO-09-011, OGE Memorandum to Designated Agency Ethics Officials, March 26, 2009.

A waiver of the restrictions contained in paragraph 2 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purpose of the restriction or that it is in the public interest to grant the waiver. EO, Sec. 3(b). By memorandum dated February 23, 2009, the Office of Government Ethics announced that the Designated Agency Ethics Official of each executive agency was the most appropriate designee to grant such waivers, after consultation with the Counsel to the President. See DO-09-008, OGE Memorandum to Designated Agency Ethics Officials, February 23, 2009.

Before his service as Counsel to the President, Mr. Bauer and Perkins Coie represented the President in his personal capacity, and Mr. Bauer's former firm continues to represent the President on such matters. If the ethics pledge were literally applied, when representing the interests of the President and the United States as Counsel to the President, Mr. Bauer would not be able to advise the President appropriately on particular matters that are directly and substantially related to Perkins Coie's representation of the President in his personal capacity. For example, Mr. Bauer could not discuss with Perkins Coie the President's SF-278 Personal Financial Disclosure Form. Such a result would be inconsistent with the purposes of the Ethics Pledge, which did not contemplate the situation in which the personal lawyer to the President enters government service as an advisor to the President. A waiver is also appropriate as a policy matter, to ensure that the Counsel to the President is not precluded, in advising the President, from discussing with personal counsel to the President matters that relate to the President's

official responsibilities. Accordingly, Mr. Bauer is provided a limited waiver of paragraph 2 of the Ethics Pledge permitting him, when representing the interests of the President and the United States as Counsel to the President, to be involved in particular matters in which he previously represented the President or in which Perkins Coie is or was counsel to the President in his personal capacity, to communicate with Perkins Coie.

Before joining the White House, Mr. Bauer also represented the DNC on such matters as *RNC v. FEC*, and Mr. Bauer's former firm continues to represent the DNC. Among the responsibilities of the Counsel to the President are advising the President and White House officials on such matters as the campaign finance and related legal issues that arise in the *RNC* case, which may involve his former client the DNC, and his former employer Perkins Coie, in its capacity as counsel to the DNC. Mr. Bauer is, moreover, a leading national authority on campaign finance and related matters and the government will benefit greatly from his expertise. Accordingly, I have determined that a waiver of the requirements of paragraph 2 of the Ethics Pledge is in the public interest in order to allow Mr. Bauer, when representing the interests of the President and the United States as Counsel to the President, to be involved in particular matters involving specific parties in which his former client the DNC is a party or in which his former employer Perkins Coie represents or has represented the DNC or the President in his personal capacity.

This waiver is limited: it does not cover any former clients of Mr. Bauer's other than the DNC, or any interactions with Perkins Coie that do not involve its work as counsel to the DNC or to the President in his personal capacity. Nor will Mr. Bauer serve as the final decision-maker on any of the matters covered by the waiver. Mr. Bauer does not have any continuing financial interest in his former client the DNC. His only continuing financial interest in Perkins Coie is the repayment of his capital account pursuant to his partnership agreement. Until Mr. Bauer has received all of contractual repayments from Perkins Coie, pursuant to 18 U.S.C. § 208, he may not participate personally and substantially in any particular matter that would have a direct and predictable effect on the ability or willingness of Perkins Coie to provide these payments to him. This waiver of the requirements of paragraph 2 of the Ethics Pledge for Mr. Bauer does not constitute a waiver of 18 U.S.C. § 208. Mr. Bauer will, of course, otherwise comply with the remainder of the pledge and with all preexisting government ethics rules.

/s/ Norman L. Eisen

Dated: May 7, 2010

Special Counsel to the President and
Designated Agency Ethics Official



United States
Office of Government Ethics

1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3017

March 12, 1997

The Honorable Kumiki Gibson
Counsel to the Vice President
Office of the Vice President
Washington, DC 20501

Dear Ms. Gibson:

The Office of Government Ethics (OGE) recently completed its review of the Office of the Vice President's (OVP) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Act). Our objective was to determine the ethics program's effectiveness and compliance with applicable ethics laws and regulations. To achieve our objective we examined the following program elements: the administration of the ethics program, the public and confidential financial disclosure systems, ethics education and training, counseling and advice services, and the acceptance of payments from non-Federal sources. This review was conducted in February 1997. This report summarizes our findings and conclusions.

Overall, the OVP has a sound ethics program that complies with our various laws and regulations. Strong points of your program are the well-established financial disclosure systems and the useful ethics-related advice and training that you provide to employees. During the time frame covered by our review, to assist in ensuring effective disclosure systems, you developed comprehensive written procedures for administering both systems in accordance with section 402(d)(1) of the Act. Recognizing that you will be leaving the OVP shortly, we believe that these written procedures and other well-established in-place processes should smooth the transition for your replacement to assume his Designated Agency Ethics Official (DAEO) duties.

BACKGROUND

Currently, approximately 63 employees work in the OVP, which includes the 45 employees funded by the Senate. As Counsel to the Vice President, you, primarily independently, have performed all ethics-related duties since late 1994, with assistance provided by the White House Counsel's Office. You plan to leave your post shortly and told us that the Vice President plans to hire a new employee to assume your position as both Counsel and DAEO.

PUBLIC AND CONFIDENTIAL SYSTEMS

OVP's public and confidential systems are in compliance with the laws and regulations and are well maintained. We examined all nine public reports required to be filed in 1996, which included the one report you reviewed from a detailee. We also examined the two public reports submitted by OVP Senate employees. The Senate Select Committee on Ethics transmits copies of the public reports required to be filed by Senate employees and you review these reports for conflicts. In addition, we examined the one confidential report required to be filed in 1996.

We found that all reports were filed and reviewed timely. In addition, the public reports required to be transmitted to OGE pursuant to 5 C.F.R. § 2634.602(b) and (c) were forwarded timely. The general thoroughness of your review was evidenced by the fact the reports contained no technical deficiencies or conflicts of interest. The actions you took and the number of follow-up questions you asked of filers ensured that their reports were complete, accurate, and free from conflicts.

EDUCATION AND TRAINING

OVP has processes in place to meet the initial ethics orientation and annual ethics training requirement. Initial ethics orientation requirements are met during the general orientation sessions provided to all new Executive Office of the President (EOP) employees through the Office of Administration of the EOP. All new OVP employees must attend this general orientation which includes an ethics overview.

To meet annual ethics training requirements, OVP employees attend in-person training sessions sponsored by the White House Counsel's Office. After consulting with OGE and due to election-related activities at the end of 1996, the White House Counsel's Office determined that 1996 training would not be conducted until February 1997. We were able to attend one of the annual training-- "Law Talk"--sessions which coincided with our review. Not only did the training comply with our regulation and depict potential real-life situations, but the session provided useful information in a creative and entertaining way. In addition, participants received several handouts covering seeking-employment and post-employment restrictions, individual and regulatory waivers and exemptions, and rules for accepting invitations to widely attended gatherings. We encourage training in this format to keep employees informed of ethics matters.

Your 1997 training plan states that you expect annual training to be consistent with previous ethics training plans. Both your plan and the White House Counsel's Office plan describe that for

The Honorable Kumiki Gibson
Page 3

1997, training will again be in-person and will be presented by the White House Counsel's Office and may include skits or a game and some sort of interactive learning format.

Since all OVP employees are required to attend ethics training annually, we discussed the benefits of also providing annual ethics briefings to employees who are assigned to the National Performance Review (NPR) interagency working group. In June 1996, you provided for the first time an ethics briefing to this group. During your briefing you emphasized that since these employees serve NPR as agency representatives they must adhere to their "home" agency rules but must also be mindful of White House rules. This is particularly true because of the perception that those at NPR are working in the OVP. You stated that on other occasions when you have met with NPR staff members you stressed to them that they should seek ethics-related advice from, and file required financial disclosure reports with, their "home" agency DAEOs.

During our discussions, you agreed that the practice of annually briefing NPR staff should continue. Underscoring your commitment to provide ethics training to these staff members, you took immediate action after our discussions. Your memorandum, dated February 13, 1997, directs NPR staff to attend one of the currently scheduled ethics training sessions.¹

COUNSELING AND ADVICE

You provide mostly oral and some written advice to OVP employees on a variety of issues including the acceptance of gifts, financial disclosure, travel, seeking employment, and post employment. Our review of the written determinations and general advice you provided during 1996 showed that your advice was comprehensive, correct, and useful for employees.

Though you have provided some limited general information to employees through memorandums, you agreed that they would benefit from routinely distributing ethics-related information to continually heighten their awareness of the rules and regulations. We suggested distributing excerpted articles from OGE's Government Ethics Newsgram as an easy way to keep employees informed. In addition, you agreed that it would be timely and useful to remind employees of OVP's policy regarding seeking advice on outside employment.

With regard to your procedures for handling any allegations of employees violating either the standards of conduct or the conflict

¹A White House Counsel's Office memorandum, dated February 5, 1997, shows three possible dates for NPR staff to attend a training session (February 18, 19, or 20, 1997).

The Honorable Kumiki Gibson
Page 4

of interest laws, you stated that you would seek assistance from the White House Counsel's Office and OGE. Thus far, no allegations have been raised.

PAYMENTS FROM NON-FEDERAL SOURCES

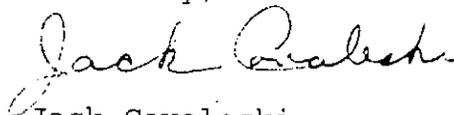
OVP accepted 29 payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel from October 1, 1995 to September 30, 1996. Based upon the information contained in the semiannual reports forwarded to OGE and additional OVP documents, we found these payments were accepted in accordance with the General Services Administration's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353. In addition, we determined that required reports were forwarded to OGE timely and that payments were properly reported.

CONCLUSIONS

OVP's ethics program is well managed and complies with applicable ethics statutes and regulations. You have placed priority on maintaining strong financial disclosure systems and keeping employees aware of the requirements for ethical conduct. We encourage your successor to continue the practices that you have established, including providing annual ethics briefings to NPR staff. Your OGE desk officer is available to assist the new DAEO after his appointment.

In closing, we wish to thank you for your efforts on behalf of the ethics program. A brief follow-up review is customarily scheduled within six months after an ethics program review; however, because no improvements to your program were recommended, follow-up is not necessary. Please contact Ilene Cranisky at 202-208-8000, extension 1218, if we may be of further assistance.

Sincerely,



Jack Covaleski
Associate Director
Office of Agency Programs

Report Number 97- 010
cc: Read File ✓
Jan Papinchak
Marilyn Bennett



United States
Office of Government Ethics

P.O. Box 14108
Washington, D.C. 20044

April 26, 1989

Honorable C. Boyden Gray
Counsel to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Gray:

Your letter of April 12, 1989, explains that the several agencies and councils constituting the Executive Office of the President are administered under President Bush as components of an interactive whole. This conception of the Executive Office of the President is expressed in Section 202 of Executive Order 12674, April 12, 1989. Because of this functional change in its operational structure, you believe that the Executive Office of the President should be considered a single agency for purposes of 18 U.S.C. §207(e).

I agree with your observation that the statute provides the flexibility necessary to accommodate changing institutional policies and behavior. Based on the President's policies with respect to administration of the Executive Office of the President, I have determined that the designation at 5 CFR §737.31 of agencies and councils within the Executive Office of the President as separate statutory components is no longer warranted. Enclosed with this letter is a copy of the proposed notice for publication in the Federal Register which will delete the Executive Office of the President and its nine subagencies from the listing at 5 CFR §737.31. I will advise you of the date of publication.

I would like to direct your attention to the paragraph in the Federal Register notice discussing the effective date of the deletion. The "Fair notice" provision of 5 CFR §737.29 mandates that the change not take effect for five months with respect to persons holding positions within the Executive Office of the President on the day prior to the date of publication.

Sincerely,

Frank Q. Nebeker
Director

Enclosure

LW/lw(ba)
File ADM 3-4-8
X ETH 4-3



United States
Office of Government Ethics

P. O. Box 14108
Washington, D.C. 20044

MAY 20 1988

Honorable Patricia Schroeder
Chairwoman
Subcommittee on Civil Service
of the Committee on Post Office and Civil Service
United States House of Representatives
Washington, D.C. 20515

Dear Ms. Schroeder:

By letter dated February 19, 1988, you asked this Office to investigate certain activities of (b)(6) one of President Reagan's appointees to the President's Commission (b)(6). As you will recall from my letter of March 1, 1988, I advised the Chairman of the Commission, (b)(6) of the allegations against (b)(6). I pointed out that Executive Order 11222 and the standards of conduct prohibit government employees from taking any action which might result in, or create the appearance of, among other things, using public office for private gain. I suggested that he advise Commission members that they may not use their positions on the President's Commission (b)(6) to solicit funds for private organizations and that anyone doing so should cease such activity immediately. In response to my letter, Chairman (b)(6) promptly advised the Commissioners, in writing, of this restriction on the use of public office for private gain.

In addition, I referred the matter to the White House Office for a factual determination. Thereafter (b)(6) was notified of the allegations and (b)(6) (b)(6) counsel were given an opportunity to respond. On March 17, 1988, Mr. Culvahouse met with (b)(6). At that meeting (b)(6) agreed not to attend the Commission's scheduled meeting with the President the following day since this matter was pending. After the March 17th meeting, (b)(6) apologized for (b)(6) actions and submitted (b)(6) resignation to the President.

The action taken by Mr. Culvahouse, including affording (b)(6) a fair opportunity to be heard, (b)(6) withdrawal from the meeting with the President, and (b)(6) contemporaneous resignation under the circumstances, is, indeed, a recognition of the need to maintain the highest ethical standards for appointed officials. Since the matter has now been resolved, and I might add in a manner consistent with your suggestion, I deem it appropriate to make this promised report.

Sincerely,

Frank Q. Nebeker
Director

nj/ba
File: LEG 1
X ETH 1-10

Delegation of Authority to a Designated
Agency Ethics Official Submitted Pursuant
to a Standing OGE Directive to Produce
Records



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

September 2, 2015

MEMORANDUM FOR THE GENERAL COUNSEL
OFFICE OF MANAGEMENT AND BUDGET

FROM: Shaun Donovan
Director

SUBJECT: Appointment of Designated Agency Ethics Official and Alternate
Designated Agency Ethics Official

Pursuant to 5 C.F.R. section 2638.202(b), I hereby appoint Ilona Cohen, General Counsel, Office of Management and Budget, to serve as the Designated Agency Ethics Official for the Office of Management and Budget and Yasaman Sutton, Assistant General Counsel, to serve as the Alternate Designated Agency Ethics Official.

Pursuant to 5 C.F.R. section 2638.202(c), I formally delegate the functional authority to coordinate and manage the ethics program, as set forth in 5 C.F.R. section 2638.203 (Duties of the designated agency ethics official), to Yasaman Sutton, Alternate Designated Agency Ethics Official.

This memo supersedes all previous appointments of OMB ethics officials made by the OMB Director.

cc: Yasaman Sutton

Additional Examples of Executive
Branch Compliance with OGE Directives
to Produce Information and Records

From: [Sutton, Yasaman P. EOP/OMB](#)
To: [EA Compliance](#)
Cc: [Cheryl L. Kane-Piasecki](#); [Walsh, Heather V. EOP/OMB](#); [Doyle, Emma K. EOP/OMB](#); [Sutton, Yasaman P. EOP/OMB](#)
Subject: [Director Mulvaney -- Compliance with Ethics Agreement COMPLETE](#)
Date: Wednesday, March 29, 2017 4:49 51 PM

Dear Colleagues,

This is to confirm that Director Mulvaney has completed all actions required under his Ethics Agreement.

The Director has confirmed in writing that all final five mutual funds have been sold.

Please do not hesitate to reach me with questions.

Thank you!

V/R, Yasi

Yasaman Sutton
Assistant General Counsel
Office of Management and Budget

(b)(6) desk

(b)(6) work cell --- please do not hesitate to call if not at my desk

Please submit event attendance requests here, <https://portal.omb.gov/sites/EthicsClearance>.

From: Sutton, Yasaman P. EOP/OMB
Sent: Wednesday, March 8, 2017 12:30 PM
To: EA Compliance <eacompliance@oge.gov>
Cc: Cheryl L. Kane-Piasecki <clkanepi@oge.gov>; Walsh, Heather V. EOP/OMB <(b)(6)>; Doyle, Emma K. EOP/OMB <(b)(6)>; Sutton, Yasaman P. EOP/OMB <(b)(6)>
Subject: RE: Director Mulvaney -- Update on Compliance with Ethics Agreement

Dear Colleagues,

This is an update on OMB Director Mulvaney's compliance with his Ethics Agreement.

1. OMB has submitted to OGE the CD request for five assets listed on the EA. I have been in correspondence with Elaine Newton regarding the CD.
2. The Director is prepared to sell those assets immediately upon receiving the CD.
3. The Director has confirmed in writing the sale of all of the other assets listed on the EA. (These assets were either (b)(6).)
4. The Director has confirmed in writing that he has completed all of the other actions required by the EA, specifically: (1) he has resigned from his position as the President of The Mulvaney Company, Inc., (2) he has resigned from his position as a managing member of MP/Collins Road, LLC, and (3) he has resigned from his position as a trustee of the Irrevocable Life Insurance Trust.

We will provide further updates as soon as the CD is granted and we have confirmation of the sale of the final five assets.

Thank you!

V/R, Yasi

Yasaman Sutton
Assistant General Counsel
Office of Management and Budget

(b)(6) desk

(b)(6) work cell --- please do not hesitate to call if not at my desk

Please submit event attendance requests here, <https://portal.omb.gov/sites/EthicsClearance>.

From: Sutton, Yasaman P. EOP/OMB
Sent: Monday, February 27, 2017 4:55 AM
To: EA Compliance <eacompliance@oge.gov>

Cc: Cheryl L. Kane-Piasecki <clkanepi@oge.gov>; Walsh, Heather V. EOP/OMB <(b)(6)>; Doyle, Emma K. EOP/OMB <(b)(6)>; Sutton, Yasaman P. EOP/OMB <(b)(6)>
Subject: Director Mulvaney -- Update on Compliance with Ethics Agreement

Good Morning,

This is an update on Director Mulvaney's compliance with his Ethics Agreement and other ethics requirements.

1. We are in the process of drafting his CD request.
2. Screening arrangements are in place, in the meantime, to ensure recusals, if necessary.
3. He has signed the Trump Executive Ethics Pledge and has been diligent about seeing guidance regarding compliance with that and the Standards of Conduct.
4. He has attended initial ethics training for PAS officials per the new 2638 requirement, as well as full initial ethics training for all new employees.
5. He has also received the new notice to new supervisor language in 2638.
6. We owe OGE written confirmation of resignation from outside positions, as well as final divestitures.
7. We will provide additional updates on the foregoing in short order.

Please do not hesitate to reach me with questions.

Thank you!

V/R, Yasi

Yasaman Sutton
Assistant General Counsel
Office of Management and Budget
(b)(6) desk
(b)(6) work cell --- please do not hesitate to call if not at my desk

Please submit event attendance requests here, <https://portal.omb.gov/sites/EthicsClearance>.

-----Original Message-----

From: Sutton, Yasaman P. EOP/OMB
Sent: Thursday, February 23, 2017 8:03 AM
To: EA Compliance <eacompliance@oge.gov>
Cc: Cheryl L. Kane-Piasecki <clkanepi@oge.gov>; Sutton, Yasaman P. EOP/OMB <(b)(6)>
Subject: Re: Mulvaney ea

Thank you so much!

I will get back to you ASAP!

Sent from my iPhone

On Feb 23, 2017, at 8:02 AM, EA Compliance <eacompliance@oge.gov <mailto:eacompliance@oge.gov> > wrote:

Dear Ms. Sutton,

Mr. Mulvaney was confirmed as Director of the Office of Management and Budget on 2/16/17. This is a reminder that Mr. Mulvaney has 90 days from the date of appointment to comply with the terms of his ethics agreement, unless an extension is granted by the Office of Government

Ethics (OGE). Agency ethics officials do not have the authority to extend the compliance deadline; in rare circumstances of unusual hardship, OGE may decide to extend the deadline. See 5 C.F.R. § 2634.802(b). Please advise OGE via ecompliance@oge.gov <<mailto:ecompliance@oge.gov>> as soon as possible if an extension will be requested.

