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Office of Government Ethics
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LEGAL ADVISORY

TO: Designated Agency Ethics Officials

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Director

SUBJECT: Effect of Pay Adjustments on Ethics Provisions for Calendar Year 2015

This Legal Advisory updates the three statutory pay-level thresholds for certain purposes under either the Ethics in Government Act, 5 U.S.C. app. § 101 *et seq.*, or 18 U.S.C. § 207(c) for calendar year 2015.

The President signed Executive Order 13686 on December 19, 2014, adjusting the 2015 pay schedules for certain Federal civilian employees, effective on the first day of the first applicable pay period beginning on or after January 1, 2015.

The Consolidated and Further Continuing Appropriations Act, 2015, which was enacted on December 16, 2014, prospectively freezes pay rates in calendar year 2015 for certain senior political officials, including those serving in Executive Level positions. The pay rates for the same officials were also frozen in 2014 pursuant to the Consolidated Appropriations Act, 2014. Consistent with Office of Personnel Management guidance, the officially established rates of pay for the Executive Schedule remain in effect regardless of the pay freeze.¹ As such, OGE's threshold calculation guidance below reflects the officially established rates of pay for level II of the Executive Schedule.

The following threshold levels will rise for calendar year 2015:

- The statutory threshold to determine which employees are subject to the post-employment conflict of interest restrictions of 18 U.S.C. § 207(c)(1) is provided at 18 U.S.C. § 207(c)(2)(A)(ii). That threshold level is equal to or greater than 86.5% of the

¹ OFFICE OF PERSONNEL MGMT., CPM 2014-17, Memorandum for Heads of Executive Departments and Agencies, January 2015 Pay Adjustments, Attachment 2 (2014), *available at* <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=6604>.

annual rate of basic pay for level II of the Executive Schedule. Effective January 11, 2015, that level will be \$158,554.50.²

- Title V of the Ethics in Government Act, 5 U.S.C. app. § 501(a), sets forth outside employment and outside earned income restrictions for certain covered noncareer employees, barring them from earning in any calendar year outside earned income that exceeds 15% of the annual rate of basic pay for level II of the Executive Schedule. Both section 501(a) and OGE's regulation at 5 C.F.R. § 2636.304 require the use of the Executive Schedule pay level in effect on January 1 of the year in consideration. Effective January 1, 2015, 15% of the annual rate of basic pay for level II of the Executive Schedule will be \$27,225.00.
- The statutory threshold to determine which officers and employees must file public financial disclosure reports under title I of the Ethics in Government Act, 5 U.S.C. app. § 101(f)(3), is equal to or greater than 120% of the minimum rate of basic pay³ for grade GS-15 of the General Schedule. Effective January 11, 2015, that level will be \$121,956.00.

² For the purpose of determining whether an employee's pay exceeds this threshold, 18 U.S.C. § 207 requires the use of the employee's basic rate of pay, excluding locality pay or additional pay such as bonuses, awards, and various allowances. For example, the rate of basic pay for a GS-15, Step 10, is \$132,122.00.

³ Note that the statute uses the term "minimum rate of basic pay," which differs from the rate of basic pay. For example, the minimum rate of basic pay for a Senior Level employee is \$121,956.00.