



United States  
**Office of Government Ethics**  
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MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Don W. Fox  
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SUBJECT: New GAO Report; Documenting Ethics Advice

One element of an agency ethics program is that the Designated Agency Ethics Official "shall ensure that . . . [r]ecords are kept, when appropriate, on advice rendered." 5 C.F.R. § 2638.203(b)(8). Accordingly, on numerous occasions, the Office of Government Ethics (OGE) has emphasized the need to document advice given to individual employees and former employees, where practicable. E.g., OGE List Serve Message to Agency Ethics Contacts, No. 279 (January 17, 2008); DAEOgram DO-05-019 (November 17, 2005); Ethics Program Review Guidelines 18-19 (October 2004).

A recent Government Accountability Office (GAO) report further highlights the importance of implementing regular practices for recording ethics advice. See GAO, Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements 12-16 (July 2008), <http://www.gao.gov/new.items/d08855.pdf>. The GAO report noted specifically that officials from the Department of Justice and several agency Inspector General offices reported "that the lack of consistent documentation of specific advice given to departing and former senior federal employees on post-government employment restrictions presents a challenge to enforcing post-government employment restrictions." Id. at 13.

Consistent with the recommendations in the GAO report, OGE strongly encourages agency ethics officials to document ethics advice provided to current and former employees. Additionally, ethics officials should establish close working relationships with their respective Inspector General offices. This includes providing Inspector General personnel with information when needed about the ethics advice given to specific individuals. This also may include providing training and other assistance to help Inspector General personnel understand better the criminal conflict of interest laws, standards of conduct, and pertinent supplemental agency regulations.