Mr. Mulvaney is required to resign from outside positions and divest of the interests as specified in his ethics agreement. The Designated Agency Ethics Official (DAEO) or the DAEO's designee is required to provide OGE with written confirmation (email is acceptable and preferred) that Mr. Mulvaney has complied with the terms of his ethics agreement and that compliance was achieved within the 90-day deadline. The DAEO's or designee's confirmation to OGE must be based on written notification of compliance received from Mr. Mulvaney. OGE should receive written confirmation from the DAEO or designee no later than seven days after the expiration of the 90-day deadline. Agencies are, however, encouraged to send written confirmation to OGE as soon as possible. Please consult OGE's Legal Advisory LA-14-06 for additional guidance.

Here is the link to the guidance:

[https://www2.oge.gov/Web/OGELegal.nsf/Legal%20Advisories/ECDADA000D6612BF85257E96005FBF0C/\\$FILE/eebbe744513c40b7a3c049def23f2fdd3.pdf?](https://www2.oge.gov/Web/OGELegal.nsf/Legal%20Advisories/ECDADA000D6612BF85257E96005FBF0C/$FILE/eebbe744513c40b7a3c049def23f2fdd3.pdf?open)
open
<[https://www2.oge.gov/Web/OGELegal.nsf/Legal%20Advisories/ECDADA000D6612BF85257E96005FBF0C/\\$FILE/eebbe744513c40b7a3c049def23f2fdd3.pdf?](https://www2.oge.gov/Web/OGELegal.nsf/Legal%20Advisories/ECDADA000D6612BF85257E96005FBF0C/$FILE/eebbe744513c40b7a3c049def23f2fdd3.pdf?open)
>open

Please forward confirmation of compliance to OGE at ecompliance@oge.gov <<mailto:ecompliance@oge.gov>>. Thank you for your assistance in this matter, and please contact ecompliance@oge.gov <<mailto:ecompliance@oge.gov>> if you have any questions. If you are not the point of contact for this matter, please advise ecompliance@oge.gov <<mailto:ecompliance@oge.gov>> and forward this email to the appropriate ethics official.

Sincerely,

Compliance Division

United States Office of Government Ethics

1201 New York Avenue NW

Suite 500

Washington, DC 20005

Visit OGE's website: www.oge.gov <<http://www.oge.gov>>

Follow OGE on Twitter: @OfficeGovEthics

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Jaideep Mathai

From: Choi, Amanda <(b)(6)>
Sent: Tuesday, December 09, 2014 10:01 AM
To: Jaideep Mathai
Subject: RE: OVP - Completed Questionnaire

Good morning –

I confirmed that you will need to check in at the gate at the corner of 17th Street NW and State Place NW. Please be sure to bring at least one government issued identification (I would recommend any OGE issued credentials and perhaps your driver’s license as well). If you have any issues, please give me a call at (b)(6) (desk) or (b)(6) (cell).

Thanks –
Amanda

From: Jaideep Mathai [mailto:jmathai@oge.gov]
Sent: Tuesday, December 09, 2014 8:00 AM
To: Choi, Amanda
Subject: RE: OVP - Completed Questionnaire

Hi Amanda,

When you get a chance, could you forward me the logistics info on where (gate) to arrive and what I need to do once I get there. Also, please advise whether there is any specific requirements that I need to be aware of.

Thanks,
J.

From: Choi, Amanda [mailto:(b)(6)]
Sent: Friday, December 05, 2014 1:34 PM
To: Jaideep Mathai; Daniel L. Skalla
Cc: FN-OVP-Ethics; Joseph, Jeremy
Subject: OVP - Completed Questionnaire

Gentlemen:

Attached please find OVP’s completed questionnaire. Please let me know if you have any questions.

Thanks very much -

Amanda Eller Choi
Ethics Counsel | Office of the Vice President
Phone: (b)(6)
(b)(6)

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C-1

Ciara M. Guzman

om: Daniel L. Skalla
sent: Wednesday, March 11, 2015 6:54 AM
To: Jaideep Mathai
Subject: FW: Ethics Program Inspection: Council on Environmental Quality email 3 of 3
Attachments: example #2 of advice on 18 USC 207.pdf; example of advice on 18 USC 207.pdf; advice on ethics pledge.pdf; example of screening memo for 5 CFR 2635.502.pdf; examples of STOCK Act recusals consistent with 5 CFR 2635.605 and 18 USC 208.pdf; written advice outside activities subpart E.pdf; Recusal Checklist.docx; Seeking Outside Employment.pdf; WAG Form REVISED 2014 (2).pdf; Breakout 40 Post-Employment Workshop 207a1 - Participant Guide.pdf; OGE post-employment substant_prohib_chart.pdf

3 of 3. (Forgot that replying didn't include attachments – sorry)

From: Patel, Manisha [mailto:(b)(6)]
Sent: Tuesday, March 10, 2015 10:55 AM
To: Daniel L. Skalla
Cc: Wendy G. Pond
Subject: RE: Ethics Program Inspection: Council on Environmental Quality email 3 of 3

Hello Dan and Wendy,

is is the third email of three transmitting the requested materials.

Attached in this email are:

- 1) Examples of written advice provided in CY 2014 regarding 18 USC 208;
- 2) Examples of written advice provided in CY 2014 regarding 18 USC 207;
- 3) Examples of written advice provided in CY 2014 regarding 5 CFR 2635 Subpart E, and;
- 4) Some other practice tools that I use and share with CEQ staff that you might find helpful.

I am very much looking forward to working with you. Again, please let me know if you have any questions.

Very best,
Manisha

From: Daniel L. Skalla [mailto:dlskalla@oge.gov]
Sent: Tuesday, February 24, 2015 9:37 AM
To: Patel, Manisha
Cc: Wendy G. Pond
Subject: RE: Ethics Program Inspection: Council on Environmental Quality

My apologies – the due date should read Tuesday, March 10th.

om: Daniel L. Skalla
Sent: Tuesday, February 24, 2015 8:52 AM
To: (b)(6)

Cc: Wendy G. Pond

Subject: Ethics Program Inspection: Council on Environmental Quality

Dear Ms. Patel,

The Council on Environmental Quality ethics program has been selected for an inspection by the Office of Government Ethics (OGE). The purpose of the inspection is to collect and assess ethics program compliance data, identify and mitigate program vulnerabilities, and encourage ongoing dialogue between ethics officials and OGE desk officers. Inspections are streamlined to provide an evidence-based evaluation of your program. Because of its targeted scope, this inspection should require significantly less time and fewer resources than a plenary review. If an inspection identifies significant program risk factors, OGE will determine if a full plenary review is appropriate.

Attached are a brief inspection questionnaire and a request for materials. The completed questionnaire and the requested materials must be provided to OGE no later than Tuesday, February 10th. Please provide all documents and materials electronically. They should be sent directly to me at dlskalla@oge.gov. A blank copy of the Inspection Results form has also been provided for informational purposes. This is the format for the report that OGE will complete and issue at the conclusion of the inspection process.

An ethics program review team will review your questionnaire responses and the program materials you provide and then contact you to schedule a short onsite review. During the onsite review, the review team will discuss the material provided by the agency, select and examine samples of files and reports, address any points requiring further clarification, and inspect facilities maintained for the storage and retrieval of financial disclosure reports and related information. Ordinarily, the onsite review phase of the inspection will take no more than two days.

We look forward to working with you during this ethics program inspection. While the primary purpose of the inspection is to carry out OGE's oversight responsibilities, we would also ask you to identify any model practices you've incorporated into your ethics program so that they can be shared with other agencies to improve the effectiveness and efficiency of the executive branch-wide ethics program. Additionally, you should take this opportunity to consult with the review team regarding any challenges your ethics program may face and ways to overcome them. If you have any questions concerning this Notice of Ethics Program Inspection, please contact me at 202-482-9222.

Sincerely,

Dan Skalla
Chief, Professional Staff Group One
Compliance Division
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9222
Fax 202.482.9238

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Ethics Program Review

United States Department of State

Report No. 17-09

January 2017



Results

In 2016, the United States Office of Government Ethics (OGE) conducted a review of the ethics program of the United States Department of State (State). This program review generally covered program activities during calendar year 2015.

OGE’s program review determined that the staff of State’s Office of Ethics and Financial Disclosure is knowledgeable and dedicated to the ethics program’s mission. At the same time, OGE identified programmatic issues that need to be addressed. OGE has made 10 recommendations for addressing these issues and will conduct a follow-up review to assess State’s implementation of these recommendations.

I. Contents

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II. Objectives, Scope, and Methodology

The United States Office of Government Ethics (OGE) provides overall leadership and oversight of the executive branch ethics program, which is designed to prevent and resolve conflicts of interest. The Ethics in Government Act gives OGE the authority to evaluate the effectiveness of executive agency ethics programs. *See* Title IV of the Ethics in Government Act, 5 U.S.C. app. § 402 and 5 C.F.R. part 2638. Therefore, as a key component of its oversight role, OGE conducts reviews of individual agency ethics programs. The purpose of a program review is to identify and report on the strengths and weaknesses of an agency’s ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies, and (2) ethics-related systems, processes, and procedures for administering the program.

To evaluate State's ethics program, OGE examined a variety of materials including State's responses to OGE's 2015 Agency Ethics Program Questionnaire, samples of public and confidential financial disclosure reports filed by regular and special Government employees, records of initial and annual ethics training, and ethics advice rendered to employees in 2015. OGE also met with State's DAEO, Alternate DAEO, and other ethics officials to discuss information collected, clarify issues identified during the program review, assess ethics program operations in detail, and formulate recommendations for needed program improvements. Prior to issuing this report, OGE provided State with a draft copy of the report for comment.

III. Program Administration

The Department of State is the lead U.S. foreign affairs agency within the executive branch and the lead institution for the conduct of American diplomacy. The department is led by the Secretary of State, who is nominated by the President and confirmed by the Senate. The Secretary of State is the President's principal foreign policy advisor and carries out the President's foreign policies through the department's employees. State is headquartered in Washington, D.C. and has an extensive global presence, with more than 270 embassies, consulates, and other posts in over 180 countries. State also operates several other types of offices and centers throughout the United States. At the end of 2015, State was comprised of approximately 73,000 employees.

A. Ethics Program Structure

Primary Ethics Office (L/EFD)

One of State's four Deputy Legal Advisers serves as the Designated Agency Ethics Official (DAEO). The DAEO is a member of the career Senior Executive Service. As with the other Deputy Legal Advisers, the DAEO reports to the Presidentially appointed, Senate-confirmed Legal Adviser in State's Office of the Legal Adviser (L). The DAEO oversees six offices responsible for a variety of legal functions. One of these offices, the Office of Ethics and Financial Disclosure (L/EFD), manages State's ethics program.

An Assistant Legal Adviser leads L/EFD and serves as the Alternate DAEO. This position is also in the career Senior Executive Service. OGE notes that the current incumbent did not hold the position during the period covered by this program review.

L/EFD is comprised of 13 employees. In addition to the Alternate DAEO, L/EFD employs seven attorney-advisers who are responsible for providing ethics counseling, conducting training, and assisting in the review of financial disclosure reports. It also consists of five ethics professionals who are dedicated solely to State's financial disclosure program. One of the five serves as the Chief of Financial Disclosure.

Secondary Support

State's size and worldwide geographic distribution present challenges for its ethics program. In an effort to address these challenges, State has assigned various ethics

responsibilities to officials outside its ethics office, primarily to bureau Executive Directors and, overseas, to Management Officers.¹ For example, the Under Secretary for Management has assigned to the Executive Directors and Management Officers the responsibility for conducting initial reviews of certain financial disclosure reports before forwarding them to L/EFD for review and certification.² While the Executive Directors and Management Officers do not fall within L/EFD's chain of authority, the Alternate DAEO advised that the Under Secretary for Management supports L/EFD and holds Executive Directors and Management Officers responsible in the performance of their duties with respect to the ethics program.

Executive Directors and Management Officers perform a broad array of functions in addition to their assigned ethics duties. In their support of State's ethics program, however, they are responsible for ensuring that department employees complete ethics training and submit financial disclosure reports.

State's Executive Directors and Management Officers also provide information on basic ethics matters to employees at all levels, including Senate-confirmed Presidential appointees. However, they typically consult with L/EFD attorneys on non-routine and more complex issues involving gifts and other ethics matters.

State has developed educational courses and materials to prepare Executive Directors, Management Officers, and initial financial disclosure report reviewers for their assigned ethics responsibilities. For example, initial financial disclosure report reviewers are required to complete an online training module on financial disclosure (Financial Disclosure Initial Reviewer Training-PA456). This module is administered by State's Foreign Service Institute (FSI). According to L/EFD officials, this one-hour course, as well as the other online ethics-related courses administered by FSI, is the result of a collaborative effort between L/EFD and FSI; L/EFD provides the content while FSI provides the technical expertise. In addition, L/EFD sought and received OGE's review and comments on the course content. The module provides a brief overview of the responsibilities of initial reviewers, criteria for designating financial disclosure filers, the electronic filing system, financial disclosure requirements, procedures for conducting technical reviews of financial disclosure reports, and the identification of potential conflicts of interest.³ The module makes clear that initial reviewers are not expected to make legal determinations as to conflicts of interest; instead, they are asked to flag financial interests that may pose conflicts for review by L/EFD. The Alternate DAEO explained that initial reviewers are in the best position to help identify potential issues because they are familiar with the official activities of the filers.

Executive Directors and Management Officers are required to attend annual regional workshops, which include offerings related to government ethics and their duties with respect to

¹ The department collectively refers to these individuals as Management Officials, but this report will refer to them by their separate titles to avoid confusion.

² The policies and procedures for administering the ethics program, including the roles and responsibilities of L/EFD, Management Officials, and initial reviewers of financial disclosure reports, are spelled out in the Ethics and Financial Disclosure section of the Foreign Affairs Manual. *See* 11 FAM 600.

³ During its examination of PA456, OGE noted that the course refers to the old OGE Form 278 and has not yet been updated to include reference to the current OGE Form 278e. L/EFD officials explained that they plan to update PA456 in the near future to delete and replace out-of-date references to the OGE Form 278.

administering State's ethics program. Because Executive Directors and Management Officers file financial disclosure reports, they also receive the same basic annual ethics training State is required to provide to all financial disclosure filers. Executive Directors sometimes also receive ethics information during meetings chaired by the Undersecretary of State for Management. In addition, Executive Directors and Management Officers attend classes at FSI that typically include one to three-hour blocks of ethics instruction taught by L/EFD attorneys.

On an ongoing basis, State also provides Executive Directors and Management Officers with ethics-related information. L/EFD officials explained that information is communicated through department notices, written guidance, and meetings with ethics officials. They added that the Executive Directors and Management Officers are expected to familiarize themselves with the applicable ethics program procedures and responsibilities contained in the Foreign Affairs Manual (FAM). The FAM is a comprehensive source for the organizational structures, policies, and procedures of the State Department, the Foreign Service and, when applicable, other federal agencies.⁴ It is a vital resource for all State employees. Within this collection of guidance documents are sections containing information on a variety of ethics issues.⁵

L/EFD officials noted that L/EFD also provides direct support to both Executive Directors and Management Officers. Executive Directors and Management Officers can contact ethics attorneys directly or send questions to a general "Ethics Attorney" email account monitored by L/EFD attorneys. Also, FSI conducts a Management Official Tradecraft Course that newly selected Management Officers attend, usually prior to traveling to their posts. As part of this course, L/EFD attorneys provide one to two hours of ethics education geared towards the most common issues seen by the Management Officers. In addition, Management Officers newly assigned to some of the largest posts are provided individual training from an L/EFD ethics attorney before assuming their duties. The regional bureaus also organize annual regional workshops for the Management Officers. An L/EFD attorney attends these workshops and usually provides a plenary address, small-group seminars, and individual consultations.

B. Prior Review of State's Ethics Program

OGE's most recent review of State in 2012 found that the longstanding structure of the department's ethics program did not allow for its effective administration.⁶ In the report on that review, OGE noted that while State had made some improvements, additional improvements were needed. In particular, OGE made recommendations in the areas of financial disclosure, annual training, and ethics agreements:

⁴ The FAM is available online at <https://fam.state.gov/>.

⁵ For example, one brief section, 11 FAM 613.1-1, addresses gifts of free attendance at Widely Attended Gatherings. See <https://fam.state.gov/FAM/11FAM/11FAM0610.html> (site last viewed Sep. 9, 2016).

⁶ OGE conducted the review to assess State's nominee financial disclosure process. The primary objective was to assess the readiness of the ethics program to manage the anticipated increased workload associated with the turnover of Presidentially appointed, Senate-confirmed (PAS) officials in a post-election period. However, OGE's findings and recommendations necessarily addressed systemic issues impacting other aspects of the State's ethics program, as well. See "Post-Election Readiness Review: Department of State," available at [https://www.oge.gov/Web/OGEnsf/0/F7B53B6A513552B385257EF80066DEC2/\\$FILE/State%20Final.pdf](https://www.oge.gov/Web/OGEnsf/0/F7B53B6A513552B385257EF80066DEC2/$FILE/State%20Final.pdf).

- (1) Revisit the ethics program staffing model to support the post-election period and address persistent backlogs for reviewing and certifying financial disclosure reports.
- (2) Develop an action plan to ensure that covered employees complete annual ethics training by the end of each calendar year.
- (3) Reassess and document the ethics agreement process and consider ways to formalize tracking of compliance. Also, develop a plan to address the increased volume of ethics agreements during the post-election period and consider strategies to assign a higher priority to this aspect of PAS processing.

Following up on OGE's review, State's Office of Inspector General (OIG) then conducted its own review the department's ethics program in 2013.⁷ The OIG's report included the following findings and recommendations:

- (1) Regarding OGE's first recommendation, the OIG noted that L/EFD had made significant progress toward eliminating the backlogs of financial disclosure reports. During OGE's current review, L/EFD officials noted that they have eliminated the entire backlog of financial disclosure reports since the OIG follow-up review.
- (2) Regarding OGE's second recommendation, the OIG found that L/EFD, with FSI, had implemented an online ethics course to make training readily available. The OIG noted, however, that State was still not enforcing training requirements. The OIG recommended that State should track the completion of required training and implement penalties for individuals who failed to complete training.⁸
- (3) With regard to OGE's third recommendation, the OIG found that L/EFD continued to lack a systematic procedure for monitoring ethics agreements and providing reminders to appointees regarding measures those agreements required. The OIG recommended that L/EFD implement a database function to track compliance with ethics agreements that would generate reports showing whether an ethics agreement exists, the individual provisions of the agreements, the dates of reminders and communications, and the dates of actions taken to comply with ethics agreements. L/EFD has implemented a tracking database for compliance as OIG recommended.

Financial Disclosure

Title I of the Ethics in Government Act requires agencies to ensure confidence in the integrity of the federal government by demonstrating that officials are able to carry out their duties without compromising the public trust. Toward this end, Title I requires high-level federal officials to disclose their personal financial interests publicly. Title I also authorizes OGE to establish a system in which agencies may require certain less senior executive branch personnel

⁷ United States Department of State and the Broadcasting Board of Governors Office of Inspector General, "Review of the Department of State Ethics Program," available at <https://oig.state.gov/system/files/217416.pdf>.

⁸ As discussed later in this report, State has yet to implement any penalties against employees who have failed to complete annual ethics training.

to file confidential financial disclosure reports. Financial disclosure enables agencies to prevent, identify, and resolve conflicts of interest by providing for a systematic review of the financial interests of officers and employees. *See* 5 C.F.R. part 2634.

A. Written Procedures

Section 402(d)(1) of the Ethics in Government Act requires that each executive branch agency establish written procedures for collecting, reviewing, evaluating, and—when applicable—making publicly available the financial disclosure reports of the agency’s leaders. The written procedures for administering State’s financial disclosure program are spelled out in the department’s Foreign Affairs Manual at 11 FAM 617 and meet the content requirements of section 402(d)(1).

