



The United States
Office of Government Ethics:
*A Resource for the
Presidential Transition*

2009 Transition

Public Service is a Public Trust



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A strong
foundation for
ethics from the start



A MESSAGE FROM THE DIRECTOR OF THE UNITED STATES OFFICE OF GOVERNMENT ETHICS

In 1800, the Federal Government, consisting of five cabinet departments and roughly 125 Federal employees, made the transition from Philadelphia to Washington, D.C. Beginning in January 2009, the new President will have the opportunity to fill over 1100 executive branch positions with the advice and consent of the Senate. As discussed in this guide, the United States Office of Government Ethics (OGE) plays a vital role in the transition from one Presidential administration to another, in the nomination and confirmation process, and in promoting a strong ethical culture throughout the executive branch.

To get the new President's team on board, the law requires that OGE review the financial interests of all nominees for Senate-confirmed positions for possible conflicts of interest with their prospective duties. We do this in concert with the White House and senior career agency ethics officials who are familiar with their agencies' missions and activities. Where we identify potential conflicts of interest, we develop remedies so that the President's appointees can carry out their duties with integrity. Part I of this guide describes the process in more detail.

Moreover, Congress established OGE to strengthen public confidence in the Government's integrity and impartiality. It is imperative that upon assuming office new appointees understand the basic principles of Government ethics. This understanding will enable them to avoid situations that, while acceptable in the private sector, could cause embarrassment to themselves and the administration, and undermine public confidence in the Government. Part II of this guide discusses the most important of these ethical requirements.

Finally, in Part III of this guide, we supply names and telephone numbers for key ethics officials at OGE and more than 80 agencies. While there are over 6,000 full- and part-time ethics officials in the Government, these are individuals who know their agencies, have been trained in Government ethics, and are available to advise transition team members and new appointees assigned to their agencies.

As the Director of OGE, I am committed to helping make this a smooth transition and to getting the new President's team on the field quickly. Going forward, OGE will be a valuable resource to the administration and its officials in understanding the ethical principles, laws, and regulations that in many ways are unique to service in the executive branch. We are poised to aid the new administration and its appointees in taking early, active and visible steps, both in word and deed, to establish a strong positive ethical culture from the start.

A handwritten signature in black ink, appearing to read "Robert I. Cusick".

Hon. Robert I. Cusick
Director



How OGE supports the Presidential Transition...

OGE begins its work by assisting the new administration with a critical component of the confirmation process for Senate-confirmed positions. Working closely with the transition team and the new White House, OGE helps prospective nominees for such positions (PAS nominees) to comply with the extensive financial disclosure requirements of the Ethics in Government Act. OGE also carefully evaluates their financial disclosure reports and prepares ethics agreements to resolve potential conflicts of interest before they enter Government service. We conduct our work as quickly and thoroughly as possible.

In the early stages of the new President's term, OGE can help the leadership team establish a strong foundation for ethics. Traditionally, OGE also has assisted new Presidential administrations by providing initial ethics briefings to their incoming leadership teams. Either before or after the Inauguration, OGE can provide useful instruction on Government ethics to potential appointees to the Executive Office of the President, the President's cabinet and other senior administration positions. Agency ethics officials also will provide detailed briefings when the Senate confirms their appointments.

Thereafter, OGE can continue to provide support and oversight to the decentralized executive branch ethics program throughout the President's term. OGE will tailor its support to the needs of the new administration.



The Nomination Process & Financial Disclosure



Contacting OGE Regarding PAS Nominee Financial Disclosure

OGE will devote considerable resources to the review of PAS nominee financial disclosure reports during the Presidential transition. Overseeing the work of a staff of financial disclosure reviewers, the following officials are the primary points of contact for assistance with PAS nominee financial disclosure:

Walter M. Shaub, Jr.
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Sandra S. Mabry
Senior Financial Analyst
ssmabry@oge.gov
202.482.9258

In addition, OGE's Director and General Counsel are available to assist you with financial disclosure and other Government ethics matters:

Hon. Robert I. Cusick
Director

Don W. Fox
General Counsel

202.482.9292

A Brief Overview of Financial Disclosure for PAS Nominees

The materials in this section will help transition team members, potential PAS nominees, attorneys, and other advisors to potential PAS nominees. Of course, the financial disclosure process is just that – *a process*. The best advice that transition team members can give potential PAS nominees is to rely on the Federal ethics officials who stand ready to guide them through this process. These officials will help them through the three stages of the process:

