

- ◆ OGE participated in the development of and signed off on the Lima Declaration, an important statement of anticorruption principles and best practices.
- ◆ OGE has been requested by the World Bank to review the implementation of anticorruption strategies.
- ◆ OGE sent a senior level delegation to Cairo, Egypt to provide technical briefings and assistance to the Administrative Control Authority (ACA) of the Egyptian Government.
- ◆ An OGE staff member served as a featured member of a USIA- sponsored speakers' program held in various cities throughout China on the subject of anticorruption and rule of law reforms.

**For further information, please write or contact:**

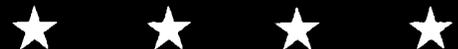
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United States  
Office of  
Government  
Ethics



## INTERNATIONAL GOVERNMENT ETHICS INITIATIVE



programs designed to inform civil servants of the expectations and rules they must abide by; mechanisms to provide advice and counseling to civil servants on the application of ethics rules; employee protections for whistleblowing and unfair administrative practices; fair and impartial personnel systems that enforce merit hiring and proper wages; and administrative systems with appropriate staffing levels to support all of these functions.

### **OGE Activities Abroad**

U.S. foreign policy agencies and various multinational and nongovernmental organizations regularly invite OGE to participate in anticorruption programs abroad. These programs generally focus on issues related to the rule of law and methods for controlling corruption. OGE is most often asked to contribute its experience with designing and operating financial disclosure systems and codes of conduct.

OGE has provided programs and consultations for the United Nations, the World Bank and the Council of Europe, nongovernmental organizations such as the National Democratic Institute (NDI), in addition to Federal departments, including the Departments of State, Treasury, and Commerce, and agencies such as the Agency for International Development (AID) and USIA.

### **Consultations and Presentations in Other Countries**

OGE regularly sends senior staff members to speak at anticorruption conferences and seminars. At such events, OGE representatives frequently serve as the primary experts on systems and strategies for preventing corruption. OGE views such opportunities as valuable means of engaging a broad audience on the importance of preventive systems as a vital element of an anticorruption program.

### **EXAMPLES OF ACTIVITIES**

- ◆ OGE has signed a MOU with the National Office of Public Ethics of Argentina, in which OGE made commitments to support the development of the Argentine ethics office.
- ◆ OGE played a central role in helping the Organization for Economic Cooperation and Development (OECD) create an Ethics Checklist, a measurement tool which allows member countries to evaluate their public service ethics systems in a coordinated and consistent manner.
- ◆ OGE helped draft the InterAmerican Convention Against Corruption and participates in the ongoing monitoring and evaluation of the Convention.



**C**orruption is the single greatest threat to modern democracy. It perverts public policy, electoral politics and public administration. Corruption distorts national economies, discouraging effective free markets and leading to inferior goods and services. Ultimately, corruption undermines the very foundations of democratic government.

Modern legal professionals and experts in public administration know how to construct systems to control corruption. This is evident in international protocols of the United Nations, the Organization of American States (OAS) and the Organization for Economic Cooperation and Development (OECD), as well as efforts by the Council of Europe and the Organization of African Unity (OAU).

Elements that these specialists agree are essential in combating corruption are codes of conduct, effective criminal conflict of interest laws, transparency systems, education and counseling systems, and effective implementation through independent administrative structures. The United States Office of Government Ethics (OGE) is responsible for administering these elements in the executive branch of the Government of the United States.

At the request of the foreign policy-making agencies of the Federal Government, OGE has taken a proactive role in aiding foreign governments in this critical anticorruption area. OGE has shared with foreign governments the merits of systems that prevent conflicts of interest and enhance accountability as a strategy against corruption. OGE also has lent its expertise and experience in this important area to those who request assistance in developing such strategies.

OGE's activities in this area increased following the success of the 1994 **International Conference on Ethics in Government**, organized by OGE in cooperation with the U.S. Information Agency (USIA). The enthusiasm and interest shown by the conference delegates from over 50 countries for learning more about how to prevent corruption indicated that OGE had a constructive role to play in the anticorruption efforts around the world.

## **THE OFFICE OF GOVERNMENT ETHICS**

OGE is the designated supervisory office for providing guidance on Government ethics for the executive branch, as well as the ethics programs of executive departments and agencies. OGE was established by the Ethics in Government Act of 1978 as the office responsible for preventing



conflicts of interest as a complement to the critical functions of investigating and prosecuting corruption. OGE fulfills its mission by developing and issuing the rules and regulations which involve the conflict of interest statutes, post-employment restrictions, standards of conduct, and public and confidential financial disclosure systems in the executive branch.

### OGE ACTIVITIES TO ASSIST **OTHER GOVERNMENTS'** ANTICORRUPTION EFFORTS

#### **Foreign Visitor Briefings**

OGE regularly receives requests from foreign governments for information about the duties and responsibilities of the Office. To accommodate these requests, OGE invites foreign delegations to visit the Office and attend an introductory briefing describing OGE's role in managing a decentralized ethics program, followed by a discussion of the systems in place to accomplish this task. More extensive seminars are offered to high-

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greater background into the development of the executive branch ethics program and a detailed discussion of OGE's relationship with the various agencies and departments in the executive branch with ethics-related authorities.

In a typical year OGE hosts over 150 visitors from over 35 countries. OGE has welcomed delegations from Japan, Russia, Kenya, Ukraine, Hungary, Korea, Colombia, South Africa, Poland, Italy, Australia and Zimbabwe, among others.

#### **Technical Assistance Provided to Other Countries**

OGE offers technical assistance to countries that are considering ethics-related initiatives. This assistance can take a number of forms, from informal advice on appropriate strategies for country-specific problems to formal written analyses of ethics initiatives, such as draft ethics legislation or codes of conduct. In certain circumstances, OGE has established a memorandum of understanding (MOU) with a national ethics authority in order to create the framework for ongoing consultation and exchange of information.

OGE provides expertise and assistance on a variety of systems and program ~~elements. Some of these elements~~ include the following: financial disclosure requirements that extend to the highest levels of government and are made public; codes of conduct that delineate expectations and standards of behavior for all civil servants; education



## **FACT SHEET**

### **STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH**

Early in 1989, the President's Commission on Federal Ethics Law Reform recommended that the present system of individual agency ethics regulations be replaced with a single regulation applicable to all employees of the Executive Branch. Acting upon that recommendation, President Bush, on April 12, 1989, signed Executive Order 12674 setting forth 14 basic principles of ethical conduct for Executive Branch personnel and directing the Office of Government Ethics to establish a single, clear and comprehensive set of Executive Branch standards of ethical conduct. Tomorrow, August 7, those standards will be published in the Federal Register. When they become effective in 180 days, the new Standards of Ethical Conduct for Employees of the Executive Branch will for the first time bring all employees of the Executive Branch under a single set of standards governing ethical conduct.

#### **GENERAL PROVISIONS - SUBPART A**

Subpart A establishes the framework for the rest of the regulation. It includes definitions, provides authority for supplementation of the regulation when necessary by individual agencies and encourages employees to seek advice from agency ethics officials. It also:

- Restates the 14 principles of ethical conduct and instructs employees to apply them when considering situations not specifically addressed by the regulation; and
- For situations that involve appearances of conflicts, provides that the circumstances will be judged from the perspective of a reasonable person with knowledge of the relevant facts.

#### **GIFTS FROM OUTSIDE SOURCES - SUBPART B**

Subpart B prohibits employees from soliciting or accepting gifts from prohibited sources or gifts given because of their official position. The term "prohibited source" includes anyone seeking business with or official action by an employee's agency and anyone substantially affected by the performance of an employee's official duties. For example, a company bidding for an agency contract or a person seeking an agency grant would be a prohibited source of gifts to employees of that agency.

The term "gift" is defined to include nearly anything of monetary value. However, it does not include items that clearly are not gifts, such as publicly available discounts and commercial loans and it does not include certain inconsequential items, such as coffee, donuts, greeting cards and certificates.

There are several exceptions to the prohibitions against gifts from outside sources. For example, with some limitations, employees may accept:

- Unsolicited gifts with a market value of \$20 or less per occasion, aggregating no more than \$50 in a calendar year from any single source;

- Gifts motivated by a family relationship or personal friendship;
- Free attendance at certain widely-attended gatherings, such as conferences and receptions, when the cost of attendance is borne by the sponsor of the event; and
- Food, refreshments and entertainment at certain meetings or events while on duty in a foreign country.

The subpart also contains guidance on returning or paying for gifts that cannot be accepted.

### **GIFTS BETWEEN EMPLOYEES - SUBPART C**

Subpart C prohibits employees from:

- Giving or soliciting for a gift to another employee who is an official superior; or
- Accepting a gift from a lower-paid employee, unless the two employees are personal friends who are not in a superior-subordinate relationship.