B. Identification of Filers and Collection of Reports

L/EFD relies on Executive Directors and Management Officers to notify candidates for employment, current employees transferred or promoted to new positions, and detailees to State when they are required to file public or confidential financial disclosure reports. L/EFD receives an automatic system notice through the electronic filing system whenever an Executive Director or Management Officer submits a “New FDM User Account Request” after determining that an employee is subject to financial disclosure requirements. Alternatively, the FAM provides that an Executive Director or Management Officer may request advance review prior to a prospective employee’s appointment, in order to ensure that the prospective employee does not have unresolvable conflicts of interest. During the review, OGE asked how often L/EFD receives requests to provide such an advance review or “pre-clearance.” The Alternate DAEO responded that there is a significant volume of pre-clearance requests each year and that there were more than 400 requests in 2015 alone.

C. Review of Reports

With regard to the review of financial disclosure reports, Executive Directors and Management Officers are responsible for: (1) designating initial reviewers, (2) ensuring that initial reviewers review the reports within 30 days of filing, and (3) ensuring that initial reviewers complete the FSI online training module (PA456-Ethics Financial Disclosure Initial Reviewer Training) prior to their first review cycle. After the initial review is complete, all financial disclosure reports are forwarded to L/EFD for final review and certification.

D. Sampling of Public Financial Disclosure Reports Filed by PAS Appointees

In 2015, approximately 260 PAS appointee public financial disclosure reports were required to be filed at State. To evaluate State’s administration of its public financial disclosure program for these officials, OGE examined a sample of 64 PAS annual and 13 termination financial disclosure reports that were filed in 2015. Table 1 below presents the results of OGE’s examination.

Table 1. OGE Examination of PAS Public Financial Disclosure Reports

	Annual	Termination	Total
Public Reports Sampled	64	13	77
Filed Timely	61 (95%)	12 (92%)	73 (95%)
Certified within 60 Days	47 (73%)	9 (69%)	56 (73%)

OGE’s examination of the sample of PAS reports determined that the reports were generally filed timely. Regarding the one late termination report, State waived the late filing fee for this filer. With regard to the three late annual reports, State waived the late filing fee for one filer, received the late fee from another, and has requested a late fee from the remaining filer.

OGE’s examination also determined that State did not complete the certification of approximately one quarter of the annual and termination reports OGE selected within 60 days. However, L/EFD officials indicated that 92% of all sampled PAS reports—and 97% of sampled PAS annual reports—were reviewed within 60 days. Moreover, in 2015, State met OGE’s request to have all PAS reports certified before the end of the calendar year.

E. Sampling of Public Financial Disclosure Reports Filed by Non-PAS Employees

According to a master list provided by L/EFD, non-PAS State officials were required to file a total of 1,558 new entrant, annual, and termination public financial disclosure reports in calendar year 2015. To evaluate State’s administration of its public financial disclosure program for non-PAS filers, OGE selected a sample of 144 of these reports to examine. Table 2 below presents the results of OGE’s examination.

Table 2. OGE Examination of Non-PAS Public Financial Disclosure Reports

	New Entrant	Annual	Termination	Total
Public Reports Sampled	40	64	40	144
Filed Timely	35 (88%)	61 (95%)	28 (70%)	124 (86%)
Certified within 60 Days	30 (75%)	40 (62%)	29 (76%)	99 (70%)

Based on the results of OGE’s examination, State needs to improve the pace for completing its certification of non-PAS employees’ new entrant, annual, and termination

financial disclosure reports. State conducted initial reviews of 88% of all non-PAS sampled reports—and 95% of the sample of annual reports— within 60 days. As noted in Table 2 above, however, State’s certification of these reports within 60 days ranged from 62% to 76%.

Also as noted in Table 2 above, only 70% of the termination reports were filed timely. With regard to 12 former public filers who failed to timely file termination financial disclosure reports, State granted late filing fee waivers to 6 of them and has requested payment of the late filing fee from 4 others. The two remaining late termination reports had not been filed at the time of OGE’s review. One of the reports was due in May 2015 and L/EFD officials sent letters to this individual via certified mail in June and October 2015 and again in May 2016 directing her to file her termination report. The second report was due January 2016 and L/EFD officials sent a certified letter to this official in May 2016 directing her to file.

With regard to the sample of 40 new entrant reports that OGE’s program reviewers examined, 5 of the reports were filed late. State granted waivers of the \$200 late filing fee to four of the filers and collected the late fee from the remaining filer.

Finally, with regard to the sample of 64 annual reports that OGE’s program reviewers examined, 3 of the reports were filed late. State granted a waiver of the \$200 late filing fee to one of the filers and collected the fee from another. At the time of our review, State had requested payment of the late filing fee from the remaining late filer but had not yet received the fee.

A memorandum that was sent to delinquent filers in 2015 titled, “Failure to Timely File 2014 Financial Disclosure Forms and Complete Ethics Training,” warns that if a public filer fails to file an annual public financial disclosure report by August 31, 2015, State will consider taking disciplinary action against that filer. The notification also warns delinquent Foreign Service Officers that disciplinary action can negatively impact promotion prospects. In 2015, L/EFD submitted a list of 11 delinquent public filers to the Human Resources Office of Employee Relations, Conduct, Suitability and Discipline. As a result, six of these delinquent filers received a Letter of Reprimand which was placed in their personnel file.

Recommendations

1. Develop and implement a plan for reducing the time it takes for State to complete the processing of non-PAS public financial disclosure reports.
2. Revise State’s public financial disclosure procedures to include mandatory escalation procedures when public filers either fail to file public financial disclosure reports or fail to respond to requests for additional information regarding such reports, including referral to the Department of Justice in appropriate cases.
3. Improve State’s procedures for collecting non-PAS termination public financial disclosure reports, and ensure that termination reports are timely collected.

F. Sampling of Confidential Financial Disclosure Reports

According to a master list provided by L/EFD, State employees were required to file 5,359 confidential financial disclosure reports in calendar year 2015. To evaluate the administration of State's confidential financial disclosure program, OGE examined a sample of 98 new entrant and annual confidential reports that were required to be filed in 2015. Table 3 below presents the results of OGE's examination.

Table 3. OGE Examination of Confidential Financial Disclosure Reports

	New Entrant	Annual	Total
Confidential Reports Sampled	49	49	98
Filed Timely	27 (55%)	40 (82%)	67 (68%)
Certified within 60 Days	32 (65%)	38 (78%)	70 (71%)

Based on the findings noted in Table 3 above, State needs to improve the timeliness of new entrant confidential report filing. Only 55% of the sampled new entrant reports were filed timely. OGE also determined that only 71% of all sampled reports were certified by L/EFD within 60 days. However, 88% of the sampled reports were reviewed within this timeframe.

Recommendation

4. Establish new procedures to ensure that new entrant confidential financial disclosure reports are filed in a timely manner.

G. Cyclical Preparations for Presidential Transitions

Although outside the scope of this review, OGE asked State to address its preparations for the Presidential transition. In the course of a Presidential transition, most of the top positions in the executive branch turn over. As a result, ethics officials review a significantly higher than normal volume of financial disclosure reports of Presidential nominees, and they work with the nominees to resolve potential conflicts of interest. This critically important work can strain the resources of agency ethics programs, particularly with regard to agencies like State that have large numbers of positions requiring Senate confirmation. With this in mind, State and OGE officials met for a discussion regarding the upcoming Presidential transition. During the meeting, State's DAEO and Alternate DAEO described a number of concrete steps they have taken to actively prepare for the Presidential transition. Based on these discussions, OGE is satisfied that State appreciates both the importance of these preparations and the need to continually monitor its performance with regard to the ethics review of nominees during the transition.

An ethics training program is essential to raising awareness among employees regarding ethics laws and regulations and informing them of agency ethics officials' availability to provide ethics counseling. Each agency's ethics training program must include at least an initial ethics orientation for all new employees and annual ethics training for covered employees.

A. Initial Ethics Orientation

OGE regulations require that, within 90 days of beginning work for an agency, all new employees receive contact information for agency ethics officials, along with the following material: (1) the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) and any agency supplemental Standards, or summaries of the Standards, (2) copies of any agency supplemental Standards, and (3) the Principles of Ethical Conduct (the Principles) to keep. Employees must receive one hour of official duty time to review these materials. *See* 5 C.F.R. § 2638.703.

State's initial ethics orientation procedures and requirements, described in 11 FAM 619, make Executive Directors and Management Officers responsible for ensuring that new employees complete initial ethics orientations within 90 days of entering on duty. The content of the orientation and the mechanisms through which it is provided varies depending on the category of new employee.

Orientation for New Civil Service and Foreign Service Officers

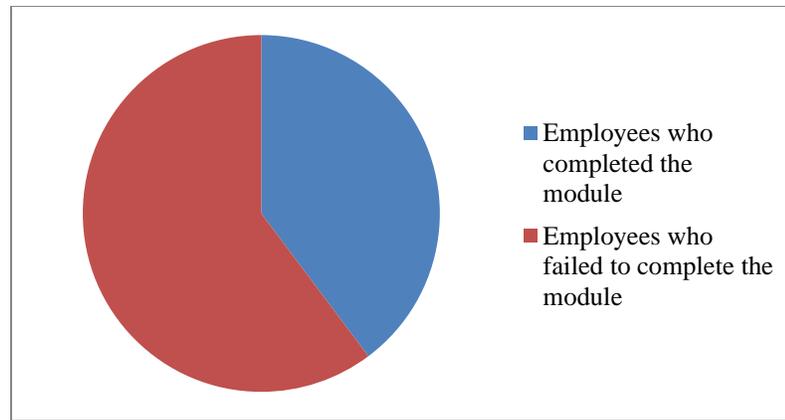
L/EFD indicated that the primary means for new employees to satisfy the initial ethics orientation requirement is by completing an interactive, computer-based training module developed by L/EFD and administered by FSI that takes one hour to complete, PA451-Ethics Orientation for New Employees (PA451). This module covers the Standards of Conduct and the conflict of interest laws, focusing particularly on the areas of gifts, conflicting financial interests and relationships, seeking employment, misuse of position, and outside activities.

In order to identify new employees and notify them of the initial ethics orientation requirement, FSI pulls data on new hires from a human resources database. FSI then sends new hires automatic notifications both 45 and 60 days after entering on duty, reminding them to complete the orientation. Executive Directors and Management Officers may track completion of PA451 through State's Knowledge Information Center. However, L/EFD officials stated that State did not take disciplinary action during 2015 against employees who missed the deadline or failed to complete the training.

While PA451 is mandatory, State records provided to OGE indicate that only 40% of new hires completed the module in 2015. Specifically, the records showed that in 2015, State appointed 3,192 new employees, and 1,923 (60%) of them failed to complete the PA451 training module. Based on the information provided, it appears that State's automated system for identifying new hires and ensuring that they take PA451 is deficient. According to L/EFD

officials, they are working to better understand and address this deficiency in the implementation of PA451.

Figure 1: State's Rate of Completion for PA451



State indicated that all new civil service employees and Foreign Service Officers are also required to attend a new employee orientation program. Each of these programs includes at least one hour of live instruction presented by an L/EFD attorney.

L/EFD officials explained that the initial ethics orientation for civil service employees is conducted as part of the larger Civil Service Orientation program offered in Washington, DC. The ethics instruction portion of the program covers the basic obligations of government service and the sources of the ethics rules, and provides an overview of various ethics issues, including conflicts of interest, impartiality, bribery, supplementation of salary, misuse of position, gifts, outside activities, seeking employment, and political activities.

L/EFD officials further explained that new employees do not attend the Civil Service Orientation program before they begin their job and many do not attend this program (and therefore do not receive the ethics orientation) within 90 days of entering on duty. However, they are required to take PA451 within 90 days of entering on duty. L/EFD officials stated that Human Resources and FSI recently announced an effort to ensure that all new civil service employees are provided this orientation within 90 days. They added that civil service employees hired since 2014 who have not yet taken the Civil Service Orientation are expected to do so promptly. In order to make the Civil Service Orientation available to all who are required to take it, FSI will offer expanded orientation opportunities in 2017 and may offer limited sessions in Charleston, SC, which has a large State office.

The live initial ethics orientation course for new Foreign Service Officers is provided as part of a larger six-week orientation held in Washington, DC, that all new Foreign Service Officers must complete *before their first assignment*. This course, conducted by L/EFD attorneys, consists of a presentation and a discussion of the ethics rules in the context of eight scenarios which address some of the more common questions L/EFD receives from Foreign Service Officers.

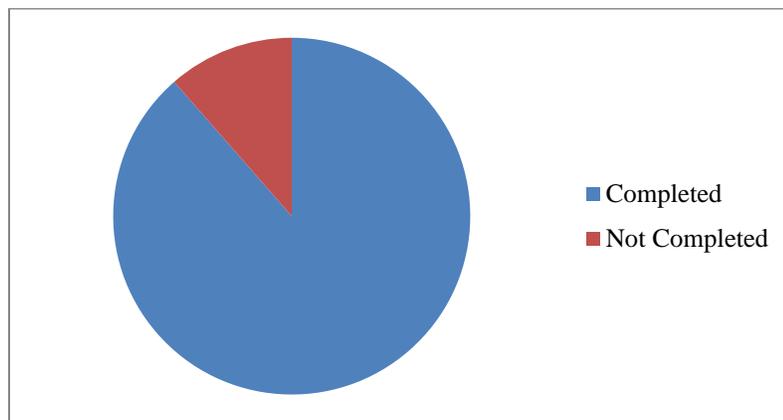
Recommendation

5. Develop and implement new procedures to ensure that all new hires complete initial ethics orientation within 90 days of entering on duty.

Orientation for Locally Employed Staff

In addition to employing civil service employees and Foreign Service Officers, State employs foreign nationals and resident American citizens in foreign posts (Locally Employed Staff). State requires all new Locally Employed Staff to receive initial ethics orientation by directing them to complete an FSI computer-based training module, PA453-Ethics Orientation for Locally Employed Staff (PA453). This module—which State offers in English, Arabic, French, Russian, and Spanish—includes questions and examples that are tailored to the circumstances of Locally Employed Staff. According to State’s records, State hired 2,430 individuals as Locally Employed Staff in 2015, and 2,125 (89%) of them completed PA453.

Figure 2: 2015 Initial Ethics Orientation for Locally Employed Staff



Orientation for Ambassadorial Candidates

Prior to reporting to post, Ambassadorial candidates are required to attend State’s Ambassadorial Seminar, which is held in Washington, DC. This seminar, designed to prepare Ambassadorial candidates for their leadership positions at missions abroad, includes a one-hour presentation by State’s DAEO and Alternate DAEO on the Standards of Conduct and ethics issues that are likely to arise at post. The presentation largely consists of hypothetical case studies and discussions on relevant ethics laws and regulations. Attendees are also provided with copies of their public financial disclosure report, their ethics agreement, and the Desk Book for Senior Officials. The Desk Book is intended to serve as the “go to” guide for PAS appointees, assisting them in identifying typical ethical challenges and answering basic day-to-day ethics questions they may encounter. It is arranged by topic, covering conflicts of interest, impartiality, misuse of position, gifts, outside activities, post-employment, and seeking employment. Notably, the introduction to the Desk Book stresses the importance of ethics training and identifies the resources available to PAS appointees to comply with the training requirements.

Orientation for Non-Ambassadorial PAS Appointees

State indicates that it provides live, in-person initial ethics orientations for new PAS appointees who are not in Ambassadorial positions (e.g., the Secretary, Under Secretaries, Assistant Secretaries, etc.). The DAEO, Alternate DAEO or another member of the L/EFD staff presents each orientation. As part of the orientation, these new PAS officials are provided copies of their public financial disclosure report, their ethics agreement and the Desk Book for Senior Officials

B. Annual Ethics Training Plan

OGE regulations at 5 C.F.R. § 2638.706 require agencies to develop, at the beginning of each year, a written plan for annual ethics training. The plan must contain a brief description of the agency's annual training and include estimates of the number of employees who will receive verbal and written training.

L/EFD did not develop a written training plan specifically for calendar year 2015. L/EFD officials indicated that a general plan for ethics training is reflected in 11 FAM 619. While this section of the FAM does not contain estimates of the number of employees who will receive verbal and written training, as currently required by 5 C.F.R. § 2638.706, L/EFD officials reasoned that the number of people required to be trained can be ascertained at any time using the electronic financial disclosure system because all of these individuals are financial disclosure filers and are therefore required to receive annual ethics training. Moreover, because the FSI computer-based module, PA454-Annual Ethics Training, is recognized by L/EFD as the only training method that filers can use to meet the annual training requirement, L/EFD does not see a need to estimate the number of employees who will receive written training in lieu of verbal training. While State's approach to the annual training plan is not strictly compliant with the regulatory requirements, OGE is more concerned about the results of State's training program than about the technical compliance of its annual ethics training plan.⁹

C. Annual Ethics Training

OGE regulations require that all covered employees receive annual ethics training consisting of a review of: (1) the Principles, (2) the Standards of Conduct, (3) any agency supplemental standards; (4) the criminal conflict of interest statutes, and (5) ethics official contact information. Requirements for training length and delivery method for employees vary according to their status as either public financial disclosure filers or confidential financial disclosure filers. *See* 5 C.F.R. §§ 2638.704 and 705.

In order to meet annual ethics training requirements, L/EFD provides live training to the Secretary and the Deputy Secretaries. In 2015, annual training for other covered employees was available in a number of formats, but the primary method of training was the FSI online training module, PA454-Annual Ethics Training (PA454). This module focuses on the key subjects of conflicts of interest, impartiality, misuse of position, and gifts. OGE notes that this module also

⁹ At this time, OGE is not issuing a recommendation regarding the training plan. The cited FAM section complies with new requirements in a final rule amending 5 C.F.R. part 2638 on November 2, 2016.

includes a description of the repercussions for failing to timely file a financial disclosure report, including late filing fees, disciplinary action, denial of performance pay, negative impact on promotion potential, and referral to the OIG or to the Department of Justice.

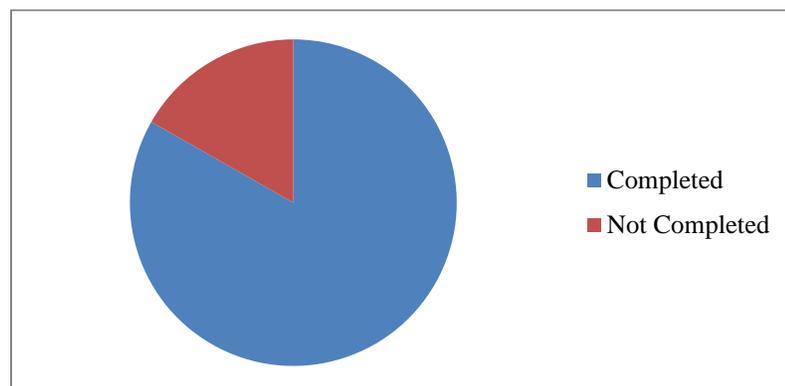
To receive credit for completing PA454, covered employees must read each screen in sequential order and answer the review questions at the end of each section. They must then pass an exam with a score of 80% or better. Employees may repeat the exam until they meet or exceed the passing score. After an employee successfully passes the exam, the course is automatically recorded as completed.

State piloted the module in 2013. In late 2014, State began emphasizing PA454 for annual training, and in late 2015, the requirement to complete annual training using PA454 was memorialized in the FAM. State intends to update some information, make some additional substantive changes in the module, and vary the content in the near future. However, State has no immediate plans to completely overhaul or replace the module.

Annual Ethics Training for PAS Appointees

State made annual ethics training available to PAS appointees in a number of formats in 2015, but primarily used the FSI computer-based module PA454 to provide the training. Indeed, in late 2015, State revised its procedures to require *all* annual training to be completed using PA454. Based on an evaluation of State's training records and follow-up information provided by L/EFD, OGE determined that approximately 85% of State's PAS appointees received annual ethics training in 2015. State indicates that no action has been taken against the remaining 15% of its PAS officials who did not complete the required annual ethics training. OGE's program reviewers focused in particular on training for State's senior officials, most of who are in PAS positions, and identified deficiencies with regard to the delivery and tracking of training for these officials. The failure to consistently provide and/or accurately track training, including for State's most senior leaders, is concerning, as this puts officials at risk of not fully understanding their ethics obligations. L/EFD officials stated that they have developed a plan for ensuring that all PAS officials, as well as all other senior officials, receive ethics training each year. This plan includes providing PAS officials frequent training reminders, making personal contacts with them during the training period, and improving the tracking of the training provided.

