



United States
Office of Government Ethics
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LEGAL ADVISORY

TO: Designated Agency Ethics Officials

FROM: Don W. Fox, General Counsel

SUBJECT: PAY-LEVEL THRESHOLDS OF ETHICS PROVISIONS REMAIN AT 2011 LEVELS FOR CALENDAR YEAR 2012

This Legal Advisory reminds agencies that the statutory pay-level thresholds for certain purposes under either the Ethics in Government Act (Ethics Act) or 18 U.S.C. § 207(c) will remain the same as last year.

President Obama signed an Executive Order on December 19, 2011, containing the 2012 pay schedules for certain Federal civilian employees. Pursuant to section 147 of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111-242), as amended by section 1(a) of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111-322), the Executive Order provides that the 2012 pay rates for civilian employee pay schedules covered by the Order are not adjusted and remain at 2011 levels. As a result, the following three threshold levels will remain the same as last year:

- The statutory threshold to determine which officers and employees must file public financial disclosure reports under title I of the Ethics Act, *see* 5 U.S.C. app. § 101(f)(3), is 120% of the minimum rate of the basic pay for grade GS-15 of the General Schedule. For calendar year 2012, that level will continue to be \$119,553.60.
- The statutory threshold to determine which employees are subject to the post-employment conflict of interest restrictions of 18 U.S.C. § 207(c)(1) is provided at 18 U.S.C. § 207(c)(2)(ii). That threshold level, which is 86.5% of the annual rate of basic pay for level II of the Executive Schedule, will continue to be \$155,440.50 for calendar year 2012.
- Title V of the Ethics Act, *see* 5 U.S.C. app. § 501(a), sets forth outside employment and outside earned income restrictions for certain covered noncareer employees, barring them from earning in any calendar year outside earned income that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule. Both section 501(a) and OGE's regulation at 5 C.F.R. § 2636.304 require the use of the Executive Schedule pay level in effect on January 1 of the year in consideration. Effective January 1, 2012, 15% of the annual rate of basic pay for level II of the Executive Schedule will continue to be \$26,955.00.