The following are among the exceptions to these prohibitions:

- On an occasional basis, employees may give and accept items aggregating \$10 or less per occasion, food and refreshments shared in the office, or personal hospitality at a residence. This exception can be used for birthdays and those holidays when gifts are traditionally exchanged.
- On infrequent occasions of personal significance, such as marriage, and on occasions that terminate the superior-subordinate relationship, such as retirement, employees may give and accept gifts appropriate to the occasion and they may make or solicit voluntary contributions of nominal amounts for group gifts.

### **CONFLICTING FINANCIAL INTERESTS - SUBPART D**

Subpart D contains two provisions designed to deal with financial interests that conflict with employees' official duties.

The first provision entitled "Disqualifying financial interests" prohibits an employee from participating in an official government capacity in a matter in which he has a financial interest or in which his spouse, minor child, employer or any one of several other specified persons has a financial interest. For example, an agency purchasing agent could not place an agency order for computer software with a company owned by his wife. The provision includes alternatives to nonparticipation, which may involve selling or giving up the conflicting interest or obtaining a statutory waiver that will permit the employee to continue to perform specific official duties.

The second provision, entitled "Prohibited financial interests," contains authority by which agencies may prohibit employees from acquiring or retaining certain financial interests.

Employees required by Subchapter D to sell financial interests may be eligible to defer the tax consequences of that divestiture.

### **IMPARTIALITY IN PERFORMING OFFICIAL DUTIES - SUBPART E**

There may be circumstances other than those covered by Subpart D in which employees should not perform official duties in order to avoid an appearance of loss of impartiality. Subpart E contains two disqualification provisions addressing those appearance issues.

The first provision, entitled "Personal and business relationships," states that employees should obtain specific authorization before participating in certain government matters where their impartiality is likely to be questioned. The matters specifically covered by this standard include those:

- Involving specific parties, such as contracts, grants or investigations, that are likely to affect the financial interests of members of employees' households; or
- In which persons with whom employees have specific relationships are parties or represent parties. This would include, for example, matters involving employers of spouses or minor children, or anyone with whom employees have or seek a business or financial relationship.

There are procedures by which employees may be authorized to participate in such matters when it serves the employing agency's interests. The process set forth in Subpart E should be used to address any matter in which an employee's impartiality is likely to be questioned.

The second provision, entitled "Extraordinary payments from former employers," restricts employees' participation in certain matters involving former employers. If a former employer gave an employee an "extraordinary payment" in excess of \$10,000 prior to entering Federal service, it bars the employee from participating for two years in matters in which that former employer is or represents a party. A \$25,000 payment voted on an ad hoc basis by a board of directors would be an "extraordinary payment." A routine severance payment made under an established employee benefit plan would not.

### **SEEKING OTHER EMPLOYMENT - SUBPART F**

Subpart F prohibits employees from participating in their official capacities in particular matters that have a direct and predictable effect on the financial interests of persons with whom they are "seeking employment" or with whom they have an arrangement concerning future employment.

The term "seeking employment" encompasses actual employment negotiations as well as more preliminary efforts to obtain employment, such as sending an unsolicited resume. It does not include:

- Sending an unsolicited resume, for example, to someone only affected by the employee's work on general rulemaking; or
- Requesting a job application or rejecting an unsolicited employment overture.

An employee generally continues to be “seeking employment” until he or the prospective employer rejects the possibility of employment and all discussions end. However, an employee is no longer “seeking employment” with the recipient of an unsolicited resume after two months have passed with no response.

## **MISUSE OF POSITION - SUBPART G**

Subpart G contains four provisions designed to ensure that employees do not misuse their official positions. These include:

- A prohibition against employees using public office for their own private gain or for the private gain of friends, relatives or persons with whom they are affiliated in a nongovernment capacity, or for the endorsement of any product, service or enterprise.
- A prohibition against engaging in financial transactions using nonpublic information, or allowing the improper use of nonpublic information to further private interests;
- An affirmative duty to protect and conserve Government property and to use Government property only for authorized purposes; and
- A prohibition against using official time other than in an honest effort to perform official duties and a prohibition against encouraging or requesting a subordinate to use official time to perform unauthorized activities.

## **OUTSIDE ACTIVITIES - SUBPART H**

Subpart H contains provisions governing employees’ involvement in outside activities, including outside employment. These provisions are in addition to the provisions set forth in other subparts of the regulation. The provisions in Subpart H include:

- Synopses of statutes and a constitutional provision that may limit certain outside activities;
- A prohibition against engaging in outside activities that conflict with employees’ official duties;
- Authority by which individual agencies may require employees to obtain approval before engaging in outside activities;
- Limitations on outside earned income applicable to certain Presidential appointees and certain noncareer employees;
- A prohibition against serving as an expert witness, other than on behalf of the United States, in certain proceedings in which the United States is a party or has a direct and substantial interest;

- A prohibition against receiving compensation for teaching, speaking or writing related to their official duties, which is in addition to the honorarium prohibition imposed by statute;
- Limitations on fundraising in a personal capacity; and
- A requirement that employees satisfy their just financial obligations.

Subpart H reserves the section which, in the proposed rule, had set forth standards for participation in the activities of professional associations.

#### RELATED STATUTORY AUTHORITIES - SUBPART I

Subpart I provides references to other statutes which relate to employee conduct.

# TITLE 18--CRIMES AND CRIMINAL PROCEDURE

## PART I-CRIMES

### CHAPTER II--BRIBERY, GRAFT, AND CONFLICTS OF INTEREST'

#### Sec. 201. Bribery of public officials and witnesses

- (a) For the purpose of this section-
- (1) the term "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any **official** function, under or by authority of any such department, agency, or branch of Government, or a juror;
  - (2) the term "person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and
  - (3) the term "**official act**" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in any such **official's** official capacity, or in such official's place of trust or profit.
- (b) Whoever-
- (1) directly or indirectly, corruptly gives, *offers* or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be **a** public official to give anything of value to any other person or entity, with intent-
    - (A) to influence any official act; or
    - (B) to influence such public official or person who has been selected to be **a** public **official** to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or
    - (C) to induce such public official or such person who has been selected to be **a** public official to do or omit to do any act in violation of the lawful duty of such official or person;
  - (2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:
    - (A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever--

(1) otherwise than as provided by law for the proper discharge of official duty--

(A) directly or indirectly gives, offers, or promises anything of value to any public **official**, former public official, or person selected to be a public **official**, for or because of any **official** act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public **official**, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any **official** act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person

as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom:  
shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

#### Sec. 202. Definitions

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29(c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205,

207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term “official responsibility” means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) Except as otherwise provided in such sections, the terms “officer” and “employee” in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

(d) The term “Member of Congress” in sections 204 and 207, means--  
(1) a United States Senator; and  
(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

(e) As used in this chapter, the term--  
(1) “executive branch” includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;  
(2) “judicial branch” means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and  
(3) “legislative branch” means--  
(A) the Congress; and  
(B) The Office of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

### **Sec. 203. Compensation to Members of Congress, officers, and others in matters affecting the Government**

(a) Whoever, otherwise than **as** provided by law for the proper discharge of official duties, directly or indirectly--  
(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another--

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee; shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly--

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and

(b) only in relation to a particular matter involving a specific party or parties--

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise; or

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except--

(1) in those matters in which he has participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) in those matters that are the subject of his official responsibility, subject to approval by the Government official responsible for appointment to his position.

(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(f) Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.

#### **Sec. 204. Practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Members of Congress**

Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 216 of this title.

#### **Sec. 205. Activities of officers and employees in claims against and other matters affecting the Government**

(a) Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties--

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, **officer**, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or **has a direct** and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties--

(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, officer, or commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and

(b) only in relation to a covered matter involving a specific party or parties--

(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise: or

(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing--

(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceeding in connection with those proceedings; or

(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

(2) Paragraph (1)(B) does not apply with respect to a covered matter that--

(A) is a claim under subsection (a)(1) or (b)(1);

(B) is a judicial or administrative proceeding where the organization or group is a party; or

(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.

(e) Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except--

(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

(2) in those matters which are the subject of his official responsibility, subject to approval by the Government official responsible for appointment to his position.

(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(g) Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(h) For the purpose of this section, the term "covered matter" means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.

(i) Nothing in this section prevents an employee from acting pursuant to--

(1) chapter 71 of title 5;

(2) section 1004 or chapter 12 of title 39;

(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 b);

(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.

## **Sec. 206. Exemption of retired officers of the uniformed services**

Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress.

Sec. 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.--

5 C.F.R. 2641  
(5 C.F.R. 2637 is for pre-1991 conduct)

(1) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS.--Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter--

- (A) in which the United States or the District of Columbia is a party or has a direct and substantial interest
- (B) in which the person participated personally and substantially as such officer or employee, and
- (C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

(2) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.--Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter--

- (A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,
- (B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such **officer** or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and
- (C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

(3) CLARIFICATION OF RESTRICTIONS--The restrictions contained in paragraphs (1) and (2) shall apply--

- (A) in the case of an. officer or employee of the executive branch of the United States (including any independent agency), only with

respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.--

(1) IN GENERAL.--Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(I), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.

