# UNITED STATES OFFICE OF GOVERNMENT ETHICS

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Preventing Conflicts of Interest in the Executive Branch

> **Open Government Plan** U.S. Office of Government Ethics 2016-2017

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# **About OGE**

The U.S. Office of Government Ethics (OGE), established by the Ethics in Government Act of 1978, provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. OGE's mission is part of the very foundation of public service. The first principle of the 14 General Principles set forth as part of the Standards of Ethical Conduct for Government for Employees of the Executive Branch is, "[p]ublic service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain." Public servants are expected to make impartial decisions based on the interests of the public when performing their job duties. OGE, in concert with agency ethics practitioners throughout the executive branch, ensures that employees fulfill this great trust.

To carry out its leadership and oversight responsibilities, OGE promulgates and maintains enforceable standards of ethical conduct for approximately 2.7 million employees in over 130 executive branch agencies and the White House; oversees a financial disclosure system that reaches more than 26,000 public and more than 380,000 confidential financial disclosure report filers; ensures that executive branch agency ethics programs are in compliance with applicable ethics laws and regulations; provides education and training to the approximately 4,500 ethics officials executive branch-wide; conducts outreach to the general public, the private sector, and civil society; and provides technical assistance to state, local, and foreign governments and international organizations. OGE maintains an Open Government webpage at www.oge.gov/open.



#### Management Objectives

Promote professional development opportunities aimed at building OGE employees' knowledge, skills, and abilities Transform the way OGE conducts business through process improvement

#### **Open Government at OGE**

Building public confidence in the impartiality of government decision-making is at the core of OGE's mission. In support of the President's commitment to the principle of an open government, OGE directs resources toward raising the visibility of OGE and the systems in place to identify and resolve conflicts of interest. OGE also directs resources toward making ethics documents publicly available. Transparency increases accountability and public confidence by providing information to the public about the work of government and the integrity of its decision-making processes.

This plan details expected actions and a timeline for incorporating the principles of the President's January 21, 2009, Memorandum on Transparency and Open Government into the core mission objectives and operations of OGE. The main components of the plan are:

- Transparency providing information about OGE and its initiatives
- Participation allowing the contribution of ideas and expertise to government policy making
- Collaboration encouraging cooperation within the federal government, across levels of government, and between the government and non-government entities

The plan also addresses OGE's new initiative to maximize transparency and emphasize collaboration as it executes its vital role in the transition of power from one administration to the next after the 2016 Presidential election.

#### **New Initiative**

OGE's work is especially critical during a Presidential transition when, due to vacancies in most senior leadership positions, the nation is particularly vulnerable to national security and other risks. The efficient processing of Presidential nominations is critical in order to expeditiously fill vacant positions. OGE plays a vital role by reviewing the financial disclosure reports of potential Presidential nominees and resolving their conflicts of interest so they can serve with integrity. Ensuring that the nomination process is as smooth and effective as possible becomes OGE's primary focus during a Presidential transition. For the past two years, OGE has been preparing for the influx of nominees that the transition will bring, focusing on training ethics officials, creating resources for incoming leaders and administration officials, and collaborating with agencies and outside groups to establish best practices for the incoming administration. In addition, OGE has planned a number of initiatives intended to increase transparency and inform all stakeholders, including the public, about OGE's role in the Presidential transition.

One of OGE's first major transition-related initiatives in 2016 was the National Government Ethics Summit and Symposium on Financial Disclosure, discussed in more detail below. The primary focus of the 2016 Summit was to prepare ethics officials to effectively respond to the ethics issues that will arise due to the Presidential transition in 2017. These issues include nominee financial disclosure, seeking employment, and post-employment restrictions. As part of this effort, the 2016 Summit provided members of the government ethics community with opportunities to deepen their knowledge of the ethics rules, share lessons learned through

extensive practical experience, listen to viewpoints from outside government, and build connections with fellow ethics officials who can lend a hand in resolving complex ethics issues. As a means of both expanding the reach of the Summit and increasing the transparency of the executive branch ethics program, OGE live-streamed and archived many of the sessions, including all plenary sessions. OGE continues to support ethics officials in their preparation for the Presidential transition through its Transition Readiness Series, which combines distance learning and classroom learning opportunities. The live-streamed Summit sessions and OGE's distance learning sessions are all available on Google+ and YouTube.