Figure 3: 2015 Annual Ethics Training for PAS Officials

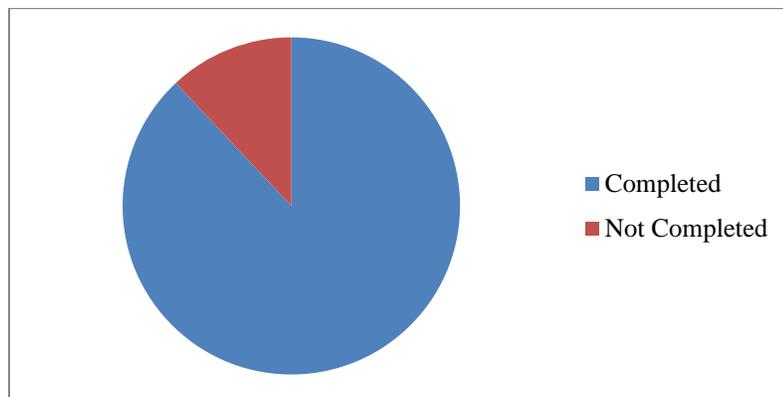


Annual Ethics Training for Non-PAS Public Filers

For 2015, non-PAS public filers could meet the annual ethics training requirement by attending live training events, watching videotaped presentations, or completing online training such as PA454. While State bureaus reported to L/EFD on aggregate training numbers for the year, PA454 was the primary method of annual training, and the only one that tracks and memorializes each individual's participation.

L/EFD provided OGE's program reviewers with a master list indicating that 1,558 non-PAS employees were required to file public financial disclosure reports in calendar year 2015. As public filers, OGE's regulations require State to provide these employees with annual ethics training. Per L/EFD, State bureaus reported that approximately 88% of these employees completed annual ethics training in 2015. OGE's independent comparison of the non-PAS public filer master list against FSI automated training records determined that approximately 66% of these officials took the online PA454 course to meet the annual training requirement.

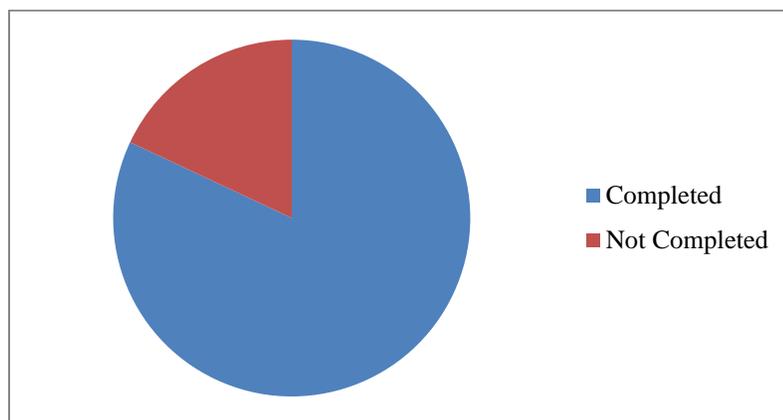
Figure 4: 2015 Annual Ethics Training for non-PAS Public Filers



Annual Ethics Training for Confidential Filers

L/EFD provided OGE's program reviewers with a master list indicating that 5,359 confidential filers were required to receive annual training in calendar year 2015. As with public filers, confidential filers could satisfy their training requirement by attending live training, watching videotaped presentations, or completing online training such as PA454. According to L/EFD, State bureaus indicated that 82% of confidential filers completed annual training in 2015. OGE's comparison of the master list of confidential filers against the automated FSI training list of employees who completed the automated training module that year determined that approximately 65% of these officials took the online PA454 course to meet the annual training requirement.

Figure 5: 2015 Annual Ethics Training for Confidential Filers



Discussion of Tracking Completion of Annual Ethics Training

As noted above, ethics training for all State employees was provided through a variety of methods in 2015. However, training provided through FSI's online PA454 course is the only method that automatically tracks completion. As also noted above, for other methods of training, L/EFD has been reliant upon information provided by the bureaus and has not been able to track this type of training in a centralized, comprehensive way. Moreover, while neither L/EFD nor OGE has reason to question the validity of the data provided by the bureaus, L/EFD officials acknowledge that they cannot independently verify the data. It is for these reasons, among others, that beginning in late 2015 State shifted to an exclusive reliance on PA454 to meet and track completion of the annual ethics training requirements.

Additional Training for Management Officers, Deputy Chiefs of Mission, and Principle Officers at Embassies

State's Management Officers are stationed at posts throughout the world. State provides Management Officers Workshops to provide information regarding the management of their posts. L/EFD routinely conducts ethics training at these workshops. This training is not intended as a substitute for the annual ethics training for Management Officers. In calendar year 2015, L/EFD provided training to approximately 350 Workshop participants, who included Management Officers and administrative personnel. Sample presentations provided to OGE by L/EFD covered a wide variety of topics, such as promoting an ethical culture, fostering public-private partnerships, use of the Ambassador's residence, and the basic requirements of government ethics (e.g., conflicts of interest, gift acceptance, and financial disclosure). As with most of the training provided by L/EFD, these courses also include instructions for contacting L/EFD with any questions that might arise at post.

In addition to Management Officers, Deputy Chiefs of Mission at embassies support Ambassadors with day-to-day ethics guidance. In order to prepare Deputy Chiefs of Mission for effectively managing their posts, FSI also conducts a three-week Deputy Chief of Mission Seminar. As part of the seminar, L/EFD provides one 90-minute training session focusing on the areas that are most applicable to the roles and responsibilities of a Deputy Chief of Mission. The session is scenario-based and involves discussions related to identifying and resolving potential ethics issues that an Ambassador is likely to encounter.

Other Ethics Information

In addition to the formal automated and live training, L/EFD also issues or makes available ethics-related information department-wide. For example, L/EFD prepares “Ethics Tips” for occasional inclusion in the department’s “Tip of the Day” program, which posts brief tips on employees’ computer screens when they log into the IT network. These “Ethics Tips” also provide contact information for L/EFD officials. L/EFD also publishes a monthly column titled “Ethics Answers” in the department’s *State Magazine*, which can be accessed online by any State employee. The column addresses common ethics issues and includes L/EFD’s contact information.

Recommendation

6. Develop and implement procedures to ensure that all covered employees receive annual ethics training by completing PA454. These procedures should also include the steps State will take to address employees who fail to complete the training.

Advice and Counseling

The DAEO is required to carry out a counseling program for employees and former employees of the agency concerning ethics, including post-employment matters. *See* 5 C.F.R. § 2638.203. The DAEO may delegate to one or more deputy ethics officials the responsibility for developing and conducting the counseling program. *See* 5 C.F.R. § 2638.204.

L/EFD attorneys provide the vast majority of ethics-related advice and counseling within the department, although a number of other officials handle discrete ethics functions and assist in identifying ethics issues. For example, Management Officers at overseas posts and Executive Directors at the headquarters bureaus are authorized to approve attendance at widely attended gatherings by applying the factors outlined in the applicable FAM provision. They contact L/EFD when they need assistance. Other non-ethics attorneys within the Office of the Legal Adviser may also identify situations that involve potential ethics issues and bring them to the attention of L/EFD, as necessary.

According to information provided by L/EFD officials, requests for advice come into their office in a number of ways. The majority of requests are emailed to the generic “Ethics Attorney” email account, and L/EFD assigns its seven attorneys on a rotating basis to monitor that account. The Alternate DAEO indicated L/EFD attorneys received and responded to approximately 5,200 requests for ethics-related advice and counseling in 2015 through the

“Ethics Attorney” email account. Department employees may also call the main telephone number for L/EFD and ask to be transferred to an “on duty” attorney or a specific ethics attorney with whom they have worked in the past. L/EFD attorneys field several hundred of these types of contacts each year and hundreds more related solely to financial disclosure matters. Finally, the department’s senior leadership may contact the DAEO directly with ethics questions.

To evaluate State’s ethics advice and counseling program, OGE examined 40 samples of written ethics advice prepared by L/EFD officials in 2015. Fourteen of the documents OGE examined were 18 U.S.C. § 208(b)(1) waivers. Based on OGE’s examination of the waivers, State appears to have applied the relevant factors articulated in OGE’s implementing regulation at 5 C.F.R. § 2640.301 and consulted OGE. However, State had not provided OGE with executed copies of 6 of these 14 waivers, as required by 5 C.F.R. § 2640.303, prior to OGE requesting them as part of the ethics program review process.

The remaining 26 advice documents OGE examined covered various ethics-related topics including financial conflicts of interest, outside activities, endorsements, impartiality, and gift acceptance. OGE has concerns regarding 3 of these 26 non-waiver samples. However, the underlying issues in these instances reflect a lack of thorough, pro-active consideration of ethics issues or recourse to ethics guidance in a timely fashion on the part of the employees, not on the quality of the counseling ultimately provided by L/EFD.

Recommendation

7. Develop and implement effective procedures to ensure that copies of all waivers under 18 U.S.C. § 208(b) are promptly provided to OGE.

Conflict Remedies

The criminal conflict of interest law at 18 U.S.C. § 208 prohibits an employee from participating in an official capacity in a particular matter in which he or she has a financial interest. Congress included two provisions that permit an agency to issue a waiver of the prohibition in individual cases. Under Executive Order 12674, agencies are to consult with OGE, when practicable, prior to issuing a waiver under section 208. Agencies are also required to provide OGE with copies of the executed waivers. As discussed earlier, State failed to provide OGE with a number of its executed waivers, and OGE has issued a recommendation to correct this deficiency.

The Ethics in Government Act requires written notice of the specific actions PAS nominees will take in order to alleviate or avoid conflicts of interest, a requirement that is carried out through the execution and subsequent implementation of an “ethics agreement.” In calendar year 2015, the Senate confirmed 11 nominees for PAS positions at State. Each of these appointees had entered into an ethics agreement prior to confirmation. State confirmed that all of these appointees complied with the requirements of their ethics agreements within 90 days. State provided OGE with evidence of compliance in a timely manner, as required by 5 U.S.C. app § 110 and 5 C.F.R. §§ 2634.802 and .804. However, in 2015, OGE declined to certify periodic transaction reports filed by two other PAS appointees: One because the filer repurchased assets

that had previously been divested pursuant to ethics agreements, the other because of the length of time it took for L/EFD to certify and transmit the report to OGE

Recommendation

8. Implement training, counseling and financial disclosure review mechanisms to ensure that employees do not acquire assets identified in their ethics agreements as conflicting or subject to divestiture.

Enforcement

Executive branch offices are required to notify OGE when they refer potential violations of criminal conflict of interest statutes to the Department of Justice. They are also required to notify OGE whether the Department of Justice prosecutes or declines to prosecute the employee involved and whether the employing agency takes corrective action. *See* 5 C.F.R. § 2638.603. L/EFD officials confirmed that State did not make any such referrals to the Department of Justice in 2015.

In their responses to OGE's statutorily mandated Annual Agency Ethics Program Questionnaire (Annual Questionnaire), agencies are required to indicate the number of disciplinary actions related to violations of the Standards of Conduct they imposed in any calendar year. State's response for calendar year 2015 indicates that it disciplined five employees for violating the Standards of Conduct. L/EFD provided OGE with the following additional information regarding these five reported cases:

- One employee violated 5 C.F.R. § 2635.704 and was disciplined based upon a finding that he falsified a hotel receipt for official travel in order to receive an inflated reimbursement amount. Annual leave and salary were withheld to make restitution.
- One employee violated 5 C.F.R. § 2635.702 and may have engaged in other unspecified misconduct. The employee's security clearance was revoked and the employee was terminated.
- One employee was found to have violated 5 C.F.R. § 2635.502 by participating in a particular matter in which a former employer was a party, within one year of ceasing to work for that former employer. The employee received a letter of reprimand.
- One of the individuals reported was an employee of another federal agency, which has its own Designated Agency Ethics Official. This item should not have been included in State's response to the Annual Questionnaire.
- One employee was disciplined for exercising poor judgment in taking outside employment with a private company for which the employee had official responsibilities and failing to consult with the employee's supervisor. The employee received a letter of reprimand which referenced 5 C.F.R part 2635, subparts E and H.

Special Government Employees

A special Government employees (SGE) is any officer or employee of the executive or legislative branch who is retained, designated, appointed or employed with the expectation of performing official duties for not more than 130 days in any 365-day period. Some SGEs serve on agency advisory committees, boards or commissions. Some SGEs serve in other non-advisory capacities, such as experts and consultants.

SGE Designations

In February 2016, L/EFD submitted a response to OGE's Annual Questionnaire disclosing that State employed 72 SGEs in 2015. L/EFD separately submitted information to OGE's program reviewers, during the pre-review phase of this program review, disclosing that State employed 136 SGEs in 2015. When asked about the inconsistency between the disclosures of 72 SGEs and 136 SGEs, respectively, L/EFD explained that the 72 SGE's disclosed in response to OGE's Annual Questionnaire was not the total number of SGEs employed in 2015; rather, it was the number of SGEs who filed financial disclosure reports.

L/EFD explained that State does not maintain a master list of the SGEs it employs. The individual bureaus within State designate employees as SGEs, and they are responsible for documenting these designations. The bureaus are also responsible for collecting financial disclosure reports from SGEs and forwarding them to L/EFD for review and certification.

According to L/EFD, State has been working to formalize SGE designation and tracking procedures. L/EFD explained that State's Bureau of Human Resources issued a number of policy documents regarding SGEs in 2014, in consultation with the L/EFD. These documents addressed the designation and tracking of SGEs after human resources officials appoint them. In April 2016, the Bureau of Human Resources also centralized the SGE designation process by requiring the bureaus to obtain clearance for all SGE designations from State's Office of Civil Service Human Resources Management (CSHRM). The new procedures also require bureaus to inform CSHRM when a designation is formally made and when a designation is no longer necessary. L/EFD officials anticipate that this new process will enable more accurate tracking of SGEs.

Recommendation

9. Evaluate the new SGE designation process for one full year after its implementation, which will close at approximately the end of April 2017.

Initial Ethics Orientation for SGEs

To comply with the regulatory requirement to provide SGEs with initial ethics orientations, State offers the FSI computer-based training module titled PA452-Ethics Orientation for New Special Government Employees (PA452). Like the modules for other new employees, PA452 focuses on ethics subjects such as conflicts of interest, impartiality, misuse of position, and gifts. The content and test questions also include several items designed to reflect situations and requirements of particular relevance to SGEs.

L/EFD indicated that SGEs also receive a brief written summary of the applicable ethics rules when they go through ethics pre-clearance as part of the SGE designation process. State requires each SGE to sign an acknowledgment upon receipt of the summary. L/EFD officials provided OGE with copies of signed acknowledgments that State collected in 2015 for all SGEs from whom L/EFD received financial disclosure reports.

Financial Disclosure for SGEs

L/EFD indicated that most State SGEs meet the criteria for filing confidential financial disclosure reports. L/EFD provided OGE with two lists of SGEs required to file confidential financial disclosure reports in 2015. The first list identified SGEs who served on Federal Advisory Committee Act (FACA) committees, and the second list identified SGEs who did not serve on committees.

State administered 23 FACA committees in 2015. State has determined that members of 5 of these 23 committees are SGEs. Unless excluded from filing requirements, they must file new entrant financial disclosure reports upon appointment. Unless excluded from filing requirements, they must also file new entrant reports each year upon reappointment; or, in the case of individuals serving on term appointments exceeding one year, on the anniversary of their initial appointments.

State's DAEO has waived the financial disclosure requirements, pursuant to 5 C.F.R. § 2634.904(b), for SGEs serving on 2 of these 5 advisory committees: the Advisory Committee on International Law and the Advisory Committee on Historical Diplomatic Documentation. L/EFD indicated that the DAEO, in consultation with each committee's Designated Federal Officer, evaluates the appropriateness of these waivers from time to time. According to the Alternate DAEO, the waiver for the Advisory Committee on International Law was reevaluated in 2016 and it was decided that no changes would be made. The Advisory Committee on Historical Diplomatic Documentation has not been reevaluated since the original waiver was issued and there are no immediate plans to do so.

State did not collect financial disclosure reports from any of the members of the Cultural Property Advisory Committee (CPAC) in 2015. State failed to timely designate these committee members as SGEs in 2015. State has since designated CPAC members as SGEs and is in the process of collecting financial disclosure reports from them.

OGE examined the confidential financial disclosure reports filed in 2015 by the SGE members of the two remaining FACA committees: the Foreign Affairs Policy Board (FAPB) and the International Security Advisory Board (IASB).¹⁰ The results of OGE's examination are summarized in Table 4 below.

¹⁰ As previously noted, members of the Cultural Property Advisory Committee were not properly designated as SGEs in 2015 and were not notified of the requirement to file.

Table 4. OGE Examination of FACA SGE Confidential Disclosure Reports

	Number of Reports Required to be Filed	Number of Reports Filed Timely	Number of Reports Certified within 60 Days
FAPB	18	15 (93%)	13 (72%)
ISAB	28	28 (100%)	27 (92%)

Recommendation

10. Conduct an analysis of the underlying causes of State’s failure to collect, review, and certify a number of FACA committee reports in a timely fashion, and make appropriate adjustment to the relevant processes.

Non-FACA Committee SGEs

According to a list provided by L/EFD, 39 non-FACA committee SGEs were required to file confidential financial disclosure reports in 2015. To evaluate the administration of the Department of State’s confidential financial disclosure program for these SGEs, OGE examined 33 of these reports. OGE’s examination determined that 32 (97%) of these reports were filed timely and 29 (88%) were certified timely.

Agency Comments

State’s comments in response to this report are attached as a separate letter below.



United States Department of State

The Legal Adviser

Washington, D.C. 20520

January 19, 2017

The Honorable Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Ave., NW Suite 500
Washington, D.C. 20005-3917

Dear Mr. Shaub:

We appreciate the opportunity to review and comment on the U.S. Office of Government Ethics (OGE) Ethics Program Review Report for the U.S. Department of State covering calendar year 2015. We thoroughly appreciate the professionalism of your team and the time it has dedicated to this review. We appreciate too, your willingness to engage in discussion and exchange to produce the final report.

The Department of State is firmly committed to maintaining a strong culture of ethics, and we have a dedicated, highly professional ethics office that spearheads this effort with the support of the Department's senior leadership. We maintain a robust, multi-faceted training and guidance program and certify financial disclosure reports for more than 7,000 employees. As the report notes, the Department of State faces challenges because of its world-wide workforce and the large number of Presidentially-appointed, Senate-confirmed positions at the Department. Our ethics office relies on collaboration and support from management officers and others in multiple bureaus and posts around the world.

The Department of State's ethics program has made a number of significant improvements over the last few years, as attorney staffing has increased and the Department has embraced technology both to handle financial disclosure reports more efficiently and to provide effective, accessible training for employees, both in the United States and at our missions abroad. Having introduced many changes, our task now is to evaluate results, identify flaws, and continue to make improvements. In that regard, the program review helped identify areas in which we need to focus our efforts.

We have reviewed the final report and concur with all of the recommendations. We have already begun taking measures to implement some of the recommendations. Others will require that we gather more information before deciding upon the best course of action. Full implementation will take time, but it will be our focus going forward and we will use the report as a measure for

our ethics program's continued growth. We look forward to keeping you updated on our progress.

Again, we appreciate OGE's commitment to supporting agency ethics programs. We thank the OGE program review team, and we look forward to constructive collaboration with OGE in the years ahead.

Sincerely,

A handwritten signature in black ink that reads "Katherine D. McManus". The signature is written in a cursive style with a large, stylized initial 'K'.