(2) DEFINITION.--For purposes of this paragraph--

(A) the term "trade negotiation" means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

(B) the term "treaty" means an international agreement made by the President that requires the advice and consent of the Senate.

(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.--

(1) RESTRICTIONS.--In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or

her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States) in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) Persons to whom restrictions apply.--

(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))--

- (i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,
- (ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service,
- (iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or
- (iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above.

(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that--

- (i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and
- (ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.--

(1) RESTRICTIONS--In addition to the restrictions set forth in subsections (a) and (b), any person who--

- (A) serves in the position of Vice President of the United States,
- (B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable

for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3. and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

(2) PERSONS WHO MAY NOT BE CONTACTED.--The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are--

(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

(B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.--

(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.--

(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) the persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

(2) PERSONAL STAFF.--

(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

- (i) the Senator or Member of the House of Representatives for whom that person was an employee; and
- (ii) any employee of that Senator or Member of the House of Representatives.

(3) COMMITTEE STAFF.-- Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(4) LEADERSHIP STAFF.--

(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

- (i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

(5) OTHER LEGISLATIVE OFFICES.--

(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

(6) LIMITATION ON RESTRICTIONS.--

(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level 5 of the Senior Executive Service.

(7) Definitions.--As used in this subsection--

(A) the term "committee of Congress" includes standing committees, joint committees, and select committees;

(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

(C) the term "employee of the House of Representatives" means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an **emp'oyee** of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

- (D) the term “employee of the Senate” means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;
- (E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;
- (F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;
- (G) the term “employee of any other legislative office of the Congress” means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;
- (H) the term “employee on the leadership staff of the House of Representatives” means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;
- (I) the term “employee on the leadership staff of the Senate” means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);
- (J) the term “Member of Congress” means a Senator or a Member of the House of Representatives;
- (K) the term “Member of the House of Representatives” means a Representative in, or a Delegate or Resident Commissioner to, the Congress;
- (L) the term “Member of the leadership of the House of Representatives” means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102 (a) of the Ethics Reform Act of 1989);
- (M) the term “Member of the leadership of the Senate” means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of

the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.--

(1) RESTRICTIONS.-- Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection-

(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title.

(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.--With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.

(3) DEFINITION.--For purposes of this subsection, the term "foreign entity" means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

(g) SPECIAL RULES FOR DETAILEES.--For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES AND BUREAUS.-

(1) DESIGNATIONS.-- For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary.

Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

(2) INAPPLICABILITY OF DESIGNATIONS -- No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall supply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) DEFINITIONS.--For purposes of this section--

(1) the term "officer or employee", when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include--

(A) in subsections (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

(2) the term "participated" means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

(3) the term "particular matter" includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

(j) EXCEPTIONS.-

(1) OFFICIAL GOVERNMENT DUTIES.-- The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.-The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of-

(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

(B) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) INTERNATIONAL ORGANIZATIONS.-The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) SPECIAL KNOWLEDGE.--The restrictions contained in subsections (c), (d), and (e) shall not prevent an Individual from making or providing a statement which is based on the individual's own special knowledge in the particular area that is the subject of the statement. if no compensation is thereby received.

(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.--The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term "officer or employee" includes the Vice President.

(6) EXCEPTION FOR TESTIMONY.--Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence--

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and

(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) PARTIES AND CAMPAIGN COMMITTEES.--

(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

(B) Subparagraph (A) shall not apply to--

(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d),

or (e) if, at the time of the communication or appearance. the person is employed by a person or entity other than--

- (I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or
- (II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph--

(i) the term "candidate" means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

(ii) the term "authorized committee" means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

(iii) the term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

(iv) the term "national Federal campaign committee" means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(v) the term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

(vi) the term "political party" means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

(vii) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A)

The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal

Government, Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify--

(A) the officer or employee covered by the waiver by name and by position, and

(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

(4) The President may not delegate the authority provided by this subsection.

(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall

take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

5 C.F.R. 2640  
5 C.F.R. 2634.402

(E) As used in this subsection, the term "civil service" has the meaning given that term in section 2101 of title 5.

## Sec. 208. Acts affecting a personal financial interest

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest--

Shall be subject to the penalties set forth in section 216 of this title

(b) Subsection (a) shall not apply--

(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

5 C.F.R. 2640

(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of subsection (a) as being too remote or too inconsequential to affect the integrity of the services of the Government officers or employees to which such regulation applies;

(3) in the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act (including an individual being considered for an

appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

(4) if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights--

(A) in an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

(C) in an Indian claims fund held in trust or administered by the United States,

if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

(c)(1) For the purposes of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve banks, the board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an exemption being granted pursuant to another paragraph of subsection (b).

(d)(1) Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.

(2) The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall--

(A) list and describe exemptions; and

(B) provide guidance with respect to the type of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from the employee.

Sec. 209. Salary of Government officials and employees payable only by United States

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection--

Shall be subject to the penalties set forth in section 216 of this title.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of chapter 41 of title 5.

(e) This section does not prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same by a participant in an executive exchange or fellowship program in an executive agency: Provided, That such program has been established by statute or Executive order of the President, offers appointments not to exceed three hundred and sixty-five days, and permits no extensions in excess of ninety additional days or, in the case of participants in overseas assignments, in excess of three hundred and sixty-five days.

(f) This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an offense described in section 351 or 1751 of this title, of contributions or payments from an organization

which is described in section 501 (c)(3) of the Internal Revenue Code of 1986 and which is exempt from taxation under section 501(a) of such Code.

### **Sec. 216. Penalties and injunctions**

(a) The punishment for an offense under section 203, 204, 205, 207, 208, or 209 of this title is the following:

(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in this title, or both

(2) Whoever willfully engages in the conduct constituting the offense shall be imprisoned for not more than five years or fined in the amount set forth in this title. or both.

(b) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

# Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

## Instructions for Completing SF 278

### I. Introduction

#### Reporting Periods

**Incumbents:** Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year, except Part II of Schedule C and Part I of Schedule D where you must also include any positions held and agreements or arrangements made from the beginning of the filing year until the date you file. Schedule B need not include transactions made, or gifts or reimbursements received, during a period when the filer was not a Federal employee.

**Termination Filers:** Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination of Government employment in the position.

**Nominees, New Entrants and Candidates for President and Vice President:** Complete Schedules A, C, and D (candidates do not file Part II of Schedule D), as follows:

• **Schedule A** -The reporting period for income (**BLOCK C**) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in **BLOCK B** as of any date you choose that is less than 31 days before the date of filing.

• **Schedule C, Part I** (Liabilities) - The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is less than 31 days before the date of filing.

• **Schedule C, Part II** (Agreements or Arrangements) Show any agreements or arrangements as of the date of filing.

• **Schedule D** - The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

#### Scope of Disclosure

The extent of the reporting requirement is noted in each schedule. In addition to your individual financial information, you are required to report information **concerning** your spouse and dependent children in several schedules of the form. However, no report is required with respect to your spouse if he or she is living separate and apart from you with the intention of terminating the marriage or providing for permanent separation. In addition, no report is required with respect to any income or obligations of an individual arising from the dissolution of marriage or permanent separation from a spouse. There are other exceptions to the reporting of assets and income, transactions, and liabilities of a spouse or dependent child which are discussed in the instructions applicable to those subjects.

A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Act or permitted public access to reports must be given sufficient information by reporting individuals concerning the nature of their outside interests and activities so that an informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government, in that it provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities and allows you and your agency to fashion appropriate protections against such conflicts when they first appear.

A Presidential nominee to a position requiring the advice and consent of the Senate shall file with the Senate committee considering the nomination an amendment to

the initial report, which shall update all items of earned income and honoraria through the period ending no earlier than 5 days before the scheduled date of the Senate committee hearing on the nomination. This update shall be provided in the manner requested by the Senate committee considering the nomination. Copies shall be provided to **OGE** and your agency ethics official.

#### Definition of Terms

##### • Category of Amount

Reportable financial interests are disclosed either by actual amount or by category of amount, depending on the interest, as specified by the form. You may, but you are not required to, indicate an actual amount where the form provides for a category of amount or value.

##### • Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either: (1) unmarried, under age 21, and living in your household, or (2) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1986.

##### • Excepted Investment Fund

An excepted investment fund is a mutual fund, common trust fund of a bank, pension or deferred compensation plan, or any other investment fund, which is widely held; publicly traded (or available) or widely-diversified; and under circumstances where you neither exercise control over nor have the ability to exercise control over the financial interests held by the fund. A fund is widely diversified when it holds no more than 5% of the value of its portfolio in the securities of any one issuer (other than the U.S. Government) and no more than 20% in any particular economic or geographic sector.