- During the first stage, OGE, agency ethics officials, the White House (or the transition team before the inauguration), and the potential PAS nominee work to ensure compliance with the Ethics in Government Act. Full compliance with the Act's disclosure requirements often can be a labor-intensive process for potential PAS nominees.
- During the second stage, OGE, agency ethics officials, and the White House (or the transition team before the inauguration) evaluate the potential PAS nominee's disclosures for possible conflicts of interest.
- During the third stage, OGE, agency ethics officials, and the White House (or the transition team before the inauguration) prepare an ethics agreement to resolve potential conflicts of interest. These ethics agreements are individualized but highly uniform throughout the executive branch, as described in OGE's ethics agreement guide.

Tools for the PAS nominee financial disclosure process

The following items are useful tools that OGE has posted on its website to assist individuals who file financial disclosure reports, including PAS nominees. We provide brief summaries and internet addresses for each of these documents.

electronic public financial disclosure report (SF 278)

Electronic Microsoft Excel version of the SF 278.

http://www.dod.mil/dodgc/defense_ethics/resource_library/forms_software.htm

“Public Financial Disclosure: A Reviewer’s Reference”

Reference manual for reviewers of public financial disclosure reports.

http://www.usoge.gov/forms/sf278_pdf/rf278guide_04.pdf

“Public Financial Disclosure: A Guide to Reporting Selected Financial Instruments”

Supplement to “Public Financial Disclosure: A Reviewer’s Reference” that discusses selected financial instruments.

http://www.usoge.gov/forms/sf278_pdf/rf278financialguide_08.pdf

frequently asked questions about public financial disclosure

Helpful questions and answers regarding the completion of the SF 278.

http://www.usoge.gov/forms/sf278_faqs/sf278_faqs.aspx

PAS nominee ethics agreement guide

Guide on drafting uniform ethics agreements for PAS nominees throughout the executive branch, with sample agreement language and commentary.

http://www.usoge.gov/ethics_docs/misc_docs/ethics_agreement_guide_0208.pdf

5 C.F.R. part 2634

Regulatory requirements for financial disclosure.

http://www.usoge.gov/laws_regs/regulations/5cfr2634.aspx

5 U.S.C. app. § 102

Statutory requirements for the contents of public financial disclosure reports.

http://www.usoge.gov/laws_regs/pdf/comp_fed_ethics_laws.pdf

the qualified trust program

Introduction to the program for blind trusts and diversified trusts.

http://www.usoge.gov/training/training_materials/booklets/bkQualTrust_07.pdf

the certificate of divestiture program

Introduction to a program that permits deferral of certain capital gains incurred as a result of a divestiture to resolve a conflict of interest.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/1999/do99019a.pdf

Addressing these issues will expedite the nomination process...

The Ethics in Government Act establishes extensive requirements for the financial disclosure reports of PAS nominees. These requirements cannot be summarized briefly, but focusing on a few key items will help potential PAS nominees accomplish financial disclosure, which will speed the nomination process.

Excepted Investment Fund (EIF)

The concept of an “excepted investment fund” is the most important technical concept that a potential PAS nominee needs to understand. The Ethics in Government Act requires a potential PAS nominee to disclose the holdings of any investment fund unless the investment fund qualifies for an exception to the statutory duty to disclose. The requirements for the “excepted investment fund” exception, as provided in 5 C.F.R. § 2634.310(c), are as follows:

An excepted investment fund is an investment fund that is...

- 1. independently managed,**
- 2. “widely held,” and**
- 3. either “publicly traded or available” or “widely diversified”**

A working knowledge of this definition will greatly simplify the disclosure process.

Suggestions to give potential nominees

When working with potential PAS nominees, you can help them by offering a number of suggestions that will move their financial disclosure reports through the process as quickly as possible:

1. Suggest that they gather all of their financial documents before beginning to complete the SF 278.
2. Explain that they do not need to complete Schedule B.
3. Ask them to report assets in a way that a reader can easily recognize the assets from the information provided. (Providing ticker symbols is not necessary but is helpful and expedites the process significantly.)
4. Help them to understand the definition of “excepted investment fund” (EIF).
5. Explain the reporting periods for the different schedules carefully.
6. Ask them to be prepared to finalize any pending separation agreements with employers in the immediate future. If the terms of any such agreements are not finalized, they also may benefit from seeking advice on Government ethics rules before finalizing the agreements.