Currently, OGE is collaborating with other representatives of the executive branch on the Agency Transition Directors Council (ATDC), established by the Presidential Transition Improvement Act of 2015. Through its participation with the ATDC, OGE is helping to develop a "Transition Playbook" and providing feedback on model transition materials for use by agencies to prepare transition landing teams. OGE is also collaborating with the Partnership for Public Service's Presidential Transition Service Providers' Council. Through these meetings, OGE is providing briefings on OGE's activities and preparations and contributing materials and resources as part of a comprehensive approach to planning for the Presidential transition. Finally, OGE is collaborating with the General Services Administration (GSA) to provide on-site assistance as part of GSA's responsibility to provide pre-election services and facilities to eligible candidates for President or Vice President. Through this initiative, OGE will provide early and ongoing ethics support and training on *Integrity*, OGE's secure, web-based system for collecting and reviewing public financial disclosure reports. OGE regularly updates its stakeholders and the public on the progress being made through these collaborations, through its quarterly meetings with ethics officials, Twitter feed, and its website.

In addition to these collaborations, OGE is preparing several key transition resources. OGE's website features a <u>Presidential Transition page</u> targeting the Presidential campaigns, the future Presidential Transition Team, incoming Presidential nominees, the media, and the public. OGE's new, web-based <u>Public Financial Disclosure Guide</u> provides comprehensive guidance on financial disclosure requirements for all types of public reports in the executive branch. OGE also recently created an ethics guide specifically for Presidential nominees. This easy-to-read guide outlines all the important information potential nominees need to prepare for the confirmation process. A pdf version of this guide is available on OGE's <u>website</u>. OGE is also developing an informational guide about its role in preventing conflicts of interest in the executive branch, intended for a broader audience (including the general public). This guide will be completed before the end of calendar year 2016 and will be made available on OGE's website. Finally, OGE plans to issue legal advisories related to the upcoming Presidential transition, with an emphasis on the post-government employment rules. All of OGE's legal advisories are available on its website here: https://oge.gov/web/oge.nsf/Legal%20Advisories.

# Transparency

#### **High-Value Data and Information**

OGE recognizes the value of providing data and information to its stakeholders, including the general public. Increasing data transparency increases public understanding about what OGE's programs accomplish and strengthen accountability for results. In addition, raising the visibility of OGE and the executive branch ethics program is critical to building public confidence in the integrity of government operations and programs. OGE inventories all of its information sets on an on-going basis to identify high-value information not yet publicly available to post on its public website.

The following high-value information is currently available for download (generally in TXT, HTML, and PDF formats) on OGE's website:

- <u>OGE Advisories</u>: OGE posts all <u>written guidance</u> to executive branch ethics officials and employees, including legal, education, and program advisories.
- Ethics Program Review Reports: OGE conducts reviews of agency ethics programs and issues recommendations to improve the ethics program if deficiencies are found. To confirm that the agency has acted on OGE's recommendations, OGE also conducts a follow-up review six months from the date of the initial report. OGE posts all program review and follow-up reports to its website.
- Ethics Pledge Report and Related Waivers: On January 21, 2009, President Obama signed Executive Order 13490, which created <u>new commitments</u> for political appointees entering government service. This Executive Order requires every full-time, political appointee appointed on or after January 20, 2009, to sign an Ethics Pledge. The Executive Order also requires OGE to publish an <u>annual report</u> on the administration of the pledge. In addition to posting this annual report, all waivers are made publicly available on either <u>OGE's website</u> or the <u>White House website</u> when issued.
- <u>Public Financial Disclosures and Ethics Agreements</u>: OGE has an automated online process for providing public access to <u>public financial disclosure reports</u> (OGE Forms 278, 278e, and 278-T) for Presidential appointees confirmed by the Senate (PAS). OGE also posts ethics agreements of PAS employees, which describe the steps an appointee will take to avoid any actual or apparent conflicts of interest.
- <u>Travel Reports</u>: Agencies are required to submit to OGE semiannual reports of payments for travel, subsistence, and related expenses received from non-federal sources in connection with the attendance of employees at certain meetings or similar functions. OGE posts these <u>travel reports</u> on its website.
- <u>Annual Agency Questionnaire Responses</u>: In its 2014-2015 Open Government Plan, OGE described a new initiative to identify high-value information to post to its public website. As a result of this initiative, in 2015 OGE began posting to its website the full

responses collected from agencies in its Annual Agency Questionnaire, in addition to providing an online summary of the combined data in a visual format. The <u>Questionnaire</u> asks agency ethics offices for information about ethics officials and the administration of agency ethics programs, as well as core elements of the ethics program that assist in the identification and resolution of potential conflicts of interest. The compiled data provides valuable insights about the executive branch ethics program.