##### • Gifts

See instructions for Schedule B, Part **II.B**.

## . **Honoraria**

The term “honoraria” means payments of money or anything of value to you or your spouse for an appearance, speech, or article, excluding necessary travel expenses. See 5 CFR Part 2636.

## . **Personal Savings Account**

The term “personal savings account” includes a certificate of deposit, a money market account, or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

## . **Relative**

The term “relative” means an individual who is your father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, step sister, half brother, half sister, your spouse’s grandfather or grandmother, or your fiance or fiancée.

## . **Trusts (“Qualified” and “Excepted”)**

See instructions for Schedule A, Part **II.B.**, and 5 CFR Part 2634, Subpart D.

## . **Value**

You may use any one of the methods described below, in determining fair market value:

Option 1 - any good faith estimate of the value of the property if the exact value is unknown or not easily obtainable;

Option 2 - value based upon a recent appraisal of the property interest;

Option 3 - the purchase price of your property interest, or estimated retail price of a gift,

Option 4 - the assessed value of the property for tax purposes, adjusted to **reflect** current market value if the tax assessment is computed at less than 100% of current value;

Option 5 - the year-end book value of non-publicly traded stock, or the year-end exchange value of corporate stocks, or the face value of corporate bonds or comparable securities;

Option 6 - the net worth of your interest (as in a business partnership or other jointly held business interest);

Option 7 - the equity value of your interest (as in a solely owned business or commercial enterprise); or

Option 8 - exact value (e.g., personal savings accounts) or any other recognized indication of value (such as last sale on a stock exchange).

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## **II. Who Must File**

a. Candidates for nomination or election to the office of President or Vice President.

b. Presidential nominees to positions requiring the advice and consent of the Senate, other than those nominated for judicial **office** or as a Foreign Service Officer or for appointment to a rank in the uniformed services at a pay grade of O-6, or below.

c. The following newly elected or appointed officials:

- The President;
- The Vice President;

• **Officers** and employees (including special Government employees, as defined in 18 U.S.C. § 202) whose positions are classified above GS-15 of the General Schedule, or the rate of basic pay for which is fixed,

other than under the General Schedule, at a **rate** equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule.

• Members of the uniformed services in pay grade O-7 or above;

• Officers or employees in any other positions determined by the Director of the Office of Government Ethics to be of equal classification to above GS-15;

. Administrative law judges:

• Employees in the excepted service in positions which are of a confidential or policy-making character, unless by regulation their positions have been excluded by the Director of the Office of Government Ethics.

• The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of the U.S. Postal Service or Postal Rate Commission in positions for which the rate of basic pay is equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule.

• The Director of the **Office** of Government Ethics and each designated agency ethics official; and

• Civilian **employees** in the Executive **Office** of the President (other than special Government employees) who hold commissions of appointment from the President.

d. Incumbent officials holding positions referred to in section **II.c.** of these instructions if they have served 61 days or more in the position during the preceding calendar year.

e. Officials who have terminated employment **after** having served 61 days or **more in** a calendar year in a position referred to in section **II.c.** and have not accepted another such position within 30 days thereafter.

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### III. When to File

a. Within 30 days after becoming a candidate for nomination or election to the office of President or Vice President, or by May 15 of that calendar year, whichever is later, but at least 30 days before the election, and on or before May 15 of each succeeding year an individual continues to be a candidate.

b. At any time after the President or President-elect has publicly announced an intention to nominate an individual referred to in section II.b. of these instructions, but no later than 5 days after the President transmits the nomination to the Senate.

c. Within 30 days after assuming a position described in section II.c. unless such an individual has left another such position within 30 days prior to assuming the new position, or has already filed a report with respect to nomination for the new position (section II.b.) or as a candidate for the position (section II.a.).

d. No later than May 15th annually, in the case of those in a position described in section II.d.

e. In the event an individual terminates employment in the position and does not accept another position described in section II.c. within 30 days, the report must be filed no later than the 30th day after termination.

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### IV. Where to File

a. Candidates for President and Vice President, with the Federal Election Commission.

b. The President and Vice President, with the Office of Government Ethics.

c. Members of a uniformed service, with the Service Secretary concerned.

d. All others, with the designated agency ethics official, or that official's delegate, at the agency in which the individual serves, will serve or has served.

e. In the case of individuals nominated by or to be nominated by the President to positions requiring confirmation of the Senate, see 5 CFR Part 2634 for expedited procedures and filing location.

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### V. General Instructions

a. This form consists of the front page and four Schedules. You must complete each Part of all Schedules as required. If you have no information to report in any Part of a Schedule, you should indicate "None." If you are not required to complete Schedule B or Part II of Schedule D, you should leave it blank. Schedule A combines a report of income items with the disclosure of certain property interests. Schedule B deals with transactions in real property or certain other assets, as well as gifts and reimbursements. Schedules C and D relate to liabilities and employment relationships. After completing the first page and each Part of the Schedules (including extra sheets of any Schedule where continuation pages are required for any Part), consecutively number all pages.

b. The information to be disclosed is only that which the Ethics in Government Act of 1978, as amended, and 5 CFR Part 2634 specifically require. You may, however, include any additional information, beyond those requirements, that you wish to disclose for purposes of clarification. Disclosure of information does not authorize any holdings, income, honoraria, liabilities, transactions, gifts, reimbursements, affiliations or positions otherwise prohibited by law, Executive order, rule or regulation.

c. Combine on one form the information applicable to yourself, your spouse and dependent children; or if more convenient, use separate schedules to report the required information applicable to family members. You may, if

you desire, distinguish any entry for a family member by preceding the entry with an (S) if it is for a spouse or a (DC) if it pertains to a dependent child. Joint assets may be indicated by a (J). See 5 CFR Part 2634, Subpart C, for exclusions in the case of separation or divorce.

d. Definitions of the various terms used in these instructions and detailed information as to what is required to be disclosed are contained in 5 CFR Part 2634.

e. In the case of references to entities which are operating trades or businesses which do not have listed securities, you must provide sufficient information about these private entities to give the reviewers of your disclosure report an adequate basis for the conflicts analysis required by the Act. Thus, you must disclose the location and primary trade or business of private entities, as well as attributed interests and activities not solely incidental to such a primary trade or business. For instance, if your family swimming pool services corporation incurs a liability to purchase an apartment house for investment in addition to its pool services business, you will have to report the apartment house investment as part of the nature of the business of the family corporation.

f. In the case of references to entities which are investment funds such as mutual or pension funds (whether public or private), you must disclose the portfolio holdings and all other items such as transactions and liabilities to the extent otherwise required for reportable interests, unless the entity is an "excepted investment fund." See Definition of Terms above.

g. If you need assistance in completing this form, contact the designated agency ethics official of the agency in which you serve, will serve, or have served.

## I. General Instructions

Two of the general disclosure requirements of the Act concern certain interests in property (generally referred to here as assets) and items of income. Schedule A is designed to enable you to meet both of these reporting requirements. Generally a description of your, your spouse's, and your dependent child's assets and sources of income is required to be listed in BLOCK A of the Schedule. Reading from left to right across the page from each description of the asset or income source, you will be able to report in BLOCK B the value of each asset, and in BLOCK C the type and amount of income generated by that asset or received from the non-asset source.

On Schedule A are four examples which are representative of the reporting scheme of this Schedule. The first example represents the proper method of reporting stock of Central Airlines Company held at the end of the reporting period which then had a value of \$75,000. The individual had also received dividends of \$1,500, reported in BLOCK C. If the Central Airlines stock had been sold, there would be a check in the "None (or less than \$1,001)" column in BLOCK B if the individual no longer owned any of the stock at the end of the reporting period, and there would be an entry for capital gains as well as dividends in BLOCK C if they were realized during the period. The second example represents the proper method of reporting the source of \$130,000 of earned income from private law practice, as well as \$18,500 the reporting individual maintained in the capital account in the law firm at the end of the reporting period.

The third example represents acceptable reporting of an investment fund which is widely held, widely diversified (or publicly traded) and independently managed. Because it meets these requirements, no individual assets of the fund need to be reported, and the type of income does not need to be broken into dividends, interest, or capital

gains as long as the column for "excepted investment fund" is marked. The fourth example reports a mutual fund held in an IRA from which the filer has accrued dividends of \$10,000.

Normally you will have to list an item only once in BLOCK A with all other value and income information associated with that item shown on the same line to the right. However, when you have a number of different kinds of financial arrangements and income involving one entity, a full disclosure of all the required information for that entity may require more than one line. You may always use more than one line for clarification if you choose.