7. Ask them to identify any cash account as a "cash account" in the SF 278.
8. Suggest that they use the Excel spreadsheet version of the SF 278 at:
http://www.dod.mil/dodgc/defense_ethics/resource_library/forms_software.htm.
9. Provide them with the link to the SF 278 Frequently Asked Questions section on OGE's website: http://www.usoge.gov/forms/sf278_faqs/sf278_faqs.aspx.
10. Feel free to give them telephone numbers of OGE contacts.

Disclosure issues to address

When working with potential PAS nominees, you can help them by ensuring that they address the following issues that someone unfamiliar with the disclosure requirements may encounter when completing an SF 278:

1. Have they reported assets by the wrong names?
2. Have they provided incomplete names for mutual funds?
3. Have they neglected to report their spouses' assets and income?
4. Have they neglected to disclose equity interests in their employers (or equity interests in their spouses' employers)?
5. Have they disclosed detailed information about deferred compensation plans?
6. Have they disclosed the holdings of defined contribution plans?
7. Have they disclosed the holdings of non-EIF investment funds?
8. Have they mistakenly identified "managed accounts" as EIFs?
(Note: Managed accounts are not excepted investment funds.)
9. Have they neglected to disclose their clients on Schedule D, Part II?
(Note: For example, an attorney must identify any client who paid the law firm more than the threshold amount for the attorney's services.)
10. Have they provided sufficient information about private securities (e.g., stocks issued privately by a corporation that is not publicly traded)?
11. Have they disclosed all reportable outside positions on Schedule D, Part I?
12. Have they provided sufficient information about stock option grants?
13. Are they aware of the different reporting periods that apply to Schedule A, Schedule C and Schedule D ?
14. Have they mistakenly completed Schedule B?
15. Are they aware that some information must be reported on more than one schedule?
16. Have they disclosed all whole, universal, and variable life insurance policies?
17. Have they disclosed all holdings of variable life insurance policies?
18. Have they mistakenly identified speakers bureaus as sources of income, when they must report the actual sources of income (i.e., the paying client)?
19. Have they disclosed the names of books for which they received royalties during the reporting period?

20. Have they neglected to indicate which portfolios they have selected through 529 plans?
21. For potential PAS nominees who are beneficiaries of trusts, have they neglected to report the holdings of the trusts?
22. For potential PAS nominees whose spouses or dependent children are beneficiaries of trusts, have they neglected to report the holdings of the trusts?
23. Have they neglected to report positions they hold as trustees?
24. Have they mistakenly submitted brokerage statements, rather than reporting assets on the SF 278?
25. Have they provided unnecessary personal information, such as: home addresses, street addresses for other residential or rental properties, personal telephone numbers, names of spouses and children, bank account numbers?
(Note: Potential PAS nominees should not disclose this type of personal information on the SF 278 because the SF 278 is a publicly available report.)

These items are not an exhaustive compilation of issues that OGE addresses when reviewing financial disclosure reports, but focusing on these items will help potential PAS nominees to complete the process as quickly as possible.

Ethics agreements

After fully complying with the disclosure requirements of the Ethics in Government Act, potential PAS nominees execute ethics agreements. Drafting ethics agreements involves OGE, agency ethics officials, the potential PAS nominee, and the White House (or the transition team before the Inauguration). When working to prepare an ethics agreement, you may find it helpful to advise a potential PAS nominee of the following:

1. OGE's ethics agreement guide has expedited the process and increased uniformity across the executive branch.
2. Potential PAS nominees need to be certain that they fully understand the commitments in their ethics agreements.
3. Potential PAS nominees need to be certain that their commitments are feasible, particularly with regard to winding down businesses or separating from private-sector employers.
4. Potential PAS nominees need to be certain that their ethics agreements are accurate.