OGE is committed to making information resources accessible, discoverable, and usable by the public. When providing the public financial disclosure information of executive branch employees, OGE is bound by 5 U.S.C. app. § 105(b), which provides the mechanism through which OGE can release financial disclosure reports to the public. Thus, OGE does not and cannot provide this information in an open data format. Currently, releasable data from which the public could derive benefit is provided at the document level, available on OGE's website. Moreover, over the two-year period covered by this plan, OGE will continue to review its information sets to identify whether some can be provided in an open data format.

#### **Informing the Public**

OGE is committed to proactively disclosing information to advance transparency, accountability, and openness. OGE's website, <u>www.oge.gov</u>, is its primary tool for communicating with its stakeholders, including the public. In the past few years, OGE implemented a new strategy for providing information to the public through Director's Notes posted on the homepage of OGE's website. Director's Notes provide a public-friendly explanation of OGE's role in the executive branch ethics program, ethics rules and regulations, OGE's programs and initiatives, and current ethics issues. In 2015, OGE published 7 Director's Notes on important topics, such as OGE's new approach to ethics education, OGE's relationship with the Inspector General community, and enhancing the international dialogue on good governance. OGE also has a space on its homepage, called OGE News, to provide current news and information about OGE and the executive branch ethics program in a public-friendly manner.

In addition, OGE uses social media to broaden its reach to key stakeholders. Specifically, OGE uses <u>Twitter</u> to direct the public to detailed information on its website and to provide an additional way to access OGE's latest publications. OGE also uses its Twitter account to reach a broader audience and to provide public-friendly explanations of executive branch ethics laws, regulations, and programs. In addition, OGE has expanded its use of social media by creating new <u>Google+</u> and <u>YouTube</u> pages. OGE uses these accounts to live-stream ethics education offerings and events such as the <u>National Government Ethics Summit</u> (see description below).

Lastly, in March 2016, OGE held the second <u>National Government Ethics Summit</u>, which brought together executive branch ethics officials and other stakeholders, including ethics officials from the other branches of the federal government, representatives from other countries and international organizations, staff from various offices of Inspectors General, members of the press, advocates from good government groups, and noted thinkers from academia. OGE designed the 2016 Summit to strengthen the executive branch ethics program by providing attendees with opportunities to deepen their knowledge of the ethics rules, share lessons learned through extensive practical experience, listen to viewpoints from outside government, and build connections with ethics officials who can assist in resolving even the most complex ethics issues. Speakers included executive branch ethics officials, former White House attorneys from three Presidential administrations, academics, representatives of good government groups and other nonprofits, and government officials expert in areas as diverse as governmental travel rules, the Hatch Act, and the Freedom of Information act. As a means of both expanding the reach of the Summit and increasing the transparency of the executive branch ethics program, OGE increased the number of live-streamed sessions compared to the last Summit. This afforded additional stakeholders and interested members of the public significant access to the Summit. OGE also posted recordings of these events on its <u>YouTube</u> and <u>Google+</u> pages, so that they will remain available for future viewing. OGE plans to build upon this open format for future Summits and events.

#### **Freedom of Information Act**

In its <u>annual assessment of agency progress</u> in implementing the Attorney General's FOIA Guidelines for 2016, DOJ's Office of Information Policy (OIP) awarded OGE the highest possible score for having an effective system in place for responding to FOIA requests, increasing proactive disclosures, improving timeliness in responding to requests, utilizing technology, and applying a presumption of openness in responding to FOIA requests. OGE has no backlog of requests.