## II. Property Interests and Assets

### (BLOCKS A and B)

#### A. Items to Report

Report the identity and category of valuation of any interest in property (real or personal) held by you, **your spouse or dependent child** in a trade or business, or for investment or the production of income which has a fair market value which exceeds **\$1,000** as of the close of the reporting period. These interests include, but are not limited to, stocks, bonds, pension interests and annuities, futures contracts, mutual funds, IRA assets, tax shelters, beneficial interests in trusts, personal savings or other bank accounts, real estate, commercial crops, livestock, accounts or other funds receivable, and collectible items held for resale or investment. **Exceptions:** Exclude your personal residence (unless rented out) and any personal liability owed to you, your spouse or dependent child by a spouse or dependent child, or by a parent, brother, sister or child of you, your spouse, or dependent child. Exclude any retirement benefits (including the Thrift Savings Plan) from Federal Government employment and any social security benefits. Exclude also any deposits aggregating \$5,000 or less in personal savings accounts in a single financial institution.

With respect to assets of a spouse or a dependent child, do not report items:

- (1) which represent your spouse's or dependent child's sole financial interest or responsibility and of which you have no knowledge;
- (2) which are not in any way, past or present, derived from your income, assets, or activities; and
- (3) from which you neither derive, nor expect to derive, any financial or economic benefit.

**Note:** It is very difficult for most individuals to meet all three parts of this test, especially (3). For instance, if you file a joint tax return with your spouse, you derive a financial or economic benefit from the items involved and you are charged with knowledge of those items. A trust for the education of your minor child would also convey a financial benefit to you. Therefore, those asset and income items do not fit the test.

A personal residence held for investment or production of income, such as a summer home rented during parts of the year, must be reported.

Intermittent sales from personal property such as collections of antiques or art holdings demonstrate that the items are held for investment or the production of income and should therefore be reported.

#### B. What to Show on the Form

Enter the identity of the asset in BLOCK A and then show the value in BLOCK B. **Only the category of value, rather than the actual value of the property interest or asset, must be shown.** You need not disclose which valuation methods you used.

**For assets such as stocks, bonds, and securities, report any holdings directly held or attributable to you, your spouse or dependent child from one source totaling more than \$1,000 in value. Identify the holding and**

**show the category of value.** If you hold different types of securities of the same corporation (e.g., bonds and stocks of "X" Corporation), these holdings should be considered as being from the same source for purposes of determining whether the aggregate value of the interest is below or above the \$1,000 threshold value. Report personal savings accounts only if they aggregate more than \$5,000 in a single financial institution.

If you have an interest in an investment fund or pool which is an "excepted investment fund" (see Definition of Terms above), you need only identify the interest by giving the complete name of the fund, rather than identifying the underlying assets as well.

**To report interests of you, your spouse, or dependent child in a business, a partnership, or joint venture, or the ownership of property held for investment or the production of income, identify the character of the ownership interest, and the nature and location of the business or interest, unless it is a publicly traded security.** For example, the entry for a holding of farm land might show, under BLOCK A... "sole ownership of 100 acres of unimproved dairy farmland on Rural Route #1 at Pine Bluff, Madison County, Wisconsin."

You must disclose the primary trade or business of non-public entities, as well as interests and activities not solely incidental to such a trade or business. For example, if your family is involved in a private real estate investment business but as a side interest buys stock through the business in a bank, you must disclose that in addition to real estate (by type and general location), the family business holds an interest in a bank.

For an IRA (Individual Retirement Account), indicate the value of each underlying asset, as well as the income derived therefrom (even though deferred for Federal tax purposes) in accordance with section IV below, to enable the reviewer to evaluate compliance with applicable laws and regulations. If the IRA were invested solely in

a mutual fund such as "Templeton World Fund, Inc." and the investment properly disclosed in Schedule A, that would be sufficient identification **of the asset**, since for most reporting individuals that fund would be an "excepted investment fund." If, however, the IRA had an individual or privately managed portfolio, detailed disclosure of the portfolio would be required on Schedule A in the same amount of detail as if each investment were directly held.

**With respect to trusts in which a vested beneficial interest in principal or income is held, report trust interests and trust assets which had a value in excess of \$1,000.** See 5 CFR Part 2634 for more information about vested interests.

You need not report the identity of assets of a trust of which you, your spouse or dependent children are the beneficiaries if the interest is:

1. a "qualified blind trust" or "qualified diversified trust," which has been certified by the Office of Government Ethics, in accordance with 5 CFR Part 2634, Subpart D, or
2. an "excepted trust," that is, one which:
  - A. was not created by you or your spouse or dependent children, and
  - B. has holdings or sources of income of which you, your spouse and dependent children have no knowledge.

In the case of these special types of trusts, you should show in BLOCK A the identity of the trust, including the date of creation, and in BLOCK C, the classification of the trust as a "qualified trust" or an "excepted trust." (The category of amount of the trust income, if it exceeded \$200, must also be reported in BLOCK C, in accordance with section IV below.)

Note: You are not permitted by the statute to "create" an excepted trust by instructing a trustee not to divulge

information or otherwise avoiding previous sources of knowledge upon entering Government service.

Do not report a trust of which your spouse or dependent child is a beneficiary that meets the three part test set forth in the second paragraph under **II.A.** A trust that does not fit that exception may still be an excepted trust under this section; in such case, it must be reported, but the assets need not be identified.

Except for the special trusts or **funds** referred to above, you must identify each individual investment held by a trust or fund, which had a value in excess of \$1,000. For example, in BLOCK A an entry such as "trust held by First National Bank (Boston, MA) consisting of ITT stock, U.S. Treasury certificates, and Dallas Municipal Bonds" might be made. In BLOCK B the applicable value of each trust asset would be entered. (As described under IV.B.6. Trust Income, below, the income from each asset would be entered in BLOCK C as well as income from assets of the trust sold during the reporting period.)

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### **III. Earned and Other Non-Investment Income**

**(BLOCKS A and C)**

#### **A. Items to Report**

For yourself, report the identity of the source in BLOCK A and the type and **actual** amount in BLOCK C of non-investment income **exceeding \$200** from any one source. Such income includes fees, salaries, commissions, compensation for personal services, retirement benefits, and honoraria. Report these items on the same line as related interests in property, if any.

**For your spouse, report the source, but not the amount, of non-investment income exceeding \$1,000 and the source, amount and date of honoraria exceeding \$200 from any one source. No report of the earned or other non-investment income of your dependent children is required.**

**Exclude** for yourself and **spouse income from employment** by the United States Government and from any retirement system of the United States (including the Thrift Savings Plan) or from social security.

## **B. What to Show on the Form**

**1. HONORARIA** - For you **or your spouse**, show honoraria aggregating more than \$200 from any one source. Report **the identity of the source** in **BLOCK A**, and the **date of the services performed** and **actual amount** in **BLOCK C**. List each honorarium separately. For example, if, prior to your Government service, you received \$1,500 for a speech before **the** Chicago Civic Club on March 19, 1991 of which \$200 was actually spent for round-trip travel, and \$200 went to the agent who made the speaking arrangement, on your new entrant report you would enter in **BLOCK A**... "Chicago Civic Club, 18 Lakeshore Dr., Chicago, IL"; in **BLOCK C** under OTHER (specify type)... "Honorarium"; under ACTUAL AMOUNT... "\$1,100," and under DATE... "3/19/91." Honoraria received and donated to charity must be reported, but a notation explaining that fact may be included in reporting such items. The source, date and amount of payments made or to be made directly to a charitable organization in lieu of honoraria must also be disclosed. In addition, for certain payments in lieu of honoraria you must complete a confidential report for your agency, disclosing the source, the names of charitable organization recipients, the amount, and the dates of payments, if made on or after January 1, 1991. See 5 CFR Part 2636.

**2. EARNED AND OTHER NON-INVESTMENT INCOME** - Include all income, exclusive of honoraria, from non-investment sources including fees, commissions, salaries, and income from personal services or retirement. Report **the identity of the source and give the actual amount of such income** exceeding \$200

**from any one** source. For example, if you earned \$450 teaching at **a law school**, enter in **BLOCK A**... "**John Jones Law School, Rockville, MD**"; in **BLOCK C** under OTHER... "Salary"; and under ACTUAL AMOUNT... "**\$450**." If you earned \$75 for teaching in one law school and \$250 from teaching at another school, report only the \$250 amount. Report employee benefits and severance payments which meet the reporting requirements separately from salary.

If your spouse has earned income in excess of **\$1,000** (other than honoraria) from any one source, **identify the source but show nothing under amount**. If your spouse is self-employed in a business or profession, for example as a practicing psychologist who earned \$10,500 during the year, you need only show under **BLOCK A**... "practicing psychologist."

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## **IV. Investment Income**

### **(BLOCKS A and C)**

Report items of investment income on the same line of Schedule A as the related property interest or other asset from which income is derived. Note that some property interests or other assets will not have a related item of income. In such a case, check "None (or less than \$201)" in **BLOCK C** under category of amount.