Selected memoranda related to financial disclosure

OGE issues memoranda containing guidance relevant to the financial disclosure process. Access to these memoranda may be helpful to transition team members, attorneys and others who advise Presidential appointees and potential nominees for Presidential appointments. We provide brief summaries and internet addresses for each of these documents.

review and clearance of PAS nominee forms (DO-06-004)

Discusses the review of financial disclosure reports of Presidential nominees requiring Senate confirmation.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2006/do06004.pdf

seeking additional information from nominee filers (DO-08-002)

Discusses the need to seek additional information from a PAS nominee when a financial disclosure report is incomplete.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08002.pdf

financial disclosure requirements for pooled investment funds (DO-08-22)

Explains disclosure and possible divestiture requirements for certain funds.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08022.pdf

financial disclosure for trustees, executors or administrators (DO-02-008)

Provides guidance on reporting trusts and estates when an employee is serving as a trustee, executor or administrator.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2002/do02008.pdf

effective screening arrangements (DO-04-012)

Discusses effective screening arrangements for recusal obligations.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2004/do04012.pdf

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2004/do04012a.pdf

public financial disclosure reports and certificates of divestiture (DO-98-019)

Discusses timelines for submitting and processing PAS nominee financial disclosure reports and conditions for issuing Certificates of Divestiture.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/1998/DO98019.aspx

disclosing privileged relationships (DO-06-011)

Clarifies the scope of the nondisclosure exception for compensation from a client with whom the filer is in a privileged relationship.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2006/do06011.pdf

Ethics Overview



14 ethical principles...

The foundation for executive branch ethics rests on the fourteen ethical principles established in 5 C.F.R. § 2635.101(b)

(1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

(4) An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(5) Employees shall put forth honest effort in the performance of their duties.

(6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

(7) Employees shall not use public office for private gain.

(8) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those –such as Federal, State, or local taxes-- that are imposed by law.

(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Looking at the ethics program...

A vision for sustainable ethical leadership throughout the executive branch

The following document is a compilation of OGE's recommendations to senior Government leaders for sustaining ethics as a core value throughout their executive branch departments and agencies. These recommendations draw on the extensive practical experiences of a branchwide professional ethics community of over 6,000 full- and part-time career ethics officials, and they will help the Government adhere always to the highest ethical standards.





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Leadership Initiative

Concrete Actions

OGE worked with several agencies to identify concrete actions that agency leaders may institute to promote an ethical culture and to support an agency's ethics program. In identifying the concrete actions several sources were consulted, including: OGE ethics program reviews, OGE's Ethics Program Review Guidelines, meetings between the Director of OGE and leadership from other agencies, an OGE Leadership Study, OGE surveys, and research by non-governmental organizations. A particularly valuable contribution was made by a focus group consisting of agency ethics officials.

Agencies seeking to enhance leadership support of the ethics program should consider the following concrete actions. Not all of the actions are suited to every agency. Implementation and maintenance of an effective ethics program requires careful, ongoing assessment of the program and the development of agency-specific strategies. Also, while many of these concrete actions are directed to agency heads, OGE recognizes that there are many levels of leadership; it is important that all levels of leadership work to achieve the goals of the Leadership Initiative.

Agency leadership can...

Demonstrate commitment to and support of the ethics program by:

- meeting with OGE leadership to discuss the Leadership Initiative
- meeting with OGE leadership in connection with OGE's onsite ethics program reviews
- meeting with the OGE review team during the course of the agency's onsite ethics program review
- addressing agency ethics officials periodically at official functions
- signing written ethics-related guidance or instructions prepared by agency ethics officials

Communicate the importance of ethics by:

- participating personally in the selection of the DAEO
- underscoring the importance of the DAEO position by designating it at an SES level, and publicizing the designation and role throughout the agency

meeting one-on-one with key staff to discuss the importance of integrating ethics into everyday agency work

including ethics officials in senior staff meetings or other meetings attended by PAS employees, and inviting discussion of pertinent ethics issues

enhancing the visibility of the ethics office by ensuring it is clearly reflected in the organizational chart of the agency

highlighting the relevance of the ethics program agency-wide via speeches, e-mail, newsletters, memoranda and other effective means

emphasizing the importance of ethics requirements, such as filing financial disclosure forms and attending ethics training, via speeches, e-mail, newsletters, memoranda, and other effective means

disseminating information on pertinent ethics issues agency-wide by writing ethics-related articles for agency newsletters or other publications

awarding the achievements of ethics officials in areas including the timeliness, scope and content of training, as well as the administration of the financial disclosure filing systems

publicizing agency-wide any awards or commendations received by the ethics office, including OGE awards