On its official website, OGE provides the public with a description of its Freedom of Information Act (FOIA) program, organizational structure, process for analyzing and responding to FOIA requests, a link to OGE's FOIA regulation, and an explanation of how requesters can check the status of a request. OGE's FOIA Annual Reports and Chief FOIA Officer Report are publicly available at https://www.oge.gov/Web/OGE.nsf/Freedom+of+Information+Act+(FOIA)+Reports?openview.

OGE's FOIA Office is also uniquely situated to gain a sense of the types of materials the public is seeking. As a result, OGE includes distinct steps in OGE's FOIA processes for identifying records for proactive disclosure on OGE's website. OGE will continue to implement these steps when processing FOIA requests. In addition, during the next two years, OGE plans to reevaluate whether it has additional categories of records of significance that may be appropriate for proactive disclosure.

In the near future, OGE plans to revise its FOIA regulations in accordance with the FOIA Improvement Act of 2016. OGE is also in the process of evaluating and updating its FOIA practices to incorporate the requirements of the Act and maximize and further integrate a presumption of openness.

OGE's FOIA Office continues to utilize technology to strengthen the response processes and improve customer service. In particular, in fiscal year 2015 OGE built a FOIA tracking database and document management system. The system also includes a public-facing online <u>portal</u> that provides requesters self-service tracking of FOIA requests.

#### **Congressional Requests**

The majority of congressional requests for information are made by phone. OGE generally responds to these requests within one or two business days. In addition, when OGE receives a letter from a Member of Congress requesting information on his or her own behalf or on behalf of a constituent, OGE has a process in place to timely respond in writing. Written correspondence from OGE to Congress is posted to OGE's website at <a href="https://www.oge.gov/web/oge.nsf/Congressional%20Correspondence?OpenView">https://www.oge.gov/web/oge.nsf/Congressional%20Correspondence?OpenView</a>.

#### **Records Management**

OGE has a Records Officer who also serves as OGE's designated Senior Agency Official (SAO) responsible for ensuring the agency's compliance with records management statutes and the implementing regulations of the National Archives and Records Administration (NARA). OGE has established and disseminated records management policies and procedures to ensure that all records, including email, are maintained and disposed of according to NARA-approved records disposition schedules. OGE is currently implementing plans to achieve compliance with the requirements set forth in the Managing Government Records Directive of August 24, 2012, M-12-18. OGE's SAO submitted a 2015 Annual Status Report of its progress toward this goal. In fiscal year 2015, OGE completed its project to digitize all temporary and permanent paper records and implemented new standard operating procedures to manage all electronic records, including email, within its new electronic recordkeeping system. OGE also updated its website with <u>information</u> about its records management program in calendar year 2016.

#### Privacy

Protecting the privacy of both federal employees and the public is a high priority for OGE. OGE maintains Privacy Impact Assessments for its information technology systems in keeping with Office of Management and Budget guidance, and has also recently updated its Privacy Act System of Records Notice for its system of records containing public financial disclosure reports and other name-retrieved ethics program records. In addition, OGE recently updated and redesigned the Privacy Act portion of its website to be user-friendly. The information found on OGE's Privacy Act Information page includes how to file a Privacy Act request, OGE's Privacy Act system of records notices and privacy impact assessments, and OGE's breach policy. The page provides links to all the relevant documents in one, easy-to-navigate place.

OGE has no computer matching agreements and does not engage in data mining as defined by the Federal Agency Data Mining Act. OGE submitted the Senior Agency Official for Privacy (SAOP) questions in its 2015 annual Federal Information Security Management Act (FISMA) report. OGE is not subject to any other privacy compliance reporting requirements.

#### **Digital Strategy**

OGE is in the process of creating a Digital Strategy page on its website. OGE uses Google Analytics to assess the usability and ease of navigation of OGE's website. In addition, OGE creates a bi-annual communications report that highlights website metrics for www.oge.gov, such as top search terms and most viewed pages. OGE also tracks inquiries from its stakeholders, including inquiries related to finding content on OGE's website, through its Agency Information Management System (AIMS). This information allows OGE to improve user navigation to OGE's most popular webpages. In 2016, OGE updated its website and added several features making it easier to use, such as improved search capability.