### **A. Items to Report**

Report the identity in **BLOCK A** and the type and value in **BLOCK C** of any investment income over \$200 from any one source received by or accrued to the benefit of **you, your spouse or dependent child** during **the** reporting period. For purposes of determining whether you meet the over \$200 threshold from any one source, you must aggregate all types of investment income from that same source. For your spouse or dependent child such income is only required to be reported if the asset source meets the reporting threshold in section II above.

Investment **income** includes, but is not limited to: income derived from dealings in property, **interest**, rents, royalties, dividends, capital gains; income from annuities, the investment portion of life insurance contracts, or endowment contracts; your distributive share of partnership or joint venture income, gross business income, and income from an interest in an estate or trust. You need not show the actual dollar amount of dividends, rents and royalties, interest, capital gains, or income from qualified trusts, excepted trusts, or excepted investment funds. For these specific types of income, you need only check the category of amount of the item reported. For all "other investment income" as described in item 7 below, you will have to report the actual dollar amount of income from each source, and indicate the type in the space marked "Other (specify type)" in **BLOCK C**.

## **B. What to Show on the Form**

**Check all applicable classifications of income and corresponding categories of amounts. If more than one type of income is derived from the same asset, check all relevant types (unless an excepted investment fund) and categories of amount. Categories of amount may be distinguished by using the abbreviations **D,R,I** and **CG** in the boxes, in lieu of checks, to represent dividends, rents/royalties, interest or capital gains.**

**1. DMDENDS** - Show in **BLOCK C** the amount you, **your spouse or dependent child accrued** or received as dividends from investment sources including common and preferred securities and underlying assets of pension and mutual funds (unless an excepted investment fund). **Identify the source of such income and check the category of amount.** For example, if cash dividends of \$950 were received for shares of common stock of **IBM**, enter in **BLOCK A**... "IBM common" and in **BLOCK C** check that dividend income was received and check the appropriate category of amount.

**2. RENTS AND ROYALTIES-Show** income accrued or received by **you, your spouse or dependent child** as rental or lease payments for occupancy or use of personal or real property in which any one of you has an interest. In addition, show payments accrued or received from such interests as copyrights, royalties, inventions, patents, and mineral leases or other interests. **Identify the source of such income and check the category of amount.** For example, if you received \$2,000 as rental income from an apartment building in Miami, Florida, enter in BLOCK A... "**apartment building at 5802 Biscayne Blvd., Miami, FL,**" and in BLOCK C check that rental income was received and check the appropriate category of amount.

**3. INTEREST - Identify the source and the category of amount** of any interest accrued or received by you, **your spouse or dependent child** as income from investment holdings including: bills and notes, loans, personal savings accounts, annuity funds, bonds, and other securities. For example, if you earned \$300 in interest during **the** calendar year on a Savings Certificate with Federal Savings and Loan, enter in BLOCK A... "**Federal Savings and Loan (Baltimore, MD)-Savings Certificate,**" and in BLOCK C check that interest income was received and check the appropriate category of amount.

**4. CAPITAL GAINS -** Report income from capital gains realized by **you, your spouse or dependent child** from sales or exchanges of property, business interests, partnership interests or securities. **Identify the source and check the category of amount of the gain.** An example of an entry in BLOCK A might be "**sale of one-third interest in 100-acre farm in Hamilton County, Iowa**" and in BLOCK C check **that** capital gains were received and check the appropriate category of amount.

**5. INVESTMENT FUND INCOME - Identify the fund and the category of amount and the type(s) of income** from investment funds such as mutual or pension funds **for you, your spouse or dependent child.**

**This** may include dividends, capital gains and interest for a single fund or income from an excepted investment fund. Income from each individual asset of the fund must also be listed, unless it is an excepted investment fund, in which case income from individual assets is not required to be listed. See Definition of Terms above for discussion of excepted investment funds.

**6. TRUST INCOME -** Report the **category of amount and the type of income** accrued or received from any trust. Whenever you are required to identify the source of trust income, either for **yourself or for a spouse or dependent child**, it is not enough simply to say "John Jones Trust." Generally, the investment holdings of the trust, discussed above under "Property Interests and Assets," and the income derived from each holding must be identified to the same extent as if held directly. However, if the trust is a qualified trust or an excepted trust, in BLOCK A show only the identity of **the** trust including the date of creation, in BLOCK C check the classification of the trust interest as a "qualified trust" or "excepted trust," and also in BLOCK C show **the** category of amount of income attributable to you, your spouse or dependent child.

**7. OTHER INVESTMENT INCOME -** Report any other items of investment income exceeding \$200 and not described above, along with the specific type and **actual amount**, such as gross income from business interests, endowment or annuity contract payments, estate income, a distributive share of a partnership or joint business venture income. To identify the sources of other investment income, either for you, **your spouse, or a dependent child**, briefly characterize in BLOCK A **the** nature of the business or investment interest and, when applicable, the location: **for example...** "**one-third ownership in a retail furniture store at 1010 Grand Ave., Chicago, IL.**" In BLOCK C under OTHER, specify the applicable type of income, for example... "distributive share" from a partnership or "gross income" from a proprietorship, and under ACTUAL AMOUNT the actual amount of such income which was received during the reporting period. Where the asset is listed because of

a value of greater than \$1,000 in BLOCK B, but it does not produce more than \$200 in income for the reporting period, check "None (or less than \$201)" instead of listing the actual amount.

## Schedule B

### I. Part I-Transactions

#### A. General Instructions and Items to Report

**This part is to be completed by incumbents and termination filers only.** Give a description, the date, and the category of amount of any purchase, sale, or exchange of any real property, stocks, bonds, commodity futures, excepted investment fund shares, and other securities by **you, your spouse or dependent child** when the amount involved in the transaction exceeded \$1,000. Also, indicate whether sales were made pursuant to a certificate of divestiture previously issued by OGE to permit delayed recognition of capital gain. (For more information on certificates of divestiture, see 5 CFR Part 2634, Subpart J.) This includes reporting any sale or exchange of an asset involving an amount exceeding \$1,000 when the sold or exchanged asset did not yield income of more than \$200 (and therefore was not reported on Schedule A), or reporting the purchase of an asset involving an amount exceeding **\$1,000** but at the end of the reporting period having a value of \$1,000 or less and earning income of \$200 or less during the reporting period (and therefore not appearing on Schedule A). **The** example on the form shows the proper way to disclose Central Airlines common stock the reporting individual purchased for \$75,000 on 2/1/91. Note that on Schedule A there is an entry for the stock as well since it was still held at the end of the reporting period.

You need not report a transaction involving (1) your personal residence (unless rented out); (2) a money market account or personal savings account; (3) an asset of your spouse or dependent child if the asset meets the three-part test set **forth** under the instructions for

Schedule A, at **II.A.**; (4) a holding of a “qualified blind trust,” a “qualified diversified trust,” or an “excepted trust”; (5) U.S. Treasury bills, notes, and bonds; (6) transactions which occurred prior to your Federal Government employment; or (7) transactions solely by and between the reporting individual, spouse, or dependent child.

You will need to report any transactions made by a non-public business or commercial enterprise, investment pool, or other entity in which you, your spouse or dependent child have a direct proprietary, general partnership or other interest unless (1) the entity is an “excepted investment fund,” or (2) the transaction is incidental to the primary trade or business of the entity as indicated by you on Schedule A. (See also sections V.e. and f. of **the** General Instructions preceding those for Schedule A.)

## B. What to Show on the Form

Under identification of assets, identify the property or securities involved in the purchase, sale or exchange, and give the date of the transaction. For example, under IDENTIFICATION OF ASSETS... “GMC common stock”; under TYPE OF TRANSACTION... check type; under DATE... enter date transaction occurred; under AMOUNT OF TRANSACTION... check **the** category of value of the sale price, purchase price, or exchange value of the property involved in **the** transaction. You must also indicate whether an item was sold pursuant to a certificate of divestiture issued by the Office of Government Ethics under 5 CFR Part 2634, Subpart J, to permit delayed recognition of capital gain.

Where multiple transactions have occurred which involve the same asset, you may list the item once, check purchase and/or sale, and indicate... “biweekly,” “throughout year,” or other appropriate frequency, and the aggregate amount of the sales and purchases. Reporting an exchange generally requires reporting two items since one item is exchanged for another.

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## II. Part II- Gifts, Reimbursements, and Travel Expenses

### A. General Instructions

**This Part is to be completed by incumbents and termination filers only.** The Act requires you to disclose **the** receipt of certain gifts, in-kind travel expenses, and travel-related cash reimbursements **by you, your spouse or dependent child** from any one source other than the U.S. Government. This reporting requirement applies to gifts and reimbursements received by your spouse or dependent child to the extent the gift was not given to him or her totally independent of **the** relationship to you.