Promote awareness of conduct that demonstrates commitment to an ethical culture, as well as underscore the consequences of unethical behavior by:

sharing illustrative stories that demonstrate commitment to ethical values

highlighting ethical vulnerabilities specific to the agency that employees may face

posting possible penalties for violating the ethics laws and regulations in public areas such as the agency's Intranet

presenting news media accounts illustrating the pitfalls of neglecting ethical considerations

Promote awareness of the ethics training program by having ethics officials brief senior staff on important ethics training program measurement outcomes including:

the effectiveness of ethics training based on the results of training evaluations

the percentage of employees who completed training

the timeliness of training employees on emerging ethics issues

Demonstrate the emphasis placed on ethics training by:

including in the agency's performance plan the development of specific ethics training projects such as videos, online training, pamphlets, and job aids

making a personal appearance at one or more ethics training session

participating in an ethics training session alongside employees

authoring a statement or speaking in a video segment to be used in ethics training sessions

announcing new training initiatives undertaken by ethics program officials and encouraging employee participation

Demonstrate the emphasis placed on an ethical culture by:

including a welcome letter underscoring the importance of ethical culture in orientation materials for new employees

making managers and supervisors accountable for the actions of staff who fail to fulfill their ethics requirements

delaying or precluding promotions and awards for failing to timely file financial disclosure reports or participate in training

Demonstrate personal ethical behavior by:

participating in Office of Government Ethics conferences and working groups, or other ethics community events

discussing ethical behavior and ethical decision-making with senior staff and employees on a routine basis

consistently seeking ethics advice and counseling before participating in a particular matter that may involve a conflict of interest

modeling a, "Should I do it?" versus, "Can I do it?" mentality

Promote the ethical merit of leadership actions by emphasizing the themes of transparency and accountability throughout the agency by:

explaining to employees, and when appropriate the public, how specific agency determinations were made

publicizing the completion of leadership's own ethics requirements, such as timely filing, prompt divestiture of financial interests when directed, creation of recusal screening arrangements, and attendance at ethics training

publicizing the outcome of ethics program reviews, describing what actions the agency plans to take to correct any deficiencies or to otherwise improve the program

Demonstrate vision by:

considering the advantages and disadvantages to the agency of appointing a career versus a non-career employee to the DAEO position

making a deliberate decision regarding the roles of career and non-career ethics officials in the reporting structure of the agency

emphasizing the need for close cooperation and coordination between career and non-career employees of the agency

establishing stated qualifications for the position of ethics official that ensure employees in the position have the ability to create and maintain a successful program

participating in meetings with officials from other similarly situated agencies to discuss common issues and share model practices to enhance the ethics program

seeking opportunities to raise the level of discourse relating to ethical issues by initiating outreach efforts to other agencies, other branches of Government, the private sector, and non-governmental organizations incorporating ethics elements in the agency emergency preparedness plan

designating an ethics official to serve as a member of the agency emergency response team

consulting with ethics officials prior to implementing new agency programs, policies, or procedures to determine if there are potential ethical implications

incorporating ethics into the formal objectives of the agency, for example, into the goals of the strategic plan

identifying the necessary resources for an effective ethics program and allocating them accordingly

ensuring the ethics office is adequately staffed to achieve success

implementing training programs for non-career employees, contractors, and other appropriate groups

fostering a cooperative relationship between the ethics office and other relevant offices such as human resources and information technology

Promote an ethical culture of transparency, efficiency, and accountability by:

- soliciting employees' ideas on how to maximize involvement in ethics
- including ethics responsibilities as a critical element in performance plans and formal appraisals for agency ethics officials, managers, and supervisors
- including meeting ethics requirements as a critical element in performance plans and formal appraisals of other appropriate employees
- encouraging participation in Office of Government Ethics or other ethics community events
- recognizing the value and expertise of the ethics staff in official statements and agency-wide communications

Emphasize the importance of follow-up and accountability by:

- reviewing final OIG or other investigative office reports following investigations of cases of possible violations of the conflict of interest laws and the standards of conduct
- demonstrating to employees that appropriate administrative action is taken in the cases of violations of the conflict of interest laws and the standards of conduct
- demonstrating to employees that appropriate administrative action, such as delaying promotions, is taken in cases of delinquent financial disclosure filing
- encouraging the full cooperation of agency employees with all investigations, audits, or reviews
- establishing a mechanism or process to bring pertinent enforcement-related issues to the attention of agency leadership
- highlighting the avenues that are available for employees seeking ethics advice
- emphasizing to employees the importance of reporting observed misconduct
- ensuring employees are cognizant of the appropriate channels for reporting observed misconduct
- promoting awareness of protection available to employees who report observed misconduct
- identifying time periods and circumstances in which misconduct is especially likely to occur and working proactively to minimize the risk
- assessing the effectiveness of controls the agency has in place for identifying and reducing misconduct

Standards of ethical conduct, criminal provisions, and other authorities

The following three tables will familiarize transition team members with many of the basic ethics rules covering the Federal executive branch. The transition team also may find it useful to share these tables with potential nominees for Presidential appointments.

These tables will sensitize Presidential appointees to the most common ethical issues that executive branch employees encounter. Of course, the best advice for transition team members to give potential Presidential nominees is that they should consult their agency ethics officials whenever situations potentially implicate the ethics rules.

Please remember that OGE is available to conduct initial ethics briefings for transition team members and the new administration's senior leadership. Ethics officials throughout the executive branch also will conduct such briefings.

...the best advice for transition team members to give new Presidential appointees is that they should consult their agency ethics officials whenever situations potentially implicate the ethics rules.

**Standards of Ethical Conduct for
Employees of the Executive Branch
5 C.F.R. Part 2635**

Subpart	Brief Summary
Subpart A – General Provisions	Explanations of the basic obligations of public service and the responsibility to safeguard the public's trust.
Subpart B – Gifts From Outside Sources	Rules against accepting gifts offered from certain sources or for certain reasons. Exceptions for accepting appropriate items in specified cases. Rules against soliciting or coercing gifts.
Subpart C – Gifts Between Employees	Rules limiting the circumstances in which employees may give one another gifts, especially gifts to higher-ranking employees. Rules against soliciting contributions for certain gifts.
Subpart D – Conflicting Financial Interests	Rules barring employees from participating in particular matters in which they have financial interests. Rules against acquiring or continuing to hold certain financial interests.
Subpart E – Impartiality in Performing Official Duties	Rules requiring employees to take specific measures to guard against the appearance of losing impartiality.
Subpart F – Seeking Other Employment	Rules requiring employees to disqualify from particular matters affecting the financial interests of potential employers with whom they are seeking employment.
Subpart G – Misuse of Position	Rules against the use of an employee's title, time, or authority and against the use of Government information and resources for private purposes.
Subpart H – Outside Activities	Rules limiting outside activities, including outside employment, teaching, speaking, and writing. Rules addressing personal financial obligations of employees.

Selected Criminal Conflict of Interest Provisions

Statute	Brief Summary
18 U.S.C. § 201 Bribery and Gratuities	Prohibits public officials from accepting bribes or gratuities to influence their Government actions.
18 U.S.C. § 203 Representation of Others for Compensation	Prohibits compensation for representational activities involving certain matters in which the United States is a party or has a direct and substantial interest. Significantly, the prohibition applies to compensation in exchange for the representational activities of either the employee or <u>another individual</u> .
18 U.S.C. § 205 Representation of Others With or Without Compensation	Prohibits an employee from certain involvement in a claim against the United States or representing another before the Government in matters in which the United States is a party or has a direct and substantial interest.
18 U.S.C. § 207 Post-employment Restrictions	Imposes restrictions on an employee's activities after leaving the Government. Most restrictions are limited to <u>communications with or appearances before the Government</u> on behalf of another, but some restrictions cover behind-the-scenes activities.
18 U.S.C. § 208 Conflicting Financial Interests	Prohibits employees from participating in certain Government matters affecting their own financial interests or the interests of certain persons with whom they have ties outside the Government.
18 U.S.C. § 209 Supplementation of Salary	Prohibits employees from being paid by someone other than the United States for performing their official Government duties.