#### **Whistleblower Protection**

OGE takes seriously its obligation to inform its workforce about the rights and remedies available to them under the whistleblower laws, as well as to meet the requirements of the second Open Government National Action Plan. Notably, OGE has obtained certification from U.S. Office of Special Counsel (OSC) that its employees are informed of the rights and remedies available to them under the Civil Service Reform Act (CSRA), the Whistleblower Protection Act (WPA), the Whistleblower Protection Enhancement Act (WPEA), and related laws. OGE received this certification on June 1, 2015 – a month ahead of the target date set in OGE's 2014-2015 Open Government Plan. As required by law, OGE provides information about the 13 prohibited personnel practices and whistleblower disclosures to new employees as part of the orientation process.

#### **Other Government-Wide Transparency Initiatives**

OGE is not currently using eRulemaking because of the comparatively low volume of its rulemaking. However, OGE posts all of its <u>Federal Register issuances</u> on its website. OGE also posts pending rules and notices with associated comments for major rule-making and policy initiatives on its website. OGE also informs the public regarding pending rules and notices on its Twitter feed.

OGE does not administer grant programs as tracked by Recovery.gov or listed on Grants.gov; nor does OGE administer any federal assistance programs as tracked and reported on CFDA.gov. OGE is also not required to report on the IT Dashboard or to have a declassification program. With regard to USASpending.gov, SAM.gov, and FSRS.gov, OGE relies on the U.S. Department of Treasury, Bureau of Fiscal Service (BFS), a shared service provider, for its accounting and financial systems and reporting requirements. Through BFS, OGE reports as required on USASpending.gov and SAM.gov. In addition, BFS includes a clause in all applicable contracts stating that the contractor must report in FSRS.gov for all contracts of \$25,000 or more.

Because OGE is a microagency focused on preventing conflicts of interest within the executive branch of the federal government, OGE does not engage in open innovation practices nor is it subject to requirements regarding access to scientific data and publications. Furthermore, OGE has no custom software code that is appropriate for release to the public. OGE does make some of the code developed by its employees available for federal government reuse.

### **Participation**

Participation allows the public to contribute ideas and expertise so that OGE can make decisions and create policies with the benefit of information that is widely dispersed in society.

OGE maintains <u>Twitter</u>, <u>Google+</u>, and <u>YouTube</u> accounts through which the public can interact with OGE. In addition, OGE contact information is available on the OGE website at <u>www.oge.gov</u>. This contact information includes both email addresses and phone numbers. Members of the public regularly contact OGE using these methods to ask questions, raise issues, and make suggestions. To ensure a timely response to general questions from the public, OGE maintains a rotating assignment for responding to requests for information from the public through <u>ContactOGE@oge.gov</u> or by phone (202-482-9300). OGE ensures that a person is available to respond to these requests daily. OGE also posts the above email and phone number and specifically solicits feedback on various pages of its website, such as the Open Government and Plain Language pages. Lastly, OGE publishes all of its Federal Register issuances on its website and posts tweets notifying the public when new Federal Register notices are published and open for public comment.

#### **Collaboration**

OGE also collaborates with stakeholders both inside and outside the federal government to achieve its mission to prevent and resolve conflicts of interest and its vision of achieving a high level of public confidence in the integrity of executive branch programs and operations. These stakeholders include executive branch ethics officials, members of the general public, state and local governments, private sector organizations, professional associations, government watchdog groups, the media, and international anti-corruption organizations.

As discussed above, OGE is in the midst of an important collaboration with other government and non-government entities in support of the 2017 Presidential transition. In addition, OGE has a number of other initiatives designed to promote collaboration with its stakeholders. OGE's Director holds quarterly meetings with senior agency ethics officials to share information critical to managing an effective ethics program, encourage discussion of current ethics issues facing the executive branch, and consult with agency ethics officials regarding contemplated changes in OGE's policies. OGE also convenes focus groups to discuss ethics topics on which OGE plans to issue written guidance. In addition to convening focus groups, OGE circulates drafts of its advisories to ethics officials across the executive branch with the greatest experience in the matters addressed in the advisories. Over the next few years, OGE plans to leverage technology to begin soliciting feedback on draft regulations and legal advisories from agency ethics officials through MAX.gov and other digital collaboration platforms.

