



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.”<sup>1</sup> OGE is the “supervising ethics office” for a decentralized executive branch ethics program established by the Ethics in Government Act.<sup>2</sup> OGE also has responsibility for interpreting and issuing guidance on Executive Order 13770.<sup>3</sup> 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.<sup>4</sup> OGE also conducts single-issue reviews of individual agencies, groups of agencies, or the executive branch ethics program as a whole.<sup>5</sup> 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.<sup>6</sup>

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<sup>1</sup> 5 U.S.C. app. § 402(a).

<sup>2</sup> 5 U.S.C. app. § 109(18)(D).

<sup>3</sup> 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).

<sup>4</sup> 5 C.F.R. § 2638.108(a)(9).

<sup>5</sup> *Id.*

<sup>6</sup> 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 Covered<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup> 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.

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<sup>7</sup> 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.

<sup>8</sup> Exec. Order No. 13770, § 2(b) (Jan. 28, 2017).

<sup>9</sup> 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.<sup>10</sup>
2. Waivers issued or approved under Executive Order 13490.<sup>11</sup>
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).

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<sup>10</sup> Exec. Order No. 13770, § 3 (Jan. 28, 2017).

<sup>11</sup> 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).