Other Selected Ethics Authorities Applicable to Senate-Confirmed Presidential Appointees

Legal Authority	Brief Summary
Executive Order 12731, § 102	Prohibits certain appointees from earning any outside income during Government service.
18 U.S.C. § 202	Provides definitions for terms used in criminal conflict of interest statutes, including the term "special Government employee."
5 U.S.C. app. § 101	Establishes who must file public financial disclosure reports.
5 U.S.C. app. § 102	Establishes requirements for the contents of public financial disclosure reports.
5 U.S.C. app. § 103	Establishes procedures for filing public financial disclosure reports.
5 U.S.C. app. § 104	Addresses the failure to file or the filing of false public financial disclosure reports.
5 U.S.C. app. § 502(a)(2)	Prohibits the use of a PAS appointee's name in the name of an entity that provides professional services involving fiduciary relationships.
26 U.S.C. § 1043	Authorizes deferral of capital gains in certain circumstances by employees who must divest assets to resolve conflicts of interest.
5 C.F.R. §§ 2640.201-.205	Establishes exemptions from the criminal conflicts of interest prohibition of 18 U.S.C. 208(a)(1).
5 C.F.R. part 2641	Implements the post-employment restrictions of 18 U.S.C. § 207.

Selected memoranda related to conflicts of interests

OGE and the Office of Legal Counsel (OLC) within the U.S. Department of Justice separately issue memoranda containing guidance on the conflict of interest laws and other ethics authorities. Access to these memoranda may be helpful to transition team members, attorneys and others who advise Presidential appointees and potential nominees for Presidential appointments. We provide brief summaries and internet addresses for each of these documents.

Presidential transition (DO-00-048)

Discusses ethical issues arising during the transition.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2000/do00048.aspx

rules covering Presidential nominees employed as "advisors" or "counselors" pending confirmation (DO-01-009)

Discusses ethical requirements applicable to potential PAS appointees who serve as agency advisors pending Senate confirmation.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2001/do01009.pdf

timing of coverage of criminal conflicts statutes (DO-02-014)

Discusses a question of timing as to when an individual entering the Government becomes subject to criminal conflict of interest laws.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2002/do02014.pdf

trustees of private trusts and criminal conflicts (DO-01-029)

Discusses whether a trustee of a private trust has a financial interest in a particular matter under 18 U.S.C. § 208.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2001/do01029.pdf

discretionary trusts (DO-08-024)

Discusses conflicts and disclosure issues related to discretionary trusts.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08024.pdf

defined benefit pension plans and the criminal conflicts (DO-99-015)

Discusses potential conflicts arising from defined benefit pension plans.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/1999/do99015.pdf

granting waivers to criminal conflicts of interest prohibitions (DO-07-006)

Provides guidance on factors to consider when issuing waivers under 18 U.S.C. § 208(b)(1) and 18 U.S.C. § 208(b)(3).

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2007/do07006.pdf



criminal prohibition against supplementation of Government salary (DO-02-016)

Summarizes 18 U.S.C. § 209, which prohibits supplementation of a Government employee's salary by outside sources.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2002/do02016.pdf

http://www.usoge.gov/laws_regs/other_ethics_guidance/otr_gdnc/og_sum209_02.pdf

awards and outside consulting activities (DO-04-011)

Discusses awards and consulting activities outside the Government.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2004/do04011.pdf

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2004/do04011a.pdf

book deals involving Government employees (DO-08-006)

Explains rules applicable to employees with agreements to publish books.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08006.pdf

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08006a.pdf

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08006b.pdf

ethics and working with contractors (DO-06-023)

Discusses rules for employees whose work affects contractors.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2006/do06023.pdf

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2006/do06023a.pdf

summary of rules for "special Government employees" (DO-00-003)

Provides a comprehensive summary of the ethical requirements applicable to "special Government employees."

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2000/DO00003.aspx

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2000/do00003a.pdf

"diversified" and "sector" mutual funds and criminal conflicts (DO-00-030)

Explains the distinction between "diversified" and "sector" mutual funds for purposes of regulatory exemptions to 18 U.S.C. § 208 at 5 C.F.R. part 2640.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2000/do00030.pdf

contingency fees and 18 U.S.C. § 203 (DO-99-042)

Discusses the implications of 18 U.S.C. § 203 for a prospective Government employee, such as an attorney, who has an interest in a pending contingency fee case.

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/1999/DO99042.aspx

former Government employees representing Presidential candidates (DO-08-011)

Discusses the scope of an exception to the post-employment restrictions for a former senior or very senior employee who represents a candidate or the President-elect, under 18 U.S.C. § 207(j).

http://www.usoge.gov/ethics_guidance/daeograms/dgr_files/2008/do08011.pdf



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