### B. Items to Report

Report gifts received by you, **your spouse or dependent child** from any one source during the reporting period **aggregating \$250 or more**, such as tangible items, or food, lodging, transportation, or entertainment; and travel-related cash reimbursements **aggregating \$250 or more** from any one source. A “gift” means any payment, forbearance, advance, rendering or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. In determining which gifts and reimbursements must be reported or aggregated, **exclude** these items:

1. Anything having a value of \$100 or less;
2. Anything received from “relatives” (see Definition of Terms, above);
3. Bequests and other forms of inheritance;
4. Suitable mementos of a function honoring the reporting individual;
5. Food, lodging, transportation, and entertainment or reimbursements provided by a foreign government

**within** a foreign country or by the United States **Government**. or D.C.. state or local governments;

6. Food and beverages not consumed in connection with a gift of overnight lodging;
7. Anything given to a spouse or dependent child totally independent of the relationship to you;
8. Gift items in the nature of communications to your office, such as subscriptions to newspapers and periodicals;
9. Gifts of hospitality (food, lodging, entertainment) on the donor’s personal or family premises, as defined in 5 CFR Part 2634;
10. Gifts and reimbursements received during non-Federal employment periods; and
11. Reimbursements you received for political trips which were required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2U.S.C. § 434).

### C. What to Show on the Form

**1. GIFTS - Report the identity of the source, a brief description, and the value** of gifts aggregating \$250 or more from any one source which were received by you, **your spouse or dependent child** and which do not fall within any of the categories of exclusions enumerated above.

**a. Food, Lodging, Transportation, Entertainment.** Include travel itinerary, dates, and nature of expenses provided. To reach a \$250 aggregation, you determine whether any one or combination of the components within this gift category received from one source amounts to \$250 or more in value. For example, if you spent a weekend at a hunting lodge owned by **AmCoal**

Corporation, and you received lodging fairly valued at \$150, food valued at \$115, and entertainment valued at \$125, the aggregate value of the gift is \$390. A gift of this nature - hospitality at a lodge owned by a corporation rather than an individual - would not qualify as a "personal hospitality" exclusion. To report this gift you would show, under SOURCE . . . "AmCoal Corp., 1210 North St., Chicago, IL"; under BRIEF DESCRIPTION... "lodging, food, and entertainment as a guest at hunting lodge owned by AmCoal, 1/25-27/91"; and under VALUE... "\$390."

**b. Other Gifts** - If you and your spouse each receive a \$175 figurine from the same donor (source), the gifts have a value of more than \$250 and must be reported. To report a gift, identify the source, briefly describe the item(s), and show the value. In the case of the figurines, report on the form under SOURCE... "Artifact Co., 153 Utah St., Omaha, NE"; and under BRIEF DESCRIPTION... "two porcelain figurines." Under VALUE... "\$350" would be shown.

**2. REIMBURSEMENTS** -Report the source, a brief description (including a travel itinerary, dates, and the nature of expenses provided), and the value of any cash reimbursements (except those from the United States Government or otherwise excluded) aggregating \$250 or more which you, your spouse or dependent child received from any one source. For example, if you were reimbursed \$400 for travel and lodging expenses in connection with a speech you made for the Denver Realtors Association, you would report this item on the form by showing under SOURCE... "Denver Realtors Assoc., 45 Bridge St., Denver, Co"; under BRIEF DESCRIPTION... "travel expenses for speech made in Denver: United Airlines round trip from Washington, D.C. 1/22-23/91, \$275; Denver Airport Marriott, \$125"; and under VALUE... "\$400" would be shown. If your spouse made this speech and received the reimbursement totally independent of his or her relationship to you, no information for this item need be reported.

Note: If you receive food, transportation, lodging, and entertainment or a reimbursement of official travel expenses from a non-profit tax-exempt institution categorized by the IRS as one falling within the terms of 26 U.S.C. § 501(c)(3), you must report the name of the organization, a brief description of the in-kind services or the reimbursement and the value. If known, you may also wish to note the date you received the required written approval from your agency to accept such items. See 5 U.S.C. § 4111 and 5 CFR Part 410, Subpart G. You do not have to report an official reimbursement received by the agency since it will not be received by you in your personal capacity (nor by your spouse or dependent child). See 31 U.S.C. § 1353 (or other agency statute) and 41 CFR Parts 301-1 and 304-1.



## I. Part I-Liabilities

### A. General Instructions

The Act requires you to disclose certain of your financial liabilities. The examples on the form show how to report a mortgage on real estate the reporting individual held for the production of income and a promissory note. Note that you will need to disclose the date, interest rate and term (if applicable) of each liability. Also note you must disclose the highest amount owed on any liability held during the reporting period, not just at the end of the period. If the liability was completely paid during the period, you may also note that on the form if you wish.

### B. Items to Report

Identify and give the category of amount of the liabilities which you, **your spouse or dependent child** owed to any creditor which exceeded \$10,000 at any time during the reporting period, **except:**

1. a personal liability owed to a spouse or dependent child, or to a parent, brother, **sister, or child of you, your spouse or dependent child;**

2. a mortgage or home equity loan secured by real property which is the personal residence (or a second residence not used for producing income) of you or your spouse;

3. a loan secured by a personal motor vehicle, household furniture, or appliances, where the loan does not exceed the purchase price of the item;

4. a revolving charge account where the outstanding liability did not exceed \$10,000 as of the close of the reporting period; and

5. any liability of your spouse or dependent child which represents the sole financial interest or responsibility of the spouse or child, and about which you have no knowledge, and which is not derived from your income, assets, or activities, and concerning which you neither derive nor expect to derive any financial or economic benefit.

You are required to report any liability of any non-public company, investment pool, or other entity, in which you, your spouse or dependent child have an interest, unless (1) the liability is incidental to the primary trade or business of the entity as indicated by you on Schedule A, or (2) the entity is an excepted investment fund. (See also sections V.e. and f. of the General Instructions preceding those for Schedule A.)

### C. What to Show on the Form

Under CREDITORS (NAME AND ADDRESS), show the name and address of the actual creditor unless the reporting individual is only able to identify a fiduciary and certifies in the report that he has made a good faith effort to determine who the actual creditor is and was unable to do so, or upon his certification that such determination is otherwise impracticable. Under TYPE OF LIABILITY, briefly indicate the nature of the liability. Under DATE, enter date loan incurred; under INTEREST RATE, note the set rate or, if a variable one, the formula used to vary the rate, i.e. **prime +2%**; and under

**TERM, show the duration of the loan. Check the category of value for the highest amount owed during the reporting period.**

## **II. Part II-Agreements or Arrangements**

### **A. General Instructions and Items to Report**

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit **plan** maintained by a former employer other than United States Government retirement benefits. This includes any agreements or arrangements with a future employer entered into by a termination filer. The example on the form shows the severance agreement under which the reporting individual expects to receive a lump sum payment from the law firm he has left in order to enter the Government.

For purposes of public disclosure, you must disclose any negotiations for future employment from the point you and a potential non-Federal employer have agreed to your future employment by that employer whether or not you have settled all of the terms, such as salary, title, benefits, and date employment is to begin. Your agency may require internal disclosure of negotiations much earlier and you should seek guidance before conducting any negotiations with persons with whom you do business. A criminal **statute**, 18 U.S.C. § 208, applies to official actions you may take while negotiating future employment.

### **B. What to Show on the Form**

Under STATUS AND TERMS, describe the agreement or arrangement **with** appropriate specificity. Under

PARTIES, show the name of the organization, **or** entity, **and** (if applicable) the name and title of the official, corporate officer, or principal person responsible for carrying out the terms of the agreement or arrangement. Under DATE, show the **date** of any such arrangement. **No report is required regarding any agreement or arrangement entered into by a spouse or dependent child.**

## **Schedule D**

### **I. Part I-Outside Positions**

#### **A. Items to Report**

Report all outside positions held at any time during the reporting period, as well as those positions you currently hold as an officer, director, trustee, general partner, proprietor, representative, employee or consultant of (1) any corporation, company, firm, partnership, trust, or other business enterprise; (2) any non-profit organization; (3) any labor organization; (4) any educational institution; or (5) any organization other than the United States Government. **Exclude** positions held in any religious, social, fraternal, or political entity, and any positions solely of an honorary nature. Be sure to report on Schedule A any income over \$200 that you received from acting in any of these positions. **No report is required regarding any positions held by your spouse or dependent child.**

#### **B. What to Show on the Form**

Give the name, address and brief description (type) of the organization, the title or other brief functional description of the position, and the dates you held the position. If you currently hold the position, in the entry block under TO, note "Present."

## **II. Part II-Compensation in Excess of \$5,000 Paid by One Source**

### **A. General Instructions**

**This Part is to be completed by nominees and new entrants only.** You must disclose your sources of compensation in excess of \$5,000 and the nature of the duties you provided. This includes not only the source of your salary or other fees, but the disclosure of clients for whom you personally provided \$5,000 or more in services even though the clients' payments were made to your employer, firm or other business affiliation. The examples on the form show the proper way to disclose the business affiliation which paid the reporting individual's compensation, in this case a law firm, and a client of the firm for which the reporting individual personally provided over \$5,000 worth of services. This Part does not require you to disclose the value of the compensation for these services; it does require a brief description of the services you provided. When a source has paid you directly, you should have a corresponding entry on Schedule A if the payment was within the reporting period for Schedule A. A client who paid your business affiliation more than \$5,000 for your services will appear only in this Part.

