



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

November 13, 2008

Michael J. Thibault  
Majority Co-Chair  
Commission on Wartime Contracting

Grant S. Green  
Minority Co-Chair  
Commission on Wartime Contracting  
1401 Wilson Boulevard, Suite 300  
Arlington, VA 22209

Dear Mr. Thibault and Mr. Green:

This responds to your letter of October 30, 2008, to the Office of Government Ethics (OGE), inquiring as to the effect of the executive branch ethics rules on a commissioner of the Commission on Wartime Contracting (CWC), a legislative commission, who also serves on an advisory committee for the Department of Defense (DoD), a committee within the executive branch. A CWC commissioner's work as an employee of the legislative branch does not impact the application of the executive branch ethics rules with respect to his service as an employee of the executive branch.

Specifically, you seek assurance that a commissioner's time spent performing CWC business does not jeopardize the less than sixty-day special Government employee (60-day SGE) status of a commissioner who also serves on a DoD advisory committee. You have indicated that the commissioner serves on the DoD advisory committee for no more than 60 days of the immediately preceding period of 365 consecutive days, qualifying him for 60-day SGE status. You have also deduced that time spent participating in CWC business does not count toward the 60-day SGE limit because the CWC is part of the legislative branch, and not part of the executive branch. To that extent, OGE agrees with your conclusion. Time spent working as an employee of the legislative branch is not commingled with time spent working as an employee of the executive branch for purposes of calculating SGE status, including for a 60-day SGE. Thus, the commissioner's time spent working CWC business would not jeopardize his 60-day SGE status.

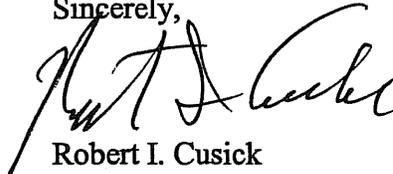
Additionally, in a November 6, 2008 conversation with Shelley Finlayson, OGE Associate Director for Legislative Affairs, Tom Barlow of your office inquired as to the application of ethics rules to an employee detailed to the CWC from the executive

Michael J. Thibault  
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branch. Executive branch employees on any detail must comply with the executive branch-wide ethics rules, any supplemental ethics regulations promulgated by the detailee's employing agency, and any rules that apply to the detailee's new employer. For example, an employee on detail to the CWC from DoD must comply with the executive branch-wide ethics rules, any DoD supplemental regulations, and the ethics rules that apply to the CWC. OGE recommends that commissioners and CWC employees, who are also executive branch employees, should seek ethics advice from the ethics counselor of their respective executive branch agencies.

OGE appreciates your sensitivity to the executive branch ethics program. As you can plainly see, the ethics rules for executive branch employees can be quite complicated to navigate. Please don't hesitate to contact me if OGE can be of any further assistance.

Sincerely,



Robert I. Cusick  
Director

KDees/KD(rj)  
LG 1  
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Read File  
Shelley Finlayson