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

September 28, 2012

Mrs. Anne R. Schuyler
General Counsel and DAEO
National Capital Planning Commission
401 9th Street, NW
Suite 500
Washington, DC 20004

Dear Mrs. Schuyler:

The United States Office of Government Ethics (OGE) recently conducted a follow-up review of the ethics program at the National Capital Planning Commission (NCPC) to determine whether the recommendations in our February 2012 report have been addressed. The report on NCPC's ethics program included four recommendations relating to financial disclosure and to the identification and designation of special Government employees (SGE).

OGE's February 2012 report stated that some NCPC public and confidential financial disclosure reports were certified late, rather than within 60 days of receipt of the reports. The February 2012 report also stated that some confidential financial disclosure reports did not include the date the report was received by the agency and that NCPC ethics officials do not ensure that all ex-officio executive branch members and their alternates have no conflicts of interest prior to the performance of their NCPC duties. OGE recommended that NCPC take the following actions: 1) Adjust the certification schedule to ensure final certification occurs within 60 days of receipt of report; 2) Include date of receipt on confidential reports; and 3) Develop a process to ensure ex-officio members and their alternates have no conflicts of interest relating to their NCPC duties.

NCPC in its response to OGE's February 2012 report stated that it had taken the following actions to address OGE's recommendations:

- The review of the reports submitted subsequent to the ethics program review have been undertaken shortly after receipt and certified in advance of the 60 day review period.

- All confidential financial disclosure reports submitted in response to the February 15, 2012 filing deadline were dated immediately upon receipt.

- The Designated Agency Ethics Official (DAEO) generated a memorandum requesting copies of financial disclosure forms from all ex-officio members, not just executive

branch ex-officio members for review to determine the presence of potential conflicts of interests.

**OGE comment:** We verified NCPC's corrective actions during our onsite follow-up review of both public and confidential financial disclosure reports. We found that reports were certified within 60 days of receipt and that the date of receipt was notated on confidential reports. In addition, a copy of the memorandum disseminated to ex-officio members requesting copies of their respective financial disclosure reports was provided to OGE. OGE deemed these corrective actions appropriate and, based on NCPC's responsive actions, consider these recommendations closed.

Additionally, OGE's February 2012 report also stated that NCPC failed to identify and designate special Government employee (SGE) status to individuals who perform temporary duties either on a full-time or intermittent basis, with or without compensation for a period not to exceed 130 days during any consecutive 365 day period. OGE recommended that NCPC formalize procedures with Human Resources (HR) to determine SGE status at the time of retention, designation, appointment or employment.

In response to the recommendation, NCPC instituted a new ethics policy to ensure the identification of new employees as regular employees or special Government employees. Under the new policy, HR will notify the DAEO prior to the entrance of a new employee. Based on the information received from HR, the DAEO will then classify the employee as a regular or special Government employee. For individuals designated as a regular employee, the DAEO will determine if the new employee is required to file either an OGE Form 278 or an OGE Form 450 as a new entrant upon employment with NCPC and will require the employee to file accordingly. For individuals qualifying as SGEs, the DAEO will seek input from HR regarding the number of days the SGE is expected to work. If the number of days is below 60 and the income level is less than $119,553 annually, the DAEO will require the SGE to file an OGE Form 450 as a new entrant. If the days are greater than 60 and the income if greater than or equal to $119,553, the DAEO will require the SGE to file an OGE Form 278 as a new entrant. If the SGE's employment is renewed, the SGE will be required to file the appropriate financial disclosure form at the start of the new appointment based on the anticipated number of days of employment and income earned during the period.

**OGE comment:** OGE deemed the new ethics policy instituted by NCPC to be responsive and appropriate, and considers the recommendation closed.

Based on our follow-up and as noted, OGE has determined that NCPC adequately addressed the recommendations from the February 2012 ethics program review report. As a result, all recommendations within that report have been closed. Thank you for your assistance and cooperation during the follow- up process. Please contact me at 202-482-9317 if you require any additional information.

Sincerely,

Rashmi Bartlett

Rashmi Bartlett
Associate Director