From: Cassady, Alison
To: ethics
Subject: Alison Cassady Ethics Form - Signed
Date: Sunday, January 24, 2021 2:17:15 PM
Attachments: Biden Ethics Pledge for digital signature SIGNED.pdf

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Alison L. Cassady
Deputy Chief of Staff for Policy
U.S. Environmental Protection Agency
Cell: (b) (6)

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban*. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. *Revolving Door Ban — All Appointees Entering Government*. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government*. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq*., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq*., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

4. *Revolving Door Ban — Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

6. *Revolving Door Ban — Appointees Leaving Government to Lobby*. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

7. *Golden Parachute Ban*. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

8. *Employment Qualification Commitment*. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. *Assent to Enforcement*. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

Cassady, Alison Digitally signed by Cassady, Alison Date: 2021.01.24 14:16:23 -05'00'

Signature

January 24, 2021

Date

Name (Type or Print): Alison L. Cassady

From: Fugh, Justina
To: Alison Cassady
Cc: Clarke, Victoria
Subject: confirmation of our conversation earlier today
Date: Monday, January 18, 2021 10:22:00 PM

Hi Alison,

Thanks for talking to Victoria and me earlier today and for sharing your "first person" account of January 6th. Let's hope for a peaceful orderly inauguration! Stay safe! As we said, we're here to help explain the ethics rules that will apply to you when you join EPA as a non-career SES appointee in the Office of the Administrator. These rules aren't really much different from what you navigated on the Hill, but there may be some nuanced differences.

You'll be subject to the federal ethics laws and regulations for executive branch employees and, most likely, a Biden Ethics Pledge set forth by Executive Order. This note will provide you with the broad brush strokes of what I envision as your ethical obligations, recognizing that we don't yet know the contours of a Biden pledge. That said, since you are coming to EPA from the Hill after a brief stop on the campaign, we don't expect the pledge to impact this advice significantly.

FINANCIAL CONFLICTS OF INTEREST

- You will be required to fill out a public financial disclosure report to help us to ascertain your potential conflicts issues. Put simply, we will be looking at your ownership interests in stocks, bonds, sector mutual funds as well as any fiduciary positions that you hold in entities. This form, called the OGE-278e, is a wretched and exacting document that you will fill out electronically. I've assigned you a report using your personal email address for now; later, when you get an EPA email address, I'll change your user ID. I sent you a message already with directions and helpful hints.
- From our discussion, it seems you're (b) (6) [redacted]. This sort of investment does not present conflicts.
- (b) (6) [redacted] Given your description of your assets, I do not anticipate that you will present any financial conflicts.

IMPARTIALITY

- You haven't worked outside of the federal government or the campaign in the past year, so you won't have any recusal issues under the federal rules. However, if the Biden pledge extends the "look back" period for two years (and we simply do not know), then the Center for American Progress could be on a recusal list for you.

Overall, we don't anticipate any ethics issues for you coming into EPA, and we That's my quick overview, but I tried not to burden you with attachments or citations. I can provide you more information if you want, though, so just ask!

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Alison Cassady
To: Fugh, Justina
Subject: Re: Hello from EPA Ethics!
Date: Monday, January 18, 2021 11:35:13 AM

I'm so sorry I was late! Thank you for your patience and help walking me through this.

Alison

On Sun, Jan 17, 2021 at 10:27 PM Alison Cassady <(b) (6) > wrote:

> great, thanks!
>
> On Sun, Jan 17, 2021 at 10:22 PM Fugh, Justina <Fugh.Justina@epa.gov> wrote:
>
> > Hi there,
> >
> > Let's have you call into my conference line at (b) (6) , code is (b) (6) , at 11 am eastern time. That way, a member of my team can be on the call too. I've been an EPA employee for more than 30 years, so I'm trying to ensure that my team gets as much transition experience as possible!
> >
> > Talk to you tomorrow!
> > justina
> >
> > Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772
> >
> > **From:** Alison Cassady <(b) (6) >
> > **Sent:** Sunday, January 17, 2021 9:06 PM
> > **To:** Fugh, Justina <Fugh.Justina@epa.gov>
> > **Subject:** Re: Hello from EPA Ethics!
> >
> > Justina,
> >
> > I am free any time tomorrow after 11am.
> >
> > The good news is that I had to complete financial disclosure documents when I left the House in September, so I have all of the relevant information compiled. I don't think I will have any conflicts, so hopefully this will be an easy conversation!
> >
> > I'm at (b) (6) .
> >
> > Thanks,
> >
> > Alison Cassady
> >
> > On Sun, Jan 17, 2021 at 8:37 PM Fugh, Justina <Fugh.Justina@epa.gov> wrote:
> >
> > > Hi there,
> > >
> > > My name is Justina Fugh, and I'm the director of the EPA Ethics Office. I understand