Katherine D. McManus
Deputy Legal Adviser and Designated
Agency Ethics Official

United States of America
**Office of
Government Ethics**

Office of Personnel Management
Washington, D.C. 20415

MAY 23 1979

M E M O R A N D U M

SUBJECT: Prompt Transmittal of Copies of Financial Disclosure
Reports to this Office under section 203(c) of the Ethics
in Government Act

FROM: Bernhardt K. Wruble 
Director

TO: Designated Agency Ethics Officials

Section 203(c) of the Ethics in Government Act (the Act) provides that copies of financial disclosure reports of officers appointed by the President by and with the advice and consent of the Senate as well as nominees to such offices (other than members of the uniformed services), key officials in the United States Postal Service, designated agency ethics officials and candidates for the Office of President and Vice President shall be transmitted to the Director of the Office of Government Ethics by the agency in which such persons are employed or in which they will serve.

It is important that this Office receive such reports within 10 days after they have been filed in your agency. In submitting these reports, please attach a copy of the official position description of the office, if available, and your statement as to whether the report discloses any conflict of interest under the laws and regulations specifically applicable to your agency's functions and the employee's responsibilities. Many of the reports involve nominees for whom we must make an evaluation for Senate committees, and generally there is public interest in these reports.

We appreciate your cooperation.

Request for Designated Ethics Officials

Feb. 6, 1979

Director, Office of Government Ethics

Heads of Departments, Independent Agencies
and Government Corporations

Pursuant to the Ethics in Government Act of 1978, each department, agency and government corporation is required to designate an official to administer certain provisions of the Act (a "designated agency ethics official"). Although the Act does not establish specific qualifications, it was the intent of Congress that the person selected be a high level officer or employee possessing legal or other relevant background and sufficient experience to assess accurately possible relationships between the financial interests of high level officials and their respective duties, as well as to administer generally other conflict-of-interest matters.

The Act contemplates that one person within an agency be responsible for administering the Act; however, the functions of the designated agency ethics official may be delegated to persons of suitable training and experience, under the supervision of the designated agency official, who retains ultimate responsibility for ensuring compliance with the Act.

Please provide the name, phone number and mailing address of your designated official by March 1, 1979. The person so appointed must file a financial disclosure statement within 30 days of appointment as required by Section 201(a). A copy of this statement should be promptly transmitted to our office pursuant to Section 203(c).

HS/

Bernhardt K. Wruble

OGE/Lynde/eml/6Feb79/X27642

cc: OGE Chron
OGE Subj

United States of America

**Office of
Government Ethics**

Office of Personnel Management
Washington, D.C. 20415

M E M O R A N D U M

JUL 17 1979

SUBJECT: Need to designate an agency ethics official and to comply with certain other requirements

FROM: Bernhardt K. ~~Whipple~~
Director 

TO:

NOTE: Reply dates of July 31, 1979 and August 15, 1979

I.

Public Law 95-521, October 26, 1979, the Ethics in Government Act of 1978, ("the Act") contemplates that each government agency covered by Title II of the Act would appoint a "designated agency ethics official" to administer the Act within an agency. Our memorandum of February 26, 1979 (copy enclosed) requested each Head of an Executive Branch department, independent agency, or government corporation to provide to us the name, phone number, and mailing address of a "designated agency ethics official." As of this date we have not received a reply from you.

Our follow-up memorandum of April 26, 1979 (copy enclosed) gave additional guidance on the requirement of such official to file a financial report with this Office. No such report has been received from your agency.

Pursuant to section 403 of the Act I request that such an official be designated by your agency no later than July 31, 1979.

II.

Section 203(c) of the Act requires that a copy of the financial disclosure reports of each officer and employee in an office or position which requires confirmation by the Senate or by both Houses of Congress (other than members of the uniformed services) be transmitted to the Director of the Office of Government Ethics. The attached memorandum and list, which is addressed to your designated agency ethics official, contains the names and position titles of those individuals whose reports we believe should be filed with us, and indicates certain requirements which should be met by your agency no later than August 15, 1979.

Please review the attached memorandum and list for the actions that are required.

Attachments

United States of America
**Office of
Government Ethics**

Office of Personnel Management
Washington, D.C. 20415

M E M O R A N D U M

JUL 17 1979

SUBJECT: Determination of Actual Filing of Financial Disclosure Reports

FROM: Bernhardt K. Wruble
Director

TO: Designated Agency Ethics Officials

1. Officers requiring confirmation. Section 203(c) of the Ethics in Government Act of 1978 requires that a copy of the financial disclosure reports of "officers and employees in ... offices or positions which require confirmation by the Senate or by both Houses of Congress" (other than members of the uniformed services) be transmitted to the Director of the Office of Government Ethics ("OGE"). As indicated in our memorandum of May 23, 1979 a copy of each such report is to be submitted to OGE within 10 days after having been filed with the agency. The attached list contains the names and position titles of those individuals in your agency whose reports, we believe, should be filed with us. In each case where we have received a report, the list has been annotated with the date of receipt. If a "p" is indicated instead of a date, a report has been received but is being held pending additional information or review by your agency. No annotation means no report has been received.

Please review the attached list, and not later than August 15, 1979 send us (1) written confirmation that our list agrees with your understanding of whose reports should be sent to OGE or an explanation of any differences; (2) a statement of which additional reports have been sent to OGE and the date of submission of each; and (3) an explanation of why any of the reports due have not been transmitted to OGE.

In the case of special government employees who are expected to serve not in excess of 60 days in a calendar year, and whose names are on the attached list, please be sure to identify each such employee and approximate the number of days he or she will serve.

2. All others. Each agency ethics official should, at the earliest possible time, establish a list of all those in the agency required to report pursuant to section 201(f) of the Act, and check against it those reports actually filed. This basic check on compliance with Title II reporting requirements will be a point of departure for OGE agency audits during the fall of 1979.

Attachment

United States of America
Office of
Government Ethics

Office of Personnel Management
Washington, D.C. 20415

NOV 27 1979

M E M O R A N D U M

SUBJECT: Administrative Enforcement Procedures
pursuant to 18 U.S.C. 207(j)

FROM: Bernhardt K. White, Jr.
Director *BK White
by lo*

TO: Heads of Departments, Independent Agencies,
Commissions and Government Corporations/
Designated Ethics Officials

Title V of the Ethics in Government Act of 1978, Pub. L. 95-521, as amended ("the Act") requires that no later than six months after the effective date of the Act, agencies in consultation with the Director, Office of Government Ethics, must establish procedures to carry out the provisions of section 207(j) of title 18.

Basic guidelines for administrative enforcement are set forth in Section 737.27 of our interim regulations on Post Employment Conflict of Interest, 44 Fed. Reg. 19974, published in the Federal Register on April 3, 1979.

It should be noted that the due date for the submission of proposed agency implementing procedures is January 1, 1980.

Any questions on this submission should be directed to Larry Garrett or Gary Davis at (202) 632-7642.

United States Government
MEMORANDUM

file (2)
**Office of
Personnel Management**

Subject: Post-Employment Restrictions on Government
Personnel -- The Ethics in Government Act of 1978

From: The Director, Office of Government Ethics

To: Heads of Departments, Independent Agencies and
Government Corporations

Date: 17 JAN 1979
In Reply Refer To:

Your Reference:

The Office of Government Ethics intends to propose promptly regulations giving guidance on Title V of the Ethics in Government Act of 1978 (the "Act"), entitled "Post-Employment Conflicts of Interest." Executive agencies have administrative enforcement responsibility under Section 501(j) of the Act.

It is important that this title be effectively enforced, while at the same time avoiding unnecessarily severe applications which do not serve its purpose but adversely affect the government's ability to attract and retain employees, and, consequently, the achievement of its programs. I know that the formulation of balanced rules is of great concern to all government agencies.

Accordingly, pursuant to Sections 403 and 402(c) of the Act, I request that each executive agency transmit to me in written form its comments on those matters which are of concern to it in connection with the formulation of the proposed regulations. This may take the form of specific proposed regulatory language or specific problems which should be treated or accommodated by regulation. In the latter case, it is strongly recommended that factually detailed examples be submitted so that we are properly educated as to real-world factors which must be considered. Each response should also designate a point of contact.

Without in any way trying to restrict suggestions, I have attached a list of questions and topics to which your staffs might give attention. Although this is the kind of matter which may appropriately be assigned to each agency's general counsel, I would recommend that, in addition, the views of managers and others in various areas be sought, inasmuch as we have seen some of the most valuable observations and problems articulated by those who have firsthand exposure. Those who manage or have official responsibility for technical programs appear to be particularly affected.

Responses should be submitted by January 26, 1979. Because of the need, in fairness, to apprise current employees as to their obligations as rapidly as possible, we believe that every effort should be made to meet this deadline.



Bernhardt K. Wruble
Director



~~PHH~~
~~PHH~~
circulate

Washington, D.C. 20530

DEC 4 1984

David H. Martin, Esq.
Director, Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

Dear Mr. Martin:

In accordance with the requirements of 5 CFR § 738.313, I am enclosing a written legal opinion, rendered by the Deputy DAEO for the Civil Division, Department of Justice, on the application of 18 U.S.C. § 207.

Sincerely,

Janis A. Sposato
General Counsel
Justice Management Division

1 Enclosure

126 3 11 4

file
INF 4-2



United States
Office of Government Ethics

P.O. Box 14108
Washington, D.C. 20044

NEWS RELEASE

DEC 4 1986

The Office of Government Ethics has today directed that the members and employees of the Federal Home Loan Bank Board immediately cease from accepting official travel expenses for themselves or accompanying family members from any source except the Board itself pursuant to official travel regulations. **This policy is to remain in effect until the Board has developed written guidelines approved by the Office of Government Ethics outlining the manner in which a source other than the Board may provide for those expenses.** The guidelines will be required to be consistent with the Board's limited statutory authority and Federal ethics principles. This action was taken in order to help address this office's concerns with the institutional ethics of the Board as an agency.

The Office has also referred to the Department of Justice for further investigative review, the matter of the payment of travel expenses of and other gratuities to members and employees of the Board by the U.S. League of Savings Institutions and other savings leagues. This referral was necessary in part because the Board's Inspector General lacks the subpoena power necessary to obtain needed documents to complete the review. Further, the Office has also requested that the Inspector General of the Board review: (1) the past practices of the Board in reviewing travel vouchers; (2) the Federal Home Loan Banks' records of actual expenses paid for conformity with the 1981 and 1984 memorandums of agreement between the Board and the Banks; and (3) the travel vouchers of the members and employees of the Board for whom expenses were paid. Because such review will bear on individual members and employees of the Board, further official action with respect to such matters must await the results of investigation by the Inspector General.

United States of America
**Office of
Government Ethics**

20-77
gao.
Office of Personnel Management
Washington, D C 20415

FEB 16 1983

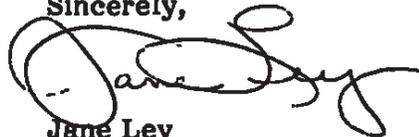
Mr. Tom Denomme
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Denomme:

Pursuant to your request of last week to Gary Davis, I am enclosing a list of those agencies whose 207(j) regulations the Office of Government Ethics has reviewed. I have noted the dates of review for those agencies which have either been reviewed since our March 3, 1982 report to Congressman Fountain or which had been reviewed at that time but not reported. Pursuant to your request to me, I have added a list of those agencies which appeared on our March 3rd list as not having filed and which still have not filed. I have placed an asterisk by those agencies which which we feel no longer require separate regulations or which I believe no longer exists.

If you have any questions, please feel free to call me at 632-7642.

Sincerely,



Jane Ley
Staff Attorney

Enclosures (2)

UNITED STATES OFFICE OF GOVERNMENT ETHICS

2013 Schedule of Important Ethics Dates

January

- ☀ **Reminder:** Agencies must complete an annual training plan for the current calendar year. This plan does not need to be submitted to OGE. Covered employees are required to receive annual ethics training before the end of the calendar year. (5 CFR § 2638.706(b) & 5 CFR § 2638.705)
- 1 **Reminder:** Today marks the beginning of the Public Financial Disclosure reporting period. Agency ethics officials may want to distribute financial disclosure packets to public filers. (5 CFR § 2634.308(a))
- 1 **Reminder:** Today marks the beginning of the Confidential Financial Disclosure reporting period. Agency ethics officials may want to distribute financial disclosure packets to confidential filers. (5 CFR § 2634.908(a))
- 31 **DUE TO OGE TODAY:** The Ethics Pledge Assessment is due to OGE today. Please follow the submission instructions on the online assessment module.

February

- 1 **DUE TO OGE TODAY:** The Agency Ethics Program Questionnaire is due to OGE today. Please follow the submission instructions on the questionnaire. (5 CFR § 2638.602(a))
- 15 **DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Confidential Financial Disclosure reports are due to agency ethics officials today unless the filer has been granted an extension. Remember to document the extension. (5 CFR § 2634.903(a) & 2634.903(d))

March

- 31 **Reminder:** The October 1, 2012 – March 31, 2013 period for reporting payments of travel accepted from non-Federal sources ends today. Agencies should begin to prepare their 1353 travel reports. [Agencies may use either the OGE Form 1353 or the Standard Form \(SF\) 326.](#) (31 U.S.C. § 1353)

April

- ☀ **Reminder:** Unless further information is required, agencies should review and certify Confidential Financial Disclosure reports within 60 days of receipt. (5 CFR § 2634.605(a))

May

- 3** **DUE TO OGE TODAY:** An updated list of Presidential appointees confirmed by the Senate (PAS), Designated Agency Ethics Officials (DAEO), and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification. Please submit your updated list to 278tracking@oge.gov. (5 CFR § 2638.601)
- 15** **DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Public Financial Disclosure reports are due today, unless the filer has been granted an extension. Remember to document the extension on the cover page of the report. (5 CFR § 2634.201(a))
- 16** **DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Confidential Financial Disclosure reports from filers granted 90-day extensions. (5 CFR § 2634.903(d))
- 24** **DUE TO OGE TODAY:** A list of extensions granted, and the length thereof, to PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification. Agencies should continue to forward to OGE any extensions granted to PAS, DAEO, and other filers whose reports are required to be reviewed and certified by OGE. Please submit lists to 278tracking@oge.gov.
- 31** **DUE TO OGE TODAY:** The 1353 travel report for payments of travel accepted from non-Federal sources is due today. Agencies must submit either a positive or a negative report. The 1353 travel report should cover the period of October 1, 2012 – March 31, 2013. Please submit reports to 1353travel@oge.gov. (31 U.S.C. § 1353)

June

- 15** **Reminder:** The late filing fee now applies to annual Public Financial Disclosure filers who did not submit their reports to agency ethics officials, unless the filer has been granted an extension. Remember, checks should be made payable to the U.S. Treasury. (5 CFR § 2634.704)

July

- 1 **DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Public Financial Disclosure reports from filers granted first 45-day extensions. (5 CFR § 2634.201(f))
- 1 **DUE TO AGENCY ETHICS OFFICIALS TODAY:** Today is the last day for filers to request an additional 45-day extension to the Public Financial Disclosure deadline. Remember to document the extension on the cover page of the report. (5 CFR § 2634.201(f))
- 1 **DUE TO OGE TODAY:** Agencies must submit a letter stating whether components currently designated should remain designated for purposes of 18 U.S.C. § 207(c). Agencies need not reply if their department or agency currently has no designated components and they do not wish to request the designation of any component. (5 CFR § 2641.302(e)(2))
- 15 **Reminder:** Unless further information is required, Public Financial Disclosure reports that were submitted by the May 15 deadline should be certified by the agency. (5 CFR § 2634.605(a))
- 29 **DUE TO OGE TODAY:** The Public Financial Disclosure reports of PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification are due today unless an extension has been granted. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))

August

- 1 **Reminder:** The late filing fee now applies to annual Public Financial Disclosure filers who were granted 45-day filing extensions but have not submitted their reports to agency ethics officials. Remember, checks should be made payable to the U.S. Treasury. (5 CFR § 2634.704)
- 13 **DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Public Financial Disclosure reports from filers granted second 45-day extensions are due today. (5 CFR § 2634.201(f))
- 30 **Reminder:** Unless further information is required, agencies' annual Public Financial Disclosure reports that were submitted pursuant to a 45-day extension should be certified by the agency. (5 CFR § 2634.605(a))

September

- 13 **DUE TO OGE TODAY:** The Public Financial Disclosure reports of PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification who were granted first 45-day extensions are due today. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))
- 13 **Reminder:** The late filing fee now applies to annual Public Financial Disclosure filers who were granted second 45-day filing extensions but have not submitted their reports to agency ethics officials. Remember, checks should be made payable to the U.S. Treasury. (5 CFR § 2634.704)
- 27 **DUE TO OGE TODAY:** The Annual Survey of Ethics Officials is due to OGE today. Please follow the submission instructions on the survey.
- 30 **Reminder:** The April 1, 2013 – September 30, 2013 period for reporting payments of travel accepted from non-Federal sources ends today. Agencies should begin to prepare their 1353 travel reports. [Agencies may use either the OGE Form 1353 or the Standard Form \(SF\) 326.](#) (31 U.S.C. § 1353)

October

- 15 **Reminder:** Unless further information is required, agencies' annual Public Financial Disclosure reports that were submitted pursuant to a second 45-day extension should be certified by the agency. (5 CFR § 2634.605(a))
- 29 **DUE TO OGE TODAY:** The Public Financial Disclosure reports of PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification who were granted second 45-day extensions are due today. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))

November

- 1 **Reminder:** Only 61 days remain in the Financial Disclosure calendar year. Remember that employees need to serve in a position for 61 days or more to file an annual financial disclosure report. (5 CFR § 2634.204(a))
- 30 **DUE TO OGE TODAY:** The 1353 travel report for payments of travel accepted from non-Federal sources is due today. Agencies must submit either a positive or a negative report. The 1353 travel report should cover the period of April 1, 2013 – September 30, 2013. Please submit reports to 1353travel@oge.gov. (31 U.S.C. § 1353)

December

- 31 Reminder:** Today marks the end of the Public Financial Disclosure reporting period, except for the reporting period of Part II of Schedule C and Part I of Schedule D of the OGE 278, which continue up to the date of filing. (5 CFR § 2634.308(a))
- 31 Reminder:** Today marks the end of the Confidential Financial Disclosure reporting period. (5 CFR § 2634.908(a))

Ongoing

To be sent to OGE:

- Forward the following to your desk officer team at OGE as appropriate:
 - Written designations by agency heads of new DAEOs and ADAEOs within 30 days of the delegation of authority. (5 CFR § 2638.202(c))
 - 18 U.S.C. § 208(b)(1) and (b)(3) waivers. (5 CFR § 2635.402(d))
 - Requests for exclusion from the public financial disclosure reporting requirement for Schedule C employees. (5 CFR § 2634.203)
 - Requests for a special waiver of the public financial disclosure reporting requirement. (5 CFR § 2634.205)
 - Requests for a waiver of restrictions of 18 U.S.C. § 207(c) and (f). (5 CFR § 2641.301(j))
- Forward notice of conflict of interest referrals (OGE Form 202) to referrals@oge.gov.
- Send requests for certificates of divestiture to the Director of OGE. (5 CFR § 2634.1005)
- Forward PAS ethics agreement compliance documentation to OGE within the applicable time frame. Please submit documentation materials to ecompliance@oge.gov. (5 CFR § 2634.803; PA-12-03)
- Notify OGE, via email at 278tracking@oge.gov, of a PAS official's termination date as soon as possible but no later than the day before the PAS official's termination date.
- Forward new entrant 278 reports, termination 278 reports, and 278-T reports submitted by PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))
- Join the OGE Listserv if you are not already a member. Sign up [here](#).

Within your agency:

- Remind filers that deadlines are dates by which the forms must arrive in the agency ethics official's office, not dates by which forms must be postmarked.
- Collect Public Financial Disclosure reports or Confidential Financial Disclosure reports from special Government employees. (DO-95-019)
- Collect new entrant reports within 30 days when employees enter covered filing positions. (5 CFR § 2634.201(b) & 2634.903(b))
- Collect termination 278 reports within 30 days when employees leave covered filing positions. (5 CFR § 2634.201(e))
- Collect 278-T reports from employees in covered filing positions. (LA-12-04)



DEPARTMENT OF STATE

Washington D C 20520

May 11, 1982

Mr. David Scott
Office of Government
Ethics
1900 E Street, N.W. #436H
Washington, D.C. 20415

Dear David:

Per our conversation, enclosed is a set of documents relating to the Presidential Commission on Broadcasting to Cuba: (1) Executive Order establishing the Commission; (2) Charter of the Commission; (3) Articles of Incorporation and (4) Bylaws of Radio Broadcasting to Cuba, Inc.