### **B. Items to Report**

Report the nature of the duties **performed** or services rendered for any person (other than the United States Government) from which compensation in excess of \$5,000 in either of the two preceding calendar years or the present calendar year was received by you or an entity which billed for your services (business affiliation). **Exclude:** (1) information to the extent that it is considered confidential as a result of a privileged relationship established by law, or (2) information about persons for

whom services were provided by a business affiliation of which you were a member, partner or employee unless you were directly involved in the provision of the services. The name of a client of a law firm is not generally considered confidential. No **report is required regarding compensation paid to your spouse or a dependent child.**

### C. What to Show on the Form

Under SOURCE, give the name and address of the person to whom services were provided, for example, "Newark Real Estate Co. (Newark, NJ)"; and under BRIEF DESCRIPTION, the title or other brief functional description of the services rendered, for example: "tax matters researched for above firm while an associate with Quinn and Ouspensky."

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### Privacy Act Statement

Title I of the Ethics in Government Act of 1978, as amended (the "Act"), 5 U.S.C. app. § 101 et seq., and 5 C.F.R. Part 2634 of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this report is for review by Government officials to determine compliance with applicable Federal laws and regulations. This report may also be disclosed upon request to any requesting person pursuant to section 105 of the Act or as otherwise authorized by law. You may inspect applications for public access of your own form upon request. Additional disclosures of the information on this report may be made: (1) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source when necessary to obtain information relevant to a

conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the **information** is relevant to the subject matter. See also the **OGE/GOVT-1** executive branch-wide Privacy Act system of records. Knowing and willful falsification of information, or failure to file or report information required to be reported by section 102 of the Act, may subject you to a civil penalty of not more than \$10,000 and to disciplinary action by your employing agency or other appropriate authority under section 104 of the Act. Knowing and willful falsification of information required to be filed by section 102 of the Act may also subject you to criminal prosecution.

### Public Burden Information

This collection of information is estimated to take an average of three hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Associate Director for Administration, U.S. Office of Government Ethics, Suite **500, 1201** New York Avenue, NW., Washington, DC 200053917; and to the Office of Management and Budget, Paperwork **Reduction Project(3209-0001)**, Washington, DC 20503. **Do not** file financial disclosure reports at these addresses; submit them as indicated in "Where to File" on page 3.

### Fee for Late Filing

Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the tiling extension period shall be subject to a \$200 late filing fee. A report is considered to be filed when it is received by the agency. Such fee will be collected by the filer's agency, for deposit with the U.S. Treasury.

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# Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

**3. Office of Government Ethics**

<b>Date of Appointment, Candidacy, Election or Nomination</b> (Month, Day, Year)	<b>Reporting Status</b> (Check Appropriate Boxes) <input type="checkbox"/> Incumbent <input type="checkbox"/> New Entrant, Nominee, or Candidate	<b>Calendar Year Covered by Report</b> c   I	<b>Termination Date (If Applicable)</b> (Month, Day, Year) <input type="checkbox"/> Termination Filer	<b>Agency Use Only</b>
<b>Reporting Individual's Name</b>	<b>Last Name</b>		<b>First Name and Middle Initial</b>	<b>OGE Use Only</b>
<b>Position for Which Filing</b>	<b>Title of Position</b>		<b>Department or Agency (If Applicable)</b>	<p style="text-align: center;"><b>Fee for Late Filing</b></p> <p>Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period shall be subject to a \$200 fee.</p>
<b>Location of Present Office or forwarding address</b>	<b>Address (Number, Street, City, State, and ZIP Code)</b>		<b>Telephone No. (Include Area Code)</b>	
<b>Position(s) Held with the Federal Government During the Preceding 12 Months (If Not Same as Above)</b>	<b>Title of Position(s) and Date(s) Held</b>			
<b>Presidential Nominees Subject to Senate Confirmation</b>	<b>Name of Congressional Committee Considering Nomination</b>		<b>Do You Intend to Create a Qualified Diversified Trust?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<p style="text-align: center;"><b>Reporting Periods</b></p> <p>Incumbents: The reporting period is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.</p> <p>Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part 11 of Schedule D is not applicable.</p> <p>Nominees, New Entrants and Candidates for President and Vice President:  Schedule A--The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets-as of any date you choose that is within 31 days of the date of filing.</p> <p>Schedule B--Not applicable.</p> <p>Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.</p> <p>Schedule C, Part II (Agreements or Arrangements)--Show any agreements or arrangements as of the date of filing.</p> <p>Schedule D--The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.</p>
<b>Certification</b>	<b>Signature of Reporting Individual</b>		<b>Date (Month, Day, Year)</b>	
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.				
<b>Other Review (If desired by agency)</b>	<b>Signature of Other Reviewer</b>		<b>Date (Month, Day, Year)</b>	
<b>Agency Ethics Official's Opinion</b>	<b>Signature of Designated Agency Ethics Official/Reviewing Official</b>		<b>Date (Month, Day, Year)</b>	
On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).				
<b>Office of Government Ethics Use Only</b>	<b>Signature</b>		<b>Date (Month, Day, Year)</b>	
<b>Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)</b>				
(Check box if comments are continued on the reverse side) <input type="checkbox"/>				

Reporting Individual's Name	SCHEDULE A	Page Number
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<b>Assets and Income</b>	<b>Valuation of Assets at close of reporting period</b>	Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.
BLOCK A	BLOCK B	BLOCK C

	Type							Amount																			
	None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000	Dividends	Rent and Royalties	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust		Qualified Trust	Other (Specify Type)	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000	Actual Amount  Only if "Other" specified
Identify each <b>asset</b> held by you, your spouse, or dependent children for the production of income which had a fair market value exceeding \$1,000 at the <b>close</b> of the reporting period.  Identify each <b>asset or source</b> of income held by you, your spouse, or dependent children which generated over \$200 in income during the reporting period.  None <input type="checkbox"/>																											
<b>Examples</b> Central Airlines Common ----- Doe Jones & Smith, Hometown, State ----- Kempstone Equity Fund ----- IRA: Heartland 200 Index Fund			x									x			Law Partnership Income				x						\$130,000		
1																											
2																											
3																											
4																											
5																											
6																											

Reporting Individual's Name		SCHEDULE A continued											Page Number															
Block A		Block B						Block C																				
Assets and Income		Valuation of Assets						Income: Type						Amount														
<p>Identify each asset held for the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period.</p> <p>Identify each asset or source of income which generated over \$200 in income during the reporting period.</p>		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000	Dividends	Rent and Royalties	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000	Actual Amount  Only if "other" specified	Date (Mo., Day, Yr.)  Only if Honoraria
1																												
2																												
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Do not complete Schedule B if you are a new entrant, nominee, Vice Presidential or Presidential Candidate

Reporting Individual's Name	<b>SCHEDULE B</b>	Page Number
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### Part I: Transactions

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. Do not

report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

None

	Identification of Assets	Transaction Type (x)			Date (Mo., Day, Yr.)	Amount of Transaction (x)							Comments	
		Purchase	Sale	Exchange		\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000		
	<b>Example:</b> Central Airlines Common	x			2/1/91			x						
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### Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling \$250 or more; and (2) travel-related cash reimbursements received from one source totaling \$250 or more. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include

travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$100 or less. See instructions for other exclusions.

None

	Source (None and Address)	Brief Description	Value
	<b>Examples:</b> Nat'l Assn. of Rock Collectors, NY, NY Frank Jones, San Francisco, CA	Airline ticket, hotel room & meals incident to national conference 6/15/90 (personal activity unrelated to duty) Leather briefcase (personal friend)	\$500 \$300
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Reporting Individual's Name

# SCHEDULE C

Page Number

## Part I: Liabilities

Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your

personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None

Creditors (Name and Address)		Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (x)						
						\$10,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000
Examples:	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1981	13%	25 yrs.			x				
	John Jones, 123 J St., Washington, DC	Promissory note	1999	10%	on d - d					x		
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## Part II: Agreements or Arrangements

Report your agreements or arrangements for:  
 (1) continuing participation in an employee benefit plan (e.g. pension, 401K, deferred compensation); (2) continuation of payment by a former employer (including severance payments);

(3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None

Status and Terms of any Agreement or Arrangement		Parties	Date
Example:	Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on service performed through 11/91.	Doe Jones & Smith, Hometown, State	7/85
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Reporting Individual's Name	SCHEDULE D	Page Number
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### Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	11/91
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### Part II: Compensation In Excess Of \$5,000 Paid by One Source

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any

corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate

None

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
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