



May 11, 2017  
PA-17-03

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Dale A. Christopher, Jr.  
Deputy Director for Compliance

SUBJECT: Certification of Ethics Agreement Compliance by Senate-Confirmed Presidential Appointees

In order to simplify and make uniform the process for reporting and monitoring compliance with ethics agreements, the U.S. Office of Government Ethics (OGE) is adopting the attached Certification of Ethics Agreement Compliance (Certification). The adoption of this Certification will also increase transparency regarding the actions that the executive branch's most senior leaders are taking to resolve potential conflicts of interest. This Certification is now required for all Senate-confirmed Presidential appointees whose financial disclosure reports OGE reviewed in connection with the nomination process.<sup>1</sup>

An ethics agreement is a statement of relevant commitments that describes specific steps the individual will, if confirmed, undertake to achieve compliance with specific ethics requirements. Unless a date for compliance is indicated in the ethics agreement, the individual must fully comply within three months of confirmation with any action specified in the ethics agreement.<sup>2</sup> Thereafter, the Designated Agency Ethics Official (DAEO) of the employing agency is required to promptly provide OGE with evidence of the individual's compliance with the ethics agreement.<sup>3</sup> Ordinarily, OGE expects the DAEO to provide the documentation of compliance within seven days of the deadline, or sooner if the individual completes all required steps before the deadline.

As always, OGE will contact agency ethics officials to remind them of the ethics agreement compliance notification requirement shortly after the Senate has confirmed an individual. At that time, OGE will send agency ethics officials a copy of the attached Certification. OGE will already have completed block 1 ("Appointee's Information") and, when

---

<sup>1</sup> This requirement is effective immediately with respect to all such appointees—regardless of when confirmed or appointed—whose full compliance with their ethics agreements has not been demonstrated in documentation received, prior to the date of this Program Advisory, by OGE.

<sup>2</sup> See 5 C.F.R. § 2634.802(b).

<sup>3</sup> See 5 C.F.R. § 2634.804(a)(2).



applicable, part of block 10 (“Additional Ethics Agreement Requirements”). In turn, agency ethics officials should provide this partially completed Certification to the individual. Ideally, they will provide it to the individual during the initial ethics briefing<sup>4</sup> so that they can explain how to complete the Certification and answer any questions the individual may have.

The individual will need to complete the rest of the Certification, sign and date it, and submit it to the agency ethics officials by the deadline identified in block (1)(f). OGE expects that, in every case, the individual will report full compliance by this deadline.<sup>5</sup> If permitted by agency ethics officials, OGE will accept authenticated electronic signatures, including those authenticated by agency-issued PIV or CAC cards or by commercial services.<sup>6</sup> After carefully reviewing the Certification and working with the individual to correct any errors, agency ethics officials should promptly email the signed Certification to OGE at [eacompliance@oge.gov](mailto:eacompliance@oge.gov).

OGE will post the Certification, which OGE deems an addendum to the ethics agreement demonstrating the individual’s compliance,<sup>7</sup> on OGE’s website for public viewing.<sup>8</sup> In light of this public release mechanism, agency ethics officials should caution individuals filing Certifications not to include extraneous personal information. It is not necessary to include other materials with the Certifications, unless specifically requested by OGE. If an individual fails to submit a Certification by the deadline, OGE will post on its website a statement indicating that OGE has not received the required Certification by the deadline.<sup>9</sup>

This Program Advisory supersedes earlier issuances addressing ethics agreement compliance tracking with respect to Senate-confirmed Presidential appointees. Agency ethics officials who have questions about this Program Advisory may contact the Chief of OGE’s Program Review Branch, Douglas L. Chapman, at (202) 482-9223 or [eacompliance@oge.gov](mailto:eacompliance@oge.gov).

---

<sup>4</sup> See 5 C.F.R. § 2638.305.