Thanks for your help.

Regards,

Joshua B. Bolten
Attorney-Adviser
Office of the Assistant
Legal Adviser for Inter-
American Affairs

Enclosures:
As stated.

RECEIVED BY OGE
MAY 13 AM 10 13 1982



United States
Office of Government Ethics

P.O. Box 14108
Washington, D.C. 20044

July 25, 1989

Mr. Norman Shaw
Counsel, Strategic Systems Programs
Department of the Navy
P.O. Box 15187
Arlington, VA 22215

Dear Mr. Shaw:

Your letter of July 10, 1989, forwarded 15 exemptions granted with your approval under 18 U.S.C. 208(b)(1). You sent them to us because of Executive Order 12674's new requirement for coordinating Section 208(b)(1) waivers with this Office.

As you indicated by phone to Sid Smith of this Office on July 24, 1989, all these waivers were granted prior to issuance of the Executive Order on April 12, 1989; therefore, you were not required to coordinate them with us.

For waivers being considered after April 12, 1989, please feel free to consult with this Office. Specific procedural and substantive guidance regarding such consultation will be promulgated by regulations which are being written to implement the Executive Order.

You also inquired whether you should resubmit all existing 208(b)(1) waivers to this Office on an annual basis. As we indicated to you by phone, our present view is that only such waivers which are being reissued or modified would require consultation with OGE. However, the pending regulations will establish final policy on what waivers require consultation, as well as when and how to accomplish that consultation.

Sincerely,


Frank Q. Nebeker
Director

cc: Roger T. McNamara
Assistant General Counsel (Ethics)
Department of the Navy



United States

Office of Government Ethics

Suite 500, 1201 New York Avenue, N.W.
Washington, D.C. 20005-3919

November 12, 1991

Gary L. Brooks
General Counsel and Designated
Agency Ethics Official
National Archives and Records
Administration
National Archives Building, Room 305
7th and Pennsylvania Avenue, NW.
Washington, DC 20408

Dear Mr. Brooks:

The enclosed letter of November 1, 1991, from the Chairman of the Senate Committee on Governmental Affairs, asked that this Office review any actions taken by your agency in response to the allegations of employee interference in the contracting process for procurement of security services in 1987. Specifically, the letter asked that we ascertain a complete account of any remedial action taken, both before and after the Archivist received a copy of the FBI's memorandum of investigation into this matter.

In order to effectively respond to the Senate committee, we will need a written accounting of any such actions taken by your agency. In addition, it may be useful and necessary for us to meet directly with appropriate agency personnel. Please contact my staff attorney, Sid Smith, at (202) 523 5757, at your earliest convenience.

Sincerely,

A handwritten signature in black ink that reads "Stephen D. Potts".

Stephen D. Potts
Director

Enclosure



United States
Office of Government Ethics

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

February 1, 1994

The Honorable Norman E. D'Amours
Chairman
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Dear Mr. D'Amours:

The Office of Government Ethics (OGE) has completed its second review of the National Credit Union Administration's (NCUA) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to determine whether the NCUA ethics program is effective and in compliance with applicable laws and regulations. Our review disclosed that there are serious problems with NCUA's ethics program. Most notably, NCUA failed to implement the confidential financial disclosure system for the 1992 filing cycle and had not made substantial progress in implementing the confidential financial disclosure system for the 1993 filing cycle.

The failure of NCUA to implement a confidential financial disclosure system for the 1992 filing cycle has resulted in a Notice of Deficiency being issued to the Designated Agency Ethics Official (DAEO), requesting that he report to me the actions he has taken or plans to take to correct this deficiency. If appropriate steps are not taken to correct the deficiency, this may result in the issuance of a Corrective Order pursuant to 5 C.F.R. § 2638.402(d). Additionally, there were other serious problems identified in our review which require immediate attention. Additional resources may be needed to enable the agency to administer its program in a positive and effective manner.

The enclosed letter report to your DAEO, Mr. Engel, highlights the results of our review and recommends the actions necessary to improve NCUA's ethics program. Mr. Engel is requested to report to OGE within 60 days regarding the specific actions he has taken or plans to take concerning the deficiency noted above and each of the recommendations in our report.

The Honorable Norman E. D'Amours
Page 2

A follow-up review will be scheduled six months from the date of this report to determine the status of our recommendations. I would be glad to meet with you to discuss your program. Please call me at (202) 523-5377, if I may be of assistance.

Sincerely,



Stephen D. Potts
Director

Enclosure



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



BG

OCT 26 1988

Honorable Frank Q. Nebeker
Director
Office of Government Ethics
P.O. Box 14108
Washington, DC 20044

Dear Judge Nebeker:

Enclosed please find a completed Office of Government Ethics Survey (Fall 1988) Agency-Specific Ethics Restrictions and Gift Authority submitted on behalf of the Small Business Administration. If I may be of further assistance in this regard, please do not hesitate to contact me.

Sincerely,

Martin D. Teckler

Martin D. Teckler
Deputy General Counsel

Enclosure



United States

Office of Government Ethics

Suite 500, 1201 New York Avenue, N.W.
Washington, D.C. 20005-3919

December 30, 1991

Ralph Goldenberg
Assistant General Counsel for General Law
and Designated Agency Ethics Official
Department of Energy
1000 Independence Avenue, SW.
Room 6A-211
Washington, DC 20585

Dear Mr. Goldenberg:

I am writing to you concerning the ethics agreements made pursuant to 5 U.S.C. App. §110 (formerly §211 prior to January 1, 1991) by Presidential appointees to positions requiring the advice and consent of the Senate in the Department of Energy. Under these provisions, unless otherwise specified by the agreement, the appointee has 90 days following confirmation in which to satisfy an ethics agreement.

It is the responsibility of the Presidential appointee to notify the designated agency ethics official of any action(s) taken to carry out his or her ethics agreement. Documentation of the action(s) taken should then be submitted to the Office of Government Ethics and the Senate confirmation committee by the designated agency ethics official. (See, 5 C.F.R. §2634.804)

Presently, there is one Department of Energy Presidential appointee with an outstanding ethics agreement that is beyond the 90 day compliance period. Our Office has not received all of the required agreement documentation from this official.

For your information, listed below is the name of the Department of Energy appointee with the outstanding ethics agreement, his Senate confirmation date, and the number of days since his confirmation date as of December 9, 1991.

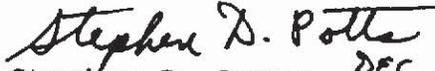
<u>Appointee</u>	<u>Senate Confirmation Date</u>	<u>Days Since Confirmation</u>
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In order for this appointee to be in compliance with his agreement, he must submit documentation showing he has satisfied his ethics agreement. After this documentation has been gathered, please forward it immediately to Pat Ryan so that she may review it for compliance. As this action is already overdue, your immediate attention to this situation is appreciated.

If you should have any problems or questions on this matter contact Pat Ryan at 523-5757 on extension 1141.

Sincerely,


Stephen D. Potts *DFC*
Director

ETH-7-3
Happer-278
Energy
PR/pr(sm)

AGENCY ETHICS PROGRAM REVIEW REPORT

Agency: Federal Emergency Management Agency (FEMA)

Review Dates: February 5, 1990 to February 20, 1990

OGE Staff: Richard Handy, Chief, Program Review Branch
Cecilia Owens, Management Analyst, Program Review
Branch
Michael Korwin, Desk Officer, Program Development
Branch

DAEO: Thomas Ainora
Associate General Counsel, General Law Division

Agency Staff: Leneta Gregorie, General Attorney, General Law
Division
Barbara Katz, General Attorney, General Law Division
Linda Keener, Freedom of Information Act/Privacy Act
Specialist

AGENCY BACKGROUND

The Federal Emergency Management Agency (FEMA) is the central point of contact within the federal government for emergency management activities. Such activities include:

- coordinating civil emergency preparedness for nuclear power plant accidents and hazardous materials incidents;
- coordinating federal aid for Presidentially declared disasters and emergencies;
- ensuring that government at all levels is able to respond to and recover from national emergencies; and
- providing funding, technical assistance, supplies, equipment, and training to enhance state and local governments' emergency management capabilities.

The agency employs approximately 2,500 employees, located at headquarters and in ten regional offices. According to an ethics official, approximately 80% of the agency's employees deal with procurement or contracting in some way.

Some areas in which possible conflicts of interest could arise within FEMA are:

- employee financial holdings in nuclear power plants, and
- holdings in agency contractors providing emergency management equipment such as warning devices, sirens, and emergency communications.

For example, an employee in the Natural and Technological Hazards Division may know whether a particular nuclear power plant's off-site emergency preparedness plan will be approved or denied. Because a plant cannot receive approval to operate without a favorable decision on this plan, the employee may be in a position to use this information to benefit financially by buying or selling

stock in that company.

PRIOR OGE REVIEWS

We first reviewed FEMA's ethics program in September 1982 and concluded that several elements of the program were not being effectively implemented. Our second review, in December 1984, revealed that few improvements had been made since our initial review. We then conducted periodic follow-ups to monitor FEMA's compliance with our recommendations. We performed our third program review from December 1986 through February 1987, and issued thirteen recommendations to the Designated Agency Ethics Official (DAEO) for improvement of the program. We followed-up in November 1987, at which time FEMA reported that most of the recommendations had been adopted.

ETHICS OFFICIALS' DUTIES AND RESPONSIBILITIES

Observation: FEMA's DAEO believes his office lacks sufficient staff resources to manage all aspects of the ethics program.

Currently, the DAEO and three assistants perform ethics duties. However, none of them do so on a full-time basis. According to the DAEO, each member of the ethics staff is responsible for a sizeable full-time assignment and estimates spending approximately 20% of his/her time on ethics duties. As a result of the limited amount of time available for ethics responsibilities, the staff concentrates only on basic program elements.

The DAEO stressed that FEMA badly needs at least one full-time ethics official because of:

-- the large volume of the public and confidential reports,

- the extended coverage for the confidential reporting system;
- the need for numerous responses to outside employment requests and gift acceptance inquiries; and
- the need for ongoing ethics training at headquarters and the 10 regional offices.

Because of these reasons, as well as our observation that FEMA needs to perform a more complete, in-depth conflicts of interest analysis, OGE agrees with the DAEO's assessment, and suggests that FEMA's management provide sufficient staff resources to ensure the effectiveness of the ethics program as mandated in Presidential Executive Order 12674.

STANDARDS OF CONDUCT

Observation: FEMA's Standards of Conduct are consistent with basic Federal regulations and standards.

FEMA's Standards of Conduct, which are found in 44 C.F.R., Part 3, are consistent with basic federal regulations and standards. However, FEMA published these standards without OGE approval, as required by 5 C.F.R. 735.104(c). Indeed, in a 1986 letter to the agency, OGE informed FEMA that our approval was contingent upon revisions to provisions of section 3.14(e) on spousal travel. Again, we encourage FEMA to follow through on our previous recommendation that this section include clarification of the circumstances under which the spouse of an employee may accept reimbursement from a private organization for actual expenses. In light of the pending regulations on acceptance of payment from non-federal sources, FEMA should not formally modify their standards at this time. Instead, the DAEO should provide guidance and clarification of spousal travel to employees through the use of

internal policy memoranda. At such time that FEMA does revise their standards of conduct, we remind them that our approval is required prior to publication in the Federal Register.

PUBLIC FINANCIAL DISCLOSURE REPORTING SYSTEM

Observation: Review of the public financial disclosure reports needs improvement.

In 1989, 51 individuals filed public financial disclosure reports, 49 were full-time FEMA employees and two were special Government employees who had worked at least 61 days during the calendar year. Our review found that all these reports were on file.

Covered employees who leave the agency receive a blank public report, which is to be returned within 30 days. The agency strictly adheres to the 30 day time frame and contacts a filer if a report has not been received within the allotted time. We reviewed the list of public filers and found that all termination reports had been collected, as required.

To determine the adequacy of FEMA's public report review process, we reviewed 25, or 50%, of these reports and found no conflicts of interest. We did, however, identify a recurring reporting weakness of not identifying the specific nature and the physical location of partnerships. The public reporting instructions on the SF 278 state that the reporting individual must identify the nature and location of a business, a partnership, or a joint venture. The instructions go on to explain that this level of information is necessary in order to give reviewers an adequate basis for the conflicts analysis required by the Ethics in Government Act of

1978. In conclusion, without this information, it appears that FEMA ethics officials are not adequately assessing public reports for real or apparent conflicts of interest. We recommend improving the review of these reports by identifying the nature and location of a business, partnership, or joint venture and by using this information to assess conflicts of interest.

CONFIDENTIAL FINANCIAL DISCLOSURE REPORTING SYSTEM

Observation: Although FEMA generally collects reports as required, the substantive as well as the technical reviews of the reports need improvement.

FEMA has written procedures on how to collect, review, and evaluate confidential financial disclosure statements. According to these procedures, the Office of Personnel provides ethics officials a master list of all covered employees in grade GS-13 through GS-15. This list is used to collect the statements and track the reporting process. Once collected, the forms are reviewed for technical correctness, i.e. the use of "none" instead of "N/A". Then, those reports citing financial holdings are compared with a listing of contractors and grantees who receive \$25,000 or more and a nuclear power plant listing to determine whether a conflict may exist. In cases where an employee's holding is found on these lists, FEMA determines whether a waiver, divestiture, or recusal is appropriate. In cases where an employee reports outside employment or activities, FEMA determines what the activity involves, and considers appropriate remedial action.

The Collection Process

For the 1989 reporting period, FEMA collected confidential reports from 684 full-time employees, 8 consultants, and 20 Advisory Board members. Based on our review of the files, we verified that all full-time employees required to submit reports had done so. However, we identified one special Government employee who had not filed. In addition, we found Advisory Board members who had not filed in a timely manner, i.e. prior to the first Board meeting of the year.

Currently, the agency collects annual confidential reports from all employees in grades GS-13 through GS-15. Beginning with the 1990 reporting cycle, FEMA plans to collect reports from all employees, regardless of grade, in procurement and contracting positions. In October, 1989, OGE approved this action. FEMA's Personnel Office and the DAEO's office are currently developing plans and procedures for identifying and collecting reports from individuals meeting the new coverage criteria. Once the administrative details of the new system are resolved, FEMA should revise the written procedures, as appropriate.

In light of the expanded coverage for individuals required to file confidential reports in 1990, FEMA ethics officials expect the volume of reports to almost double from the current 684 to approximately 1,100 reports. Last year, summer interns reviewed the reports; this year, a newly hired attorney will review the reports in addition to her full-time staff attorney responsibilities. Ethics officials expressed concern that, with the great increase in the number of reports, the review may not be accomplished within a reasonable timeframe.

The Review Process

In order to assess FEMA's review procedures, we examined 68, or 10%, of the confidential reports submitted for the last reporting period. Our review and discussions with the ethics officials suggest that the substantive reviews need to be improved. For example, the comparison of financial holdings with the contractor/grantee and nuclear power plant listings is the extent of FEMA's conflicts analysis. Officials do not consider financial interests in contractors or grantees below the \$25,000 threshold nor do they identify the nature of a reported business or financial interest that does not appear on the listings. In summary, reviewers are generally not performing adequate in-depth conflicts of interest analyses of financial interests cited on the confidential reports. Such analysis is imperative and should include identifying the nature of a business or financial interest. By limiting their analysis to simply the contractor/grantee and nuclear power plant listings, FEMA officials overlook other sources of possible conflicts of interest. For example, one employee reported Racal Electronics on his confidential report. Because this company did not appear on FEMA's contractor/grantee list or the nuclear power plant list; the reviewer did not continue the analysis by identifying the nature of this company. However, a review of Moody's indicates that the nature and principal activities of Racal Electronics are professional electronics, fire and physical security, and telecommunications. Because these activities are pertinent to some of FEMA's activities, further conflicts analysis should have been done. For example, further analysis might have included research on:

- the employee's official duties to determine whether he is in a position to influence contracting decisions for fire and physical security equipment;

- whether Racal Electronics is a subsidiary of a company cited on the contractor list; or
- whether Racal has a contract with FEMA for less than \$25,000.

During our review, we identified two other cases where additional substantive reviews by ethics officials were warranted--one involved a FEMA consultant and the other involved a full-time employee.

- A FEMA consultant reported that he was an owner and senior consultant of an emergency management consulting firm and that he worked for another company as a part-time consultant. Although emergency management is a FEMA activity, FEMA did not research whether this firm had a contract with the agency for less than \$25,000. Also, even though the company the individual worked for as a part-time consultant is on the FEMA contractor list and has about \$6.4 million in contracts with the agency, the ethics official did not further investigate the matter to determine which contracts the individual worked on for that company. In fact, the only comment on the report was that the individual was advised to contact the ethics official prior to accepting any employment with the company.

- In another case, a FEMA contracting officer reported (b)(6) (b)(6) employment at a particular company. This company is on the FEMA contractor list; however, FEMA's review failed to identify this potential conflict. As a result, (b)(6) who was servicing the contract, was never advised about remedial actions such as recusal or removal from the position, nor was (b)(6) ever counseled on any ethical issues. FEMA's failure to identify this

situation surfaced when the company for which (b)(6) worked lost the renewal contract. The contracting officer was subsequently reported by another FEMA employee for withholding information from the new contractor. (b)(6) actions are currently under investigation by the DAEO's office.

In summary, FEMA's use of the listings provides a starting point for examining reported financial interests for potential conflicts; however, further, more in-depth analysis is required. The nature of a business or financial interest can be determined by referring to Moody's or Standard and Poor's and by contacting the reporting individual. We suggest that officials document their files with this information so that they will not have to research the information each year. FEMA ethics officials stated that they do not explore the nature of financial holdings because they lack adequate resources to undertake the task. We acknowledge that investigating the nature of financial holdings increases the reviewing time; however, without a proper substantive review of each report, the fundamental purpose of the reporting process is nullified.

In addition to improving the substantive reviews of the confidential reports, the agency also needs to improve the technical reviews. For instance, some of the files we reviewed did not contain reviewers' notes or comments, such as contact with a reporting individual concerning possible remedial actions. For example, according to an ethics official, if a waiver indicates that a particular financial holding was de-minimus, the reporting individual was always contacted. However, our review of the waiver cases did not show any documentation that contacts with individuals were ever made. FEMA instructions state that if the reviewer calls

the individual and obtains information, the reviewer should add it to the form and note "per conversation with _____ on _____" and add his/her initials. We recommend that officials adhere to this procedure.

According to agency procedures on the review of confidential reports involving outside employment/activities, the reviewer should determine what the outside employment or activity involves, which usually entails a call to the filer. However, we also found no evidence that this policy has been implemented. Therefore, we recommend that officials execute this policy, as required. Another method for improving the technical reviews is to compare the outside employment files with the individual's confidential report to confirm that individuals are reporting known sources of income on their disclosure statements.

FEMA is in the process of revising its confidential report Form 11-1, because ethics officials suspect employees are making technical completion errors due to the form's design. Our review of the confidential reports identified technical errors. For instance, most individuals with rental property did not report creditor(s), even when more than one rental property was reported. In addition, individuals did not appear to be reporting spousal employment. However, in light of OGE's pending confidential report regulations, we suggest that FEMA continue to use their existing report. In lieu of revising the form to address reporting errors, such as those noted above, ethics officials should clarify the reporting instructions by issuing a cover memorandum describing common errors, such as the memo FEMA currently uses for public reports, or by completing and distributing an example confidential report.

OUTSIDE EMPLOYMENT/ACTIVITIES AND GIFT ACCEPTANCE COUNSELING

Observation: Outside employment counseling is consistent with the agency's Standards of Conduct; however, gift acceptance counseling is not.

Outside employment

An employee must obtain prior written approval before engaging in outside employment in the same professional field as that of the individual's official position. In October 1989, the DAEO issued a detailed memo on outside employment to all FEMA employees. This memo included written procedures for obtaining approval. A review of the counseling files shows that outside employment advice is consistent with the criteria set forth in FEMA's Standards of Conduct.