from Sinceré Harris that you will be joining EPA very soon in the position of Deputy Chief of Staff for Policy, which will be a non-career SES appointment. Congratulations! In this position, you will be required to file a public financial disclosure report and abide by federal ethics laws and regulations.

I would like to talk with you to ascertain whether you'll present any ethics issues that will require recusal. As you are coming to us from the Hill, we won't have any concerns with your prior employer, but I will need to ascertain if you have any possible financial conflicts or loss of impartiality concerns. Will you be available to talk tomorrow, January 18? If so, let me know when, and I'll set up a call.

Thanks,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: ethics
To: Cassady, Alison; ethics
Subject: RE: Question about financial disclosure
Date: Tuesday, February 16, 2021 10:34:53 AM

Hello, because it's in a tax-deferred account, you do not "earn" income, so you can check "none or less than $201" for (b) (6).
Sincerely, Ferne

Ferne L. Mosley, Attorney-Advisor
U.S. Environmental Protection Agency
Ethics Office/Office of General Counsel
William Jefferson Clinton Building North, Room 4113A
1200 Pennsylvania Ave, NW
Washington, DC 20460
(202) 564-8046 (desk)
(202) 306-2998 (mobile)
mosley.ferne@epa.gov

From: Cassady, Alison <Cassady.Alison@epa.gov>
Sent: Sunday, February 14, 2021 9:17 PM
To: ethics <ethics@epa.gov>
Subject: Question about financial disclosure

Hello,
Apologies for the dense question, but:
I am filling out my financial disclosure form—specifically, the section about retirement accounts.
(b) (6) [redacted]. Do I answer YES or NO to the question: *Did you receive more than $200 in payments from this plan during the reporting period?*
Thank you,
Alison

Alison L. Cassady
Deputy Chief of Staff for Policy
U.S. Environmental Protection Agency
Cell: (b) (6) [redacted]

From:	Fugh, Justina
To:	Arroyo, Victoria; Carbonell, Tomas; Cassady, Alison; Chaudhary, Dimple; Fine, Philip; Harris, Sincere; Hoffer, Melissa; Katims, Casey; Lucey, John; Utech, Dan
Subject:	Welcome (really) to the wonderful world of public financial disclosure reporting!
Date:	Monday, January 25, 2021 12:58:00 AM
Attachments:	Advisory - 278 and 278T reporting obligations January 2021 digitally signed.pdf reporting periods for 278s.docx When to Report Transactions on the OGE 278 and Part 7 - November 2020.docx

Hi there,

In your position you are required by the Ethics in Government Act of 1978 to file the Public Financial Disclosure Report. Using your EPA email address, I have now assigned you a new entrant report that we'll review. Having this information will allow us to assess your conflicts issues and then to draft recusal statements for those of you who need them. Don't worry … we're here to help you.

DEADLINE FOR SUBMITTING THE REPORT

Technically, your "new entrant" report is due no later than 30 days from your start date at EPA or 2/19/21. If you need additional time, you must contact ethics@epa.gov before your deadline expires. There is a limit to how much additional time we can give you, and we can't grant any extension after the fact.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

EPA uses an electronic filing system (www.INTEGRITY.gov) for the public financial disclosure reports that is operated and secured by the U.S. Office of Government Ethics (OGE). You are required by law to complete the form, and we will use it to determine whether you have any financial conflicts of interest or other ethics concerns. We have pre-populated the address field with EPA's address because, well, this is a public form and we don't want anyone to know your personal address. For help in INTEGRITY, check out the OGE Public Financial Disclosure Guide. The email from INTEGRITY.gov will provide you with specific instructions to log into the federal government's max.gov site, the gateway to INTEGRITY. If you didn't receive your account notification, then check your clutter box for messages from INTEGRITY.gov, or contact ethics@epa.gov.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of $200 for not filing your report timely.