<sup>5</sup> In the event that the individual has not completed all steps specified in the ethics agreement, the individual should nonetheless submit the Certification by the indicated deadline. The individual may provide an explanation in block 11 of the Certification. OGE will require the individual to submit a second Certification when the individual subsequently achieves full compliance. Note that extensions are rarely granted. Even in the rare case that OGE grants an extension, upon acceptance of a written showing of good cause by the individual, the individual must submit the Certification by the deadline and submit a second certification upon subsequently achieving full compliance.

<sup>6</sup> Agency ethics officials should ensure that any electronic signatures used comply with requirements established by their agencies’ Chief Information Officers and any other applicable requirements. OGE will defer to agency ethics officials’ determinations regarding compliance with applicable requirements.

<sup>7</sup> Note that the Certification will not be construed to modify any ethics agreement commitments.

<sup>8</sup> In the rare case that an individual submits a second Certification, the Compliance Division will post both Certifications on the website.

<sup>9</sup> Thereafter, when the individual submits the Certification, OGE will post both this statement and the subsequently received Certification.

<b>CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE</b>		
Senate Confirmed Presidential Appointee		
1. Appointee's Information	a. Appointee's Name:	to be completed by OGE
	b. Position Title:	to be completed by OGE
	c. Agency:	to be completed by OGE
	d. Date Ethics Agreement Signed:	to be completed by OGE
	e. Date Confirmed:	to be completed by OGE
	f. Due Date for Certification of Ethics Agreement Compliance:	to be completed by OGE
2. Resignations	<i>I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position.</i>	Yes          No          N/A
3. Divestitures	a. <i>I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval.</i>	Yes          No          N/A
	b. <i>I have filed a period transaction report, or periodic transaction reports, (OGE Form 278-T) to disclose the completion of these agreed upon divestitures.</i>	Yes          No          N/A
		Filing Date(s) of OGE Form 278-T Report(s):
4. Managed Accounts	<i>If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases.</i>	Yes          No          N/A
5. Interim Recusals	<i>I complied with my interim recusal obligations pending the divestitures required by my ethics agreement.</i>	Yes          No          N/A

6. Recusals	a. <i>I am recusing from particular matters in which I know I have a <u>personal</u> or <u>imputed</u> financial interest directly and predictably affected by the matter, unless I have received a waiver or qualify for a regulatory exemption.</i>	Yes	No	
	b. <i>I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</i>	Yes	No	N/A
	c. <i>I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13770.</i>	Yes	No	N/A
7. Waivers and Authorizations	a. <i>I received a waiver pursuant to 18 U.S.C. § 208.</i>	Yes	No	
	If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.	Date:	Financial interest:	
	b. <i>I received a waiver pursuant to Executive Order 13770.</i>	Yes	No	
	If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).	Date:	Subject:	
c. <i>I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</i>	Yes	No		
If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).	Date:	Covered person(s):		
d. <i>I received a waiver pursuant to 5 C.F.R. § 2635.503(c).</i>	Yes	No		
If yes, indicate the date of the waiver and identify the former employer or payer.	Date:	Former employer or payer:		

8. Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service	Mark this box if not applicable:	a. <i>If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</i>	<i>I received it (or it was accelerated) <u>prior to my</u> assumption of the duties of the position.</i>  <i>I received it (or it was accelerated) <u>after</u> my assumption of the duties of the position.</i>  <i>I forfeited it.</i>		
		b. Financial interest or payment at issue:			
9. Requirements for Regular Appointees	<i>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</i>  If you are a Special Government Employee (SGE) or career Foreign Service Officer (FSO), select N/A.		Yes	No	N/A
	<i>I have signed the ethics pledge pursuant to Executive Order 13770.</i>  If you are a SGE or career FSO or previously signed the pledge, select N/A.		Yes	No	N/A
10. Additional Ethics Agreement Requirements	to be completed by OGE	to be completed by appointee	<i>I am complying with these requirements as described in the adjacent box.</i>  Yes                  No                  N/A		
11. Comments of Appointee					
Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.					
<i>I certify that the information I have provided is complete and accurate.</i>		Appointee's Signature:		Date:	