Gift acceptance

Section 3.14 of FEMA's Standards of Conduct describes four exceptions to the prohibition against accepting gifts from certain persons. One of these exceptions is "acceptance of food and refreshments of nominal value (fifteen dollars or less) on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting..." (emphasis added). However, FEMA employees are allowed to attend monthly luncheons of the Armed Forces Communications and Electronics Association (AFCEA) which is an association composed primarily of government contractors, including many contractors who do business with FEMA. The DAEO should review circumstances surrounding FEMA's affiliation with the AFCEA and issue an updated memo to employees regarding FEMA's position. If the DAEO decides to allow employees to continue the

affiliation, he should monitor agency employee attendance at the monthly luncheons, i.e. who is going, how many are going, and when.

In reviewing the files, we found several instances in which the previous DAEO provided advice but deferred the final ethics decision to other agency officials. In one instance, the former DAEO deferred the decision on whether it is in the agency's interest that employees attend monthly AFCEA luncheons. In another case, the DAEO deferred the decision on whether it is in the government's and FEMA's interest that an employee accept a meal during a luncheon. Deferring decisions to supervisors or other agency officials may result in inconsistent ethics decisions. Because final standards of conduct decisions should be made by the DAEO, OGE encourages the current DAEO to review these prior gift acceptance decisions to determine if such activity is ongoing and, if so, whether approval is in accordance with the Standards of Conduct.

Based on our review and discussions with ethics officials, we found that not all counseling opinions were documented in the files. We, therefore, recommend that ethics officials, at a minimum, document all counseling advice provided in response to employee written requests, and, whenever possible, provide the employee a written response.

ETHICS EDUCATION AND TRAINING

Observation: Although ethics education and training improved in 1989 for regional staff, it did not improve for headquarters staff.

In 1989, the former DAEO and Deputy DAEO performed ethics training in each of FEMA's ten regions. The training was mandatory and employees were required to sign attendance sheets. OGE commends FEMA on this endeavor. However, this training did not include headquarters staff which comprises the majority of FEMA employees. The DAEO plans to conduct 1990 training sessions for headquarters staff in Washington, D.C., Emmitsburg, Maryland, and Berryville, Virginia. OGE encourages the implementation of this plan.

Although FEMA does not have an annual ethics training plan, ethics officials acknowledge the need for training. However, they lack staff resources, and, in some cases, the travel money, to implement the necessary training program.

In addition to training, the DAEO issues ethics memoranda to all FEMA employees. In 1989, three such memos were issued. Each memo addressed a particular provision of the standards of conduct, such as outside employment, but none of them addressed all the provisions. According to Section 3.4(a) of FEMA's standards, these regulations are to "be brought to the attention of (full-time employees and special government) employees at least annually". The last ethics memo to do so was issued in May 1988. Because of the importance of educating all employees on the standards of conduct, and, in light of FEMA's recent disciplinary action where two high level officials were suspended for two weeks without pay for a standards of conduct violation, we recommend that the DAEO

promptly issue a current memo to all employees explaining the standards of conduct.

POST-EMPLOYMENT RESTRICTIONS

Observation: Although OGC distributes a Post-Employment Restriction Summary, their method of dissemination does not include all employees.

Several months ago OGC began distributing a post-employment restriction summary to all departing employees who are serviced by headquarters in Washington, D.C. Because this was one of the 1987 OGE recommendations, we are pleased to see its addition. However, FEMA's method of distribution does not cover headquarters employees assigned outside of Washington, D.C. or regional employees. It also does not cover special Government employees, such as consultants, who most certainly have a need to know this information. OGE recommends that FEMA further explore methods for distributing this summary to **all** FEMA employees.

COORDINATION WITH THE INSPECTOR GENERAL

Observation: An open channel of communication exists between OGC and the Office of the Inspector General.

Both OGC and the Office of the Inspector General (OIG) receive information on possible ethics violations. OGC may refer a possible ethics violation to the OIG for investigation and OIG may refer a possible violation to OGC for resolution. The channel of communication between the two offices appears open.

In March 1985, OGE identified the need for periodic audits of FEMA's ethics program and recommended that OGC pursue this with

OIG. In June 1987, OGE reported that the ethics program could be strengthened by periodic reviews by OIG. The OIG has not performed an ethics audit to date nor has it scheduled one on its 1990 formal planning document. Once again, OGE recommends that OIG periodically audit the ethics program.

RECOMMENDATIONS

We have cited ten recommendations to improve the efficiency and effectiveness of FEMA's ethics program. These are summarized as follows:

- FEMA's management should allocate sufficient staff resources to ensure the effectiveness of the ethics program and provide the scope and leadership necessary to develop and maintain a sound ethics program.
- FEMA should provide guidance to all employees concerning Section 3.14(e) of the Standards of Conduct, including clarification of the circumstances under which the spouse of an employee may accept reimbursement from a private source. Pending issuance of executive branch regulations, this clarification should be done through an internal notice or memorandum. We remind FEMA that whenever the agency revises the standards, they must submit them to OGE for approval **prior** to publication in the Federal Register.
- Ethics officials need to improve the review of public and confidential financial disclosure reports by identifying the nature and location of a business, partnership, or joint venture and use this information

to assess conflicts of interest.

- The review of confidential reports needs improvement by strengthening the analysis for conflicts of interest. In addition, officials should compare any outside employment approvals with the individual's confidential report to ensure that individuals are reporting all known sources of income. Lastly, officials should adhere to their written procedures by reviewing all confidential reports for the nature of outside employment/activities and by documenting the file whenever they contact the reporting individual.
- Ethics officials should clarify the confidential report instructions by issuing a cover memo describing common errors, such as the memo FEMA currently uses for public reports.
- The DAEO should issue a memorandum to all employees explaining the Standards of Conduct, and continue this practice at least annually thereafter. We also recommend that the DAEO contact OGE's Education and Liaison Division for assistance with any training questions.
- The DAEO should review employee attendance at AFCEA events and issue a memo to employees clarifying FEMA's policy on gift acceptance. If the DAEO decides to continue the current practice, he should monitor employee attendance at the monthly luncheons more closely.
- Ethics officials should improve the documentation of counseling advice, and, whenever possible, provide the

employee a written response.

- FEMA needs to further explore methods for distributing the post-employment information to all FEMA employees, especially senior level and special Government employees.

- The Office of the Inspector General should periodically audit the ethics program.

OGE AGENCY REPORT
SIGNATURE PAGE

Richard Handy
Richard Handy
Chief, Program Review
Branch

4-10-90
Date

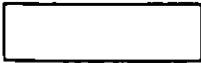
Jack Covalesski
Jack Covalesski
Chief, Monitoring and
Compliance Division

4-19-90
Date

Donald E. Campbell
Donald E. Campbell
Acting Director

5-3-90
Date

1994 Agency Ethics Program Questionnaire



United States
Office of Government Ethics

1994 AGENCY ETHICS PROGRAM QUESTIONNAIRE

Your response to this questionnaire will constitute your annual report for 1994. Section 402(e)(1) of the Ethics in Government Act of 1978 as amended requires that executive agencies submit an annual report to the Office of Government Ethics (OGE) concerning certain aspects of their ethics programs. This annual report shall be filed with OGE on or before February 1 of each year (5 C F R § 2638.602(a)).

Please respond to each question as completely and accurately as possible. Also please print or type neatly and try to keep your responses confined to the assigned blocks or spaces. Use an [X] where appropriate. Please attach sheets for narrative responses. Be sure to clearly indicate which question you are answering on all attached sheets. Throughout the questionnaire year refers to the calendar year (i.e. 1/1/94 through 12/31/94) except where specified.

If you have any questions contact Jennifer Kang or Audrey Duchesne at (202) 523-5757 extension 1111 or 1136 respectively.

DEADLINE FEBRUARY 1, 1995

ORGANIZATION

1 Agency _____

2 Number of full time agency employees (calendar year 1994) _____

3 How many employees in each category worked in the ethics program in 1994?
Include employees who worked in the region

- a 80% or more of time spent on ethics _____
- b 79% to 50% of time spent on ethics _____
- c 49% to 20% of time spent on ethics _____
- d 19% to 5% of time spent on ethics _____
- e less than 5% of time spent on ethics _____

TOTAL _____

4 Who is the Designated Agency Ethics Official (DAEO)?

5 The DAEO's position is in the

- a Legal office
- b Ethics office
- c Personnel office
- d Administrative office
- e Agency head's office
- f Other (specify) _____

6 What is the DAEO's full time organizational title?

7 What is the DAEO's phone number? _____

8 Identify the length of time the DAEO has held this position

- a 10 or more years
- b 5 - 9 years
- c 1 - 4 years
- d Less than 1 year
- e Position vacant

9 Approximately what percentage of the DAEO's time is spent on ethics? _____%

10 Who is the Alternate DAEO?

11 The Alternate DAEO's position is in the

- a Legal office
- b Ethics office
- c Personnel office
- d Administrative office
- e Agency head's office
- f Other (specify) _____

12 What is the Alternate DAEO's full time organizational title?

13 What is the Alternate DAEO's phone number? _____

14 Identify the length of time the Alternate DAEO has held this position

a	10 or more years	_____
b	5 - 9 years	_____
c	1 - 4 years	_____
d	Less than 1 year	_____
e	Position vacant	_____

15 Approximately what percentage of the Alternate DAEO's time is spent on ethics? _____%

16 Does your agency have regional ethics officials?
 YES NO (go to next question)

 If yes please identify where these positions are located in the regional or field offices. Mark more than one if appropriate

a	Legal office	_____
b	Personnel office	_____
c	Other (specify) _____	_____

RESOURCES

1 What is the estimated dollar amount devoted to your agency's ethics program? Consider such items as the cost of compensation and benefits travel printing and conference/training fees. Please use 20% of the amount of compensation to calculate the amount of benefits \$ _____

2 Please rank the following elements of your ethics program from one (1) being the most time spent to administer to seven (7) being the least time spent to administer. If certain of these elements do not exist within your agency or other elements take more time to administer please explain and rank on a separate sheet. **Please use each ranking (i.e., number) one time**

- Public financial disclosure system _____
- Confidential financial disclosure system _____
- Outside activity approval system _____
- Written opinions and counseling _____
- Education and training _____
- Disciplinary process for violations _____
- Special Government employees activities (see page 17
for definition of special Government employee) _____

3 What steps/resources would enhance your ability to meet your agency's program goals? Mark more than one if appropriate. Please provide other suggestions on a separate sheet.

- More training for ethics officials _____
- More training for employees _____
- Larger ethics staff _____
- Larger budget _____
- Independent budget authority _____
- Improved notification regarding entry of new employees _____

4 Do you contract out any part(s) of your ethics program?

YES NO

 If yes what part(s) _____

5 Have you automated part(s) of your ethics program?

YES NO

 If yes what part(s) _____

6 Does the Inspector General (IG) or another internal authority review the agency's ethics program at least every five years?

YES NO (go to question 7)

 If yes please answer a b and c

a What was the date of the last review _____

b Were written reports with recommendations issued?

YES NO (go to question 7)

 If yes please enclose copies of any 1994 reports

c Does the IG or other authority follow up on these written recommendations?

YES NO

7 Does the DAEO or his/her designee perform a self evaluation (i.e. program review) of the agency's ethics program?

YES NO (go to next question)

 If yes please answer a b and c

a What was the date of the last review _____

b Were written reports with recommendations issued?

YES NO (go to next question)

 If yes please enclose copies of any 1994 reports

c Does the DAEO or designee follow up on these written recommendations?

YES NO

AGENCY AUTHORITY

1 Does your agency have statutory gift acceptance authority (in addition to the authority to accept payments for travel expenses under 31 U S C § 1353)?

YES NO



If yes please provide the citation to both the statutory authority and agency regulations implementing the statutory authority

Statutory authority _____
Implementing regulations _____

ENFORCEMENT OF CRIMINAL AND CIVIL STATUTES

1 Does one office within your agency coordinate all referrals of potential violations of the criminal conflict of interest statutes 18 U S C §§ 203 205 207 208 and 209 to the Department of Justice (DOJ) including offices of U S Attorneys?

YES



If yes what office is that (mark only one)? **If the DAEO is the General Counsel, please mark DAEO**

DAEO (go to question 3)

Agency Head _____

IG _____

General Counsel _____

Other (specify) _____

NO



If no which offices refer such matters directly to DOJ/U S Attorney?
If the DAEO is the General Counsel, please mark DAEO

DAEO

Agency Head _____

IG _____

General Counsel _____

Other (specify) _____

2 If an office(s) other than the DAEO's office coordinates such referrals to DOJ/US Attorney or refers such matters directly does that office(s) notify the DAEO of all such referrals made?

YES NO

3 Please provide the following information for referrals of cases from your agency in 1994

- a Referrals for alleged violations of 18 U S C §§ 203 205 207 208 and 209
Number of referrals to DOJ/US Attorney _____
Number of declinations of matters referred _____
- b Number of declinations that lead to administrative action(s) _____
- c Number of prosecutions followed by further administrative action _____
- d Number of referrals for failure to file a public financial disclosure report (SF 278) _____
- e Number of referrals for filing a false public financial disclosure report (SF 278)
Pursuant to 5 U S C app § 104(b) _____
Pursuant to 18 U S C § 1001 _____

4 Has your agency notified OGE concurrently of the referrals reported to DOJ/US Attorney in question 4(a) (5 C F R § 2638 603(b))?

YES NO



If no please state reason

NO REFERRALS



If 0 reported in 4(a)

EDUCATION AND TRAINING

1 In providing the initial ethics orientation to new employees did your agency provide any training beyond the distribution of required materials?

- YES NO (go to question 2)

↪ If yes please identify the type of training provided Mark more than one if appropriate

- a Verbal briefing _____
- b Videos/films _____
- OGE produced _____
- Agency-produced _____
- c Ethics course _____
- d Summary of regulations _____
- e Agency supplemental regulations _____
- f Computer based training _____
- g Handbooks/pamphlets _____
- h Case studies _____
- i Other (specify) _____

2 How many annual ethics training classes did your agency provide during 1994? Do not include initial ethics orientation sessions [If your annual training was conducted by the Small Agency Council report 0] _____

3 Report the total number of agency employees required to receive annual ethics training in 1994 and the total number of employees who actually received annual ethics training

# Required To Receive	# Who Actually Received

a If the number of employees required to receive annual ethics training is not the same as the number of employees who actually received training please mark the appropriate reason(s) for the discrepancy Otherwise go to question 4

- Employee terminated service _____
- Employee on leave _____
- Employee deceased _____
- Other (specify) _____

4 How many covered employees received the annual ethics training course **without** the presence of a qualified individual? _____

5 How many special Government employees and officers in the uniformed services who serve on active duty for 30 or fewer consecutive days received the annual ethics training course **without** the presence of a qualified individual? _____

6 What kind(s) of training methods and materials did you use for your annual ethics training? Mark more than one if appropriate

- Copies of the Standards of Ethical Conduct and/or agency supplemental regulations _____
- Summary of the Standards of Ethical Conduct _____
- Slides/overheads _____
- Videos/films _____
 - OGE produced _____
 - Agency produced _____
- Lectures _____
- Computer-based training _____
- Handbooks/pamphlets _____
- Case studies _____
- Newsletters/bulletins _____
- Teleconferencing _____
- Satellite _____
- Other (specify) _____

ETHICS OPINIONS, ADVICE, AND COUNSELING

- 1 Please rank the following topics from 1 being the most frequent type of advice rendered to 12 being the least frequent type of advice rendered. If a topic is not applicable please mark N/A. If N/A is marked please renumber accordingly (e.g. if N/A is used once then use the numbers 1 through 11 etc.) If other types of ethics opinions are more frequent please identify and rank on a separate sheet. **Please use each ranking (i.e. number) one time.**

Honoraria	_____
Outside employment/activities (other than honoraria)	_____
Post employment restrictions	_____
Conflicting financial interests	_____
Awards	_____
Impartiality in performance of official duties	_____
Misuse of position	_____
Misuse of Government resources	_____
Misuse of information	_____
Travel subsistence and related expenses from non-Federal sources	_____
Gift acceptance excluding awards and travel subsistence and related expenses from non-Federal sources	_____
Opinions issued under 48 C.F.R. § 3.104-8(e) (Procurement Integrity safe harbor opinions)	_____

- 2 Has your agency issued any Procurement Integrity safe harbor opinions under 48 C.F.R. § 3.104-8(e) during 1994?

YES



If yes please identify the number of opinions issued _____

NO

N/A (if not covered under 48 C.F.R. § 3.104-8(e))

3 Who provides counseling on ethics issues in your agency? Mark more than one if appropriate If the DAEO is the General Counsel, please mark DAEO

- DAEO/Alternate DAEO/Deputies/Ethics Officials _____
- General Counsel/Regional Counsels/Staff Attorneys _____
- Supervisors _____
- Directors of Personnel/staff _____
- Agency Head _____
- Other (specify) _____

4 Who is authorized to provide written advice on standards of conduct and conflict of interest statutes? Mark more than one if appropriate If the DAEO is the General Counsel, please mark DAEO

- DAEO/Alternate DAEO/Deputies/Ethics Officials _____
- General Counsel/Regional Counsels/Staff Attorneys _____
- Supervisors _____
- Directors of Personnel/staff _____
- Agency Head _____
- Other (specify) _____

ENFORCEMENT OF STANDARDS OF ETHICAL CONDUCT

1 Report the number of disciplinary actions taken in 1994 based wholly or in part upon violations of the standards of ethical conduct provisions (5 C F R part 2635) For purposes of this question disciplinary actions include removals demotions suspensions and written reprimands or their equivalents Do not however include cautionary warnings and actions based on time and attendance violations

- a Gifts from outside sources _____
- b Gifts between employees _____
- c Conflicting financial interests _____
- d Impartiality in performance of official duties _____
- e Seeking other employment _____
- f Misuse of position _____
- g Conflicting outside activities _____
- h Compensation for teaching speaking and writing _____
- i Compensation from non Federal sources _____
- j Misuse of Government resources _____
- k Misuse of information _____
- l Indebtedness _____
- m General provisions _____
- n Provision(s) in agency supplemental regulations (specify) _____

PUBLIC FINANCIAL DISCLOSURE

- 1 Report the total number of public financial disclosure reports (SF 278) required to be filed in 1994 by permanent full time employees *excluding special Government employees* and the total number of reports actually filed Derive totals for required new entrant/termination reports from the number of appointments to and the number of terminations from positions during 1994 Some totals may include late filings actually received in 1995

	PAS ¹		Career Senior Service (CSS) ²		Other ³		TOTAL	
Nominee/ New Entrant								
Annual								
Termination								
Combined ⁴								
TOTAL								

--	--

Required Filed

¹ Presidential appointees confirmed by the Senate

² SES Senior Foreign Service Senior Cryptologic Service Defense Intelligence Senior Executive Service This definition also applies to questions 2 and 3

³ Other includes members of the uniformed services non career Senior Service Administrative Law Judges Schedule C s etc This definition also applies to questions 2 and 3

⁴ Reports used for both annual and termination as well as nominee and annual filings

- a If the number of required public financial disclosure reports is not the same as the number of reports actually filed please mark the appropriate reason(s) for the discrepancy Otherwise go to question 2

Extension granted _____
 In process of collecting forms _____
 Employee failed to file _____
 Administrative problems _____
 Employee on extended sick leave or TDY _____
 Employee deceased _____
 Other (specify) _____

- 2 Report the total number of specific corrective or remedial (nondisciplinary) actions taken in regard to public financial disclosure reports filed by permanent full time non-PAS filers in 1994 Consider as a separate action each holding which has been divested each outside position which has been terminated and each written document detailing a specific disqualification (i.e. recusal) or 18 U.S.C. § 208(b) waiver

	CSS	Other	TOTAL
Divestiture			
Resignation from outside position			
Written disqualification			
18 U.S.C. § 208(b) waiver			
Reassignment			
TOTAL			

- 3 Report the total number of requests received in 1994 to inspect public financial disclosure reports Identify the total number of reports actually inspected Count a request for multiple reports as if each report had been requested individually

	PAS		CSS		Other		TOTAL	
News Media								
Public Interest Groups								
Private Citizens								
Inspectors General								
Law Firms								
Other (specify) _____								
TOTAL								

--	--

Requested Inspected

- a If the number of requested public financial disclosure reports is not the same as the number of reports actually inspected please explain Otherwise go to question 4

- 4 Report the total number of delinquent public financial disclosure filers subject to the \$200 late filing fee

PAS	CSS	Other	TOTAL

Of those reported delinquent filers how many actually paid the late filing fee and how many received a waiver from OGE?