REQUIREMENT TO ANSWER ANY FOLLOW UP QUESTIONS WITHIN 14 DAYS

We will review your report as quickly as possible. If we have any questions, then we will notify you. At that point, you will have 14 calendar days to respond and resubmit your report back to us with any necessary changes.

REPORTING TRANSACTIONS

While you are in this position, you are a public financial disclosure filer who is subject to certain additional requirements of the Ethics In Government Act as amended by the STOCK Act. You will be required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds $1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. We will go

over this requirement during your initial ethics training, but I've also attached our reminder about late fees and when to report transactions. Remember, you are responsible for reporting transactions, even if you have a managed account, and you will be fined for a tardy periodic transaction report.

YES, YOU CAN BE FINED FOR NOT FILING PROMPTLY

It's worth repeating that you can be fined $200 for not meeting the submission deadline (and you still have to file that report). PLEASE pay attention to your filing requirements! If you need an extension, then you must ask before your deadline expires. There is a limit to how much additional time you may receive.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form, so just know that you will have to provide a lot of information.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income, and other assets and income. You must report assets for yourself, your spouse and any dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than $1000. Include any income from any source that exceeded $200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than $5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation but, for these assets in tax deferred instruments, you do not need to provide the amount of income accrued.
- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan information
- If you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- If your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments. Do not report term life insurance.
- If you have nothing to report in a section, be sure to click the "nothing to report" button
- The various parts of the form have different reporting periods, so please consult the attached "reporting periods" chart. Remember to check out the Office of Government Ethics' Public Financial Disclosure Guide or to contact OGC/Ethics for help.

If you have any questions regarding this message or your obligations, then please contact me or anyone in the OGC Ethics Office at ethics@epa.gov. Good luck with the form and remember, we can answer any questions you may have.

Cheers,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

January 22, 2021

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: Justina Fugh Justina Fugh Digitally signed by Justina Fugh Date: 2021.01.22 12 07:49 -05'00'
Alternate Designated Agency Ethics Official

TO: All EPA Political Appointees

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app. to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position, you are required by this law to file these reports in the electronic system, *INTEGRITY*. As an executive branch employee, you are bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations. These reports are publicly available upon request and the reports of certain Presidential Appointees confirmed by the Senate will be posted on the U.S. Office of Government Ethics' website at www.oge.gov.

This memorandum formally informs you that you are required by law to file timely and accurate Public Financial Disclosure Reports (OGE 278e)[1] and Periodic Transaction Reports (OGE 278-Ts).[2] **Filing a late report will result in a $200 late filing fee** unless you formally request and receive a waiver of the late fee from me or the Designated Agency Ethics Official (DAEO), Jim Payne, after describing extraordinary circumstances that caused you to file a late report.[3] **Unpaid late fees are subject to the Agency's[4] and the government's debt collection procedures and will be referred for collection if left unpaid after 30 days.**

Please refer to this chart for your filing obligations:

[1] *See* 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.
[2] Pub. L. 112-105 § 11 (STOCK Act).
[3] *See* 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).
[4] *See* Resource Management Directive System 2540-03-P2 dated 07/12/2016.

OGE 278e - New Entrant reports	**Within 30 days** of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	**No later than May 15**
OGE 278e – Termination reports	**No later than 30 days after** leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports[5]	**The *earlier of* 30 days** after learning of a transaction or **45 days** of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date.** Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. *See* 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not "extraordinary" circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAEO and is final.

Your colleagues in OGC/Ethics are available to provide assistance but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is $56,216.[6]

As public servants, we hope that you will take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278-T*

[5] *See* attached guidance – *When to Report Transactions on the OGE 278 and OGE 278-T.*
[6] In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of $15,000 and still had to file the termination report.

When to Report Transactions

FILING DEADLINE : 30 days from notification or 45 days from transaction *whichever is earlier*

A $200 late filing fee penalty is assessed for each late periodic reporting period[1]

Investment Assets	Periodic Transaction Report Report on the OGE 278-T?	Annual and/or Termination Report Report on Part 7 of the OGE 278e?
Transactions of $1,000 or less		
• Any asset in which the transaction amount is $1,000 or less regardless of the type of asset or who owns the asset	No	No
Investment assets held by you, your spouse, or jointly held		
• Stocks or stock options	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• Commodity futures	Yes	Yes
• Other investment securities	Yes	Yes
• Assets listed above in your individual, joint, or spousal brokerage accounts managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