Further, OGE organizes quarterly "three branch meetings," with the most senior ethics practitioners from each branch of government to exchange information and discuss experiences related to key topics of common interest. OGE also participates in professional, good government, and interagency groups to discuss emerging ethics issues and trends, share model practices, develop sound ethics policies, and combine resources to more effectively ensure that government decisions are made for the benefit of the public and not private gain. For example, OGE is a member of the Ethics and Compliance Officer Association (ECOA), the Council on Governmental Ethics Laws (COGEL), and the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

As mentioned above, in March 2016, OGE held the second National Government Ethics Summit and a Symposium on Financial Disclosure. The Summit exposed participants to the insights of speakers from both inside and outside the government, particularly in relation to the theme of the Summit, "The Presidential Transition." During the next Presidential transition, executive branch ethics officials will review the financial disclosure reports of Presidential nominees. They will need to work expeditiously to make sure nominees are free of conflicts of interest, so top leadership positions can be filled quickly. They will also advise departing officials on post-employment restrictions, train incoming employees on conflicts of interest laws and the Standards of Conduct, and support new leaders in maintaining high ethical standards within their agencies. As part of this effort, the 2016 Summit provided members of the government ethics community with opportunities to deepen their knowledge of the ethics rules, share lessons learned through extensive practical experience, listen to viewpoints from outside government, and build connections with fellow ethics officials who can lend a hand in resolving complex ethics issues. These sessions fostered increased understanding among OGE's stakeholders about the executive branch ethics program and how it protects the public trust. The Summit also laid the groundwork for future collaboration between OGE, agency ethics officials, and other stakeholders. OGE continues to build upon this success as it collaborates with stakeholders inside and outside the government in ongoing efforts to support our nation's peaceful transition of power.

## Conclusion

Building public confidence in the impartiality of government decision-making is at the core of OGE's mission. To support its mission and the principle of an open government, OGE will continue to direct resources toward raising the visibility of OGE and the systems in place to identify and resolve conflicts of interest and making ethics documents publicly available. To comment on OGE's Open Government Plan and initiatives, please send a message to <u>ContactOGE@oge.gov</u>. For additional information please see the list of webpages on the following page.

# Useful Webpages

General Information		
About OGE	https://www.oge.gov/web/oge.nsf/About+OGE/	
Organizational	https://www.oge.gov/web/oge.nsf/f6b889fff419dad885257eab00426729/1194fd5a8e2e118a852	
Chart	57eab0057982e?OpenDocument&Highlight=0,organizational,chart	
Performance	https://www.oge.gov/Web/OGE.nsf/Performance+&+Strategic+Documents	
and Strategic		
Documents		
Important	https://www.oge.gov/web/oge.nsf/Dates%20and%20Deadlines	
Dates and		
Deadlines		
Director's	https://www.oge.gov/web/oge.nsf/Director's%20Notes?OpenView	
Notes		
International	https://www.oge.gov/web/oge.nsf/International+Activities	
Activities	A seconda D secola	
Former Librorer	Access to Records https://www.oge.gov/web/oge.nsf/OGE+Forms	
Forms Library Presidential	https://www.oge.gov/Web/OgE.nsf/Presidential+Appointee+&+Nominee+Records	
Appointee and	<u>nups://www.oge.gov/web/OGE.nsi/Presidential+Appointee+&amp;+Nominee+Records</u>	
Nominee		
Records		
Program	https://www.oge.gov/Web/OGE.nsf/Program%20Review%20Reports	
Review		
Reports		
Travel Reports	https://www.oge.gov/Web/OGE.nsf/Travel%20Reports	
Information Regarding the Ethics Laws and Regulations		
Ethics Laws	https://www.oge.gov/web/oge.nsf/Laws+and+Regulations/	
and		
Regulations		
Standards of	https://www.oge.gov/Web/OGE.nsf/Employee+Standards+of+Conduct	
Conduct		
Legal	https://www.oge.gov/web/oge.nsf/Legal%20Advisories	
Advisories		
Ethics Training		
YouTube	https://www.youtube.com/user/OGEInstitute	
Google+	https://plus.google.com/112724308837600656840/posts	
OGE News		
News Media	https://www.oge.gov/web/oge.nsf/Media+Resources	
RSS Feed	https://www.oge.gov/Web/OGE.nsf/RSSNews	
Twitter	https://twitter.com/officegovethics	