PAS		CSS		Other		TOTAL	
Paid	Waived	Paid	Waived	Paid	Waived	Paid	Waived

CONFIDENTIAL FINANCIAL DISCLOSURE

- 1 Report the total number of confidential financial disclosure reports required to be filed in 1994 by permanent full time employees *excluding special Government employees* and the total number of reports actually filed Totals for required reports should include entries to covered positions during 1994 Some totals may include late filings actually received in 1995 Totals must be distributed by grade and/or rank as indicated

	Reports Required	Reports Filed
CIVILIANS		
GS-13 thru GS 15		
GS-9 thru GS 12		
GS-8 and below		
Total Civilians		
UNIFORMED MILITARY PERSONNEL		
0 4 thru 0 6		
0 1 thru 0 3		
Enlisted		
Total Uniformed Military Personnel		
TOTAL		

- a If the number of required confidential financial disclosure reports is not the same as the number of reports actually filed please mark the appropriate reason(s) for the discrepancy Otherwise go to question 2

Extension granted _____
 In process of collecting forms _____
 Employee failed to file _____
 Administrative problems _____
 Employee on extended sick leave or TDY _____
 Employee deceased _____
 Other (specify) _____

- 2 Report the total number of specific corrective or remedial (nondisciplinary) actions taken in regard to confidential financial disclosure reports filed by permanent full-time non PAS filers in 1994 Consider as a separate action each holding which has been divested each outside position which has been terminated and each written document detailing a specific disqualification (i.e. recusal) or 18 U S C § 208(b) waiver

	CIVILIANS			UNIFORMED MILITARY PERSONNEL			TOTAL
	GS 13 thru GS 15	GS 9 thru GS 12	GS 8 & below	0-4 thru 0 6	0-1 thru 0 3	Enlisted	
Divestiture							
Resignation from outside position							
Written disqualification							
18 U S C § 208(b) waiver						N/A	
Reassignment							
TOTAL							

SPECIAL GOVERNMENT EMPLOYEES⁵

1 Report the total number of special Government employees (SGE) who served as advisory committee members or as experts/consultants and who were required to file financial disclosure reports in 1994. Include the total number who actually filed.

	Confidential Reports		Public Reports	
Advisory Committee Members				
Experts/consultants				
Board Members				
Commissioners				
Other (specify) _____				
TOTAL				

--	--

Required Filed

⁵ For purposes of this questionnaire the term special Government employee (SGE) means an officer or employee who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not more than 130 days during any period of 365 consecutive days. In addition to these officers and employees the term includes:

- Part-time United States commissioners
- Part time United States magistrates
- Independent counsels appointed under chapter 40 of title 28 and any person appointed by those independent counsels under section 594(c) of title 28 regardless of the number of days of appointment for either of these positions
- Reserve officers of the Armed Forces
- Officers of the National Guard of the United States unless otherwise officers or employees of the United States while on active duty solely for training

The terms officer or employee and SGE shall not include enlisted members of the Armed Forces

- a If the number of required financial disclosure reports is not the same as the number of reports actually filed please mark the appropriate reason(s) Otherwise go to question 2

Extension granted _____

In process of collecting forms _____

Employee failed to file _____

Administrative problems _____

Employee on extended sick leave or TDY _____

Employee deceased _____

Other (specify) _____

- 2 Were any SGEs not required to file a financial disclosure report in 1994?

YES

NO



If yes how many were not required to file reports?

Advisory committee members _____

Experts/consultants _____

Other (specify) _____

WAIVERS

- 1 Report the total number of waivers granted under 18 U S C § 208(b)(1) during 1994 Consider as a separate action each written document detailing a specific 18 U S C § 208(b) waiver _____

a Of this total how many were granted to public financial disclosure filers? _____

b Of this total how many were granted to confidential financial disclosure filers? _____

- 2 How many waivers were granted to special Government employees? _____

§ 208(b)(1) _____

§ 208(b)(3) _____

OGE Request for Prosecution Information



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

APR 14 2014

Jay Macklin
General Counsel
Executive Office for United States Attorneys
Department of Justice
600 E Street, NW, Suite 5100
Washington, DC 20530

Dear Mr Macklin:

For two decades, the Office of Government Ethics (OGE) has surveyed the Department of Justice regarding conflict of interest cases. The results of these annual surveys are compiled in a memorandum to Designated Agency Ethics Officials and then placed on our Web site. This information is particularly useful in helping ethics officials understand the reach of the criminal statutes, and it provides impressive examples when training both new ethics officials and employees. A copy of last year's Prosecution Survey is available on our web site at <http://www.oge.gov/Topics/Enforcement/Conflict-of-Interest-Prosecution-Surveys/>

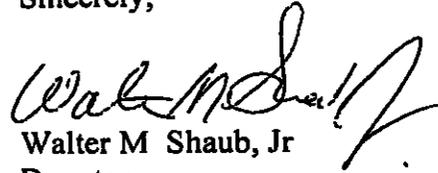
The Executive Office for United States Attorneys (EOUSA) has been extremely helpful to OGE in coordinating the survey. In the past, a survey form and the results of the most recent survey have been distributed by the EOUSA to each United States Attorney's Office. We are again asking EOUSA to assist OGE by distributing the enclosed survey form for 2013 to the official responsible for conflict of interest matters in each United States Attorney's Office. In the past, your office has collected the surveys from the United States Attorney's Offices and forwarded them to OGE. We believe this has been an effective means of gathering responsive data. In your correspondence with the United States Attorney's Offices, we would appreciate your informing them that their responses to the surveys should be submitted by May 23, 2014.

Please note that in a separate letter we are asking the Public Integrity Division for information about the conflict of interest cases they handled. In addition, we are asking the Civil Division for information about civil actions pertaining to conflicts of interest that were handled exclusively by that office.

Mr Jay Macklin
Page 2

Questions regarding the survey may be directed to Amy Braud, the OGE attorney who is coordinating the information collection process. Her telephone number is 202-482-9215, her fax number is 202-482-9237, and her e-mail address is aebraud@oge.gov. Thank you again for your continued support and cooperation.

Sincerely,


Walter M. Shaub, Jr.
Director

Enclosure

ABraud(RJ)
CN 10-1
AG 1-29
Read File

Mulvaney Letter

Walter M. Shaub

From: Miller, Julie L. EOP/OMB <(b)(6)>
Sent: Wednesday, May 17, 2017 6:22 PM
To: Walter M. Shaub
Subject: Letter from Director Mulvaney re: Data Call
Attachments: OMB Letter re OGE Data Call 5-17-17.pdf

Director Shaub,

Please see the attached letter from OMB Director Mulvaney regarding the Office of Government Ethics data call.

Julie Miller
Executive Secretary
Office of Management and Budget



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

May 17, 2017

Walter Shaub
Director
Office of Government Ethics
1201 New York Avenue N.W. Suite 500
Washington, D.C. 20005

Dear Director Shaub:

On April 28, 2017, pursuant to a Program Advisory, the Office of Government Ethics (“OGE”) requested copies of certain waivers and authorizations of appointees in Federal agencies and the White House.¹ Agencies have made inquiries to the Executive Office of the President regarding this request, and the Office of Management and Budget is seeking to provide them with appropriate guidance on the matter. In particular, this data call appears to raise legal questions regarding the scope of OGE’s authorities.

Due to the uniqueness of OGE’s request and potential legal questions that may exist, the Office of Legal Counsel at the Department of Justice may need to be consulted pursuant to 28 U.S.C. § 512 on the scope of the authorities underlying OGE’s data call.

I therefore request that you stay the data call until these questions are resolved.

Sincerely,

Mick Mulvaney
Director

cc: Agency General Counsels and Designated Agency Ethics Officials

¹ U.S. Office of Government Ethics, PA-17-02, Memorandum, Walter M. Shaub, Jr., Director, to Chief of Staff to the President, Agency Heads, Designated Agency Ethics Officials, Inspectors General, and Appointees, Re: Data Call for Certain Waivers and Authorizations (Apr. 28, 2017), <https://goo.gl/XzMWN6>.

OGE PA-17-02 (Apr. 28, 2017)



April 28, 2017
PA-17-02

MEMORANDUM

TO: Chief of Staff to the President, Agency Heads, Designated Agency Ethics Officials, Inspectors General, and Appointees

FROM: Walter M. Shaub, Jr.
Director

SUBJECT: Data Call for Certain Waivers and Authorizations

This Program Advisory is a data call for documents and information. Copies of all documents and written responses required by this Program Advisory must be submitted to the U.S. Office of Government Ethics (OGE) by **Thursday, June 1, 2017**, except as specified herein. Documents are to be submitted in Portable Document Format (PDF) through the Designated Agency Ethics Official (DAEO) or the DAEO's designee for each agency, including the White House, to the agency's assigned OGE Desk Officer. Agencies and relevant agency officials, including White House officials, are required to exercise due diligence in collecting the documents and information covered by this data call.

I. Background

The Ethics in Government Act vests OGE with responsibility for providing “overall direction of executive branch policies related to preventing conflicts of interest.”¹ OGE is the “supervising ethics office” for a decentralized executive branch ethics program established by the Ethics in Government Act.² OGE also has responsibility for interpreting and issuing guidance on Executive Order 13770.³ In connection with these responsibilities, OGE 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 ethics program.⁴ OGE also conducts single-issue reviews of individual agencies, groups of agencies, or the executive branch ethics program as a whole.⁵ Accordingly, OGE is conducting a review of waivers and authorizations issued to a specified class of appointees during a 12-month period. The documents and information subject to this data call are necessary for the performance of the duties of OGE's Director and in furtherance of OGE's mission with respect to the executive branch ethics program.⁶

¹ 5 U.S.C. app. § 402(a).

² 5 U.S.C. app. § 109(18)(D).

³ See OGE Legal Advisory, LA-17-02 (2017); OGE Legal Advisory, LA-17-03 (2017); see also Exec. Order No. 13770, § 4(c) (Jan. 28, 2017).

⁴ 5 C.F.R. § 2638.108(a)(9).

⁵ *Id.*

⁶ See 5 U.S.C. app. §§ 402(b)(10), 403(a)(2); 5 C.F.R. § 2638.202.



II. Deadlines

A. Appointees Serving in the United States

The deadline for submission of responsive documents and information is **Thursday, June 1, 2017**, with respect to all appointees who were stationed in the United States when the waiver or authorization was issued or approved.

B. Appointees Serving Outside the United States

The deadline for submission of responsive documents and information is **Tuesday, August 1, 2017**, with respect to all appointees who were stationed outside the United States when the waiver or authorization was issued or approved.

III. Documents

All agencies, including the White House, are required to produce the documents described in this section.

A. Time Period Covered

This data call applies to all covered documents issued or approved during the period from May 1, 2016, through April 30, 2017. The period between these times is the “covered period.”

B. Persons Covered⁷

This data call applies to individuals who met the definition of “appointee” under Executive Order 13770 at any time during the period from January 20, 2017, through April 30, 2017.⁸ This data call also applies to individuals who met the definition of “appointee” under Executive Order 13490 at any time during the period from May 1, 2016, through January 20, 2017.⁹ Every individual meeting either of these criteria is a “covered person,” unless excluded in the next paragraph.

Notwithstanding the preceding description of covered persons, several exclusions apply. Members of the uniformed services are excluded from this data call, except to the extent that, at the time of the waiver or authorization, they were serving in positions traditionally filled by civilian appointees (e.g., Secretary of Defense, Assistant to the President for National Security Affairs, etc.). Appointees whose public financial disclosure reports are, or were at the time of the waiver or authorization, excluded from public availability pursuant to 5 U.S.C. app. § 105(a)(1) are excluded from this data call. Appointees who were, at the time of the waiver or authorization, required to file confidential financial disclosure reports are excluded from this data call.

⁷ Note that, as used in this Program Advisory, the term “appointee” applies to appointees and to former appointees who were appointees at the time of the waiver or authorization.

⁸ Exec. Order No. 13770, § 2(b) (Jan. 28, 2017).

⁹ Exec. Order No. 13490, § 2(b) (Jan. 21, 2009).

C. Waivers and Authorizations Covered

This data call applies to all of the types of waivers and authorizations listed below that were issued or approved with respect to a covered person during the covered time period. These documents are the “covered documents.”

1. Waivers issued or approved under Executive Order 13770.¹⁰
2. Waivers issued or approved under Executive Order 13490.¹¹
3. Waivers issued or approved under 18 U.S.C. § 208(b)(1).
4. Authorizations issued or approved under 5 C.F.R. § 2635.502(d).
5. Waivers issued or approved under 5 C.F.R. § 2635.503(c).

IV. Information

Agencies, including the White House, are required to produce the information identified below as to each covered waiver or authorization, **unless a written copy of the waiver or authorization is produced**. The information identified below is not required as to any written waiver or authorization that is produced in response to this Program Advisory.

A. Executive Order 13770

As to each waiver under Executive Order 13770, if you have not produced a written waiver in response to the data call for documents in the preceding section, describe the following information in a written response:

1. The name and title of the appointee covered by the waiver.
2. The name of the organizational unit and agency in which the appointee was employed at the time of the waiver.
3. The name and title of the individual who issued or approved the waiver.
4. The section(s) and paragraph(s) of the Executive Order waived.
5. Matter(s) covered by the waiver, including the names of relevant parties and a description of the matter(s).

¹⁰ Exec. Order No. 13770, § 3 (Jan. 28, 2017).

¹¹ Exec. Order No. 13490, § 3 (Jan. 21, 2009).

B. Executive Order 13490

As to each waiver under Executive Order 13490, if you have not produced a written waiver in response to the data call for documents in the preceding section, describe the following information in a written response:

1. The name and title of the appointee covered by the waiver.
2. The name of the organizational unit and agency in which the appointee was employed at the time of the waiver.
3. The name and title of the individual who issued or approved the waiver.
4. The section(s) and paragraph(s) of the Executive Order waived.
5. Matter(s) covered by the waiver, including the names of relevant parties and a description of the matter(s).

C. 18 U.S.C. § 208(b)(1)

As to each waiver under 18 U.S.C. §208(b)(1), if you have not produced a written waiver in response to the data call for documents in the preceding section, describe the following information in a written response:

1. The name and title of the appointee covered by the waiver.
2. The name of the organizational unit and agency in which the appointee was employed at the time of the waiver.
3. The name and title of the individual who issued or approved the waiver.
4. Matter(s) covered by the waiver, including the names of relevant parties and a description of the matter(s).

D. 5 C.F.R. § 2635.502(d)

As to each authorization under 5 C.F.R. § 2635.502(d), if you have not produced a written authorization in response to the data call for documents in the preceding section, describe the following information in a written response:

1. The name and title of the appointee covered by the authorization.
2. The name of the organizational unit and agency in which the appointee was employed at the time of the authorization.

3. The name and title of the individual who issued or approved the authorization.
4. Matter(s) covered by the authorization, including the names of relevant parties and a description of the matter(s).

E. 5 C.F.R. § 2635.503(c)

As to each waiver under 5 C.F.R. § 2635.503(c), if you have not produced a written waiver in response to the data call for documents in the preceding section, describe the following information in a written response:

1. The name and title of the appointee covered by the waiver.
2. The name of the organizational unit and agency in which the appointee was employed at the time of the waiver.
3. The name and title of the individual who issued or approved the waiver.
4. Matter(s) covered by the waiver, including the names of relevant parties and a description of the matter(s).

OGE Response to Mulvaney Letter

From: [News and Info for Ethics Officials](#) on behalf of [Ethics Mailinglist](#)
To: OGE-ETHICSINFO@LISTSERV.GSA.GOV
Subject: IMPORTANT Reminder to submit responses to PA-17-02: Data Call for Certain Waivers and Authorizations
Date: Thursday, May 18, 2017 9:25:27 PM

This is a reminder that the deadline for submitting your agency's response, including negative responses, to [PA-17-02](#) is June 1st, except as specified in the advisory. Documents are to be submitted in Portable Document Format (PDF) through the Designated Agency Ethics Official (DAEO) or the DAEO's designee for each agency to the agency's assigned OGE Desk Officer.

OGE Confidential Notice: This message contains Controlled Unclassified Information (CUI) that requires safeguarding or dissemination control under applicable law, regulation, or Government-wide policy. This email, including all attachments, may constitute a Federal record or other Government property that is intended only for the use of the individual or entity to which it is addressed. If you are not the 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.

Response from Individual Mentioned in Attachment 1

From: [REDACTED]
To: [David J. Apol](#)
Subject: Phone Call
Date: Wednesday, May 24, 2017 7:48:14 PM

Dave -

I was gravely disappointed to read OGE's mischaracterization of my May 17th phone call with one of your attorneys that was highlighted (and prominently inserted as "Attachment 1") in OGE's May 22nd letter to OMB Director Mulvaney. Despite the letter's assertion to the contrary, during that phone call, I never once disputed OGE's legal authority to collect information. Your counsel's own meticulous memo does not indicate anywhere that I was challenging OGE's authority. His memo recounts that I was asking for information about OGE's past practices in obtaining ethics data from the White House. Characterizing the phone call as a "challenge" to OGE's legal authority is misleading and is not supported by the evidence.

My reputation as a career ethics official has been one of being fiercely non-partisan. It is my duty to serve this White House Counsel's Office with the same level of integrity and dedication to the law as I previously provided to the Obama White House as well as numerous Democrats and Republicans over the past 22 years of advising the military (like you, as a proud Army JAG officer), corporations, and Federal government officials on ethics compliance matters. As the former Ethics Counsel for [REDACTED] and the current [REDACTED] (temporarily assigned to the White House Counsel's Office to assist with their ethics program), I have known for years exactly what type of information the White House provides OGE and was seeking confirmation to ensure there were no gaps. The irony in OGE's presumption that I contacted "a staff-level employee" in order to "challenge" OGE's authority is that I was, in fact, inquiring in order to demonstrate to others that OGE annually collected this data in the normal course of business from both the Obama and Bush administrations - the same argument OGE was attempting to make in its response letter. As you know, I am and have always been an ardent advocate of the Office of Government Ethics and the legal authorities that underpin OGE as a vital American institution.

Of equal concern about your counsel's memo is the final sentence: "When compared to phone calls that I routinely have with other ethics officials regarding the surveys and other matters the demeanor of Mr. [REDACTED] [sic] during the call struck me as less collegial." This statement was referenced in the media, including in a Washington Post article published yesterday, "Power Struggle Intensifies between the White House and Ethics Office." As a former litigator, my sense is that this gratuitous statement appears contrived and is devoid of any material fact. My recollection of my tone on the phone call, supported by ethics officials sitting within earshot of me, was that it was wholly unremarkable. What I do find remarkable, however, is that OGE would either direct its staff or they would feel it necessary to take detailed notes about a conversation with a career ethics official politely asking for information. I further note that OGE made the decision to keep its career Federal employee counsel's name anonymous on the memo yet decided to publish my name no less than seven (7) times on the memo prominently appended as "Attachment 1" and then used Government resources to post it on Twitter knowing it would get extensive media coverage. This is not collegial behavior. I have worked with OGE staff for many years and have the highest regard for their professionalism and sense of duty to assist ethics officials throughout the Executive Branch and consider many to be friends. There has always been a mutual sense of comradery and trust between OGE staffers and ethics officials.

As Federal employees charged with not only upholding but administering the Standards of Conduct, it is our obligation and duty to conduct ourselves with the highest standards in executing our official responsibilities. OGE's official actions in mischaracterizing the phone call with your counsel does not meet those standards and does not serve the interests of OGE as an institution. Having worked with you for many years, I know this should be of concern to you as the chief legal officer for OGE; it is certainly a concern to me as an ethics official and as a citizen.

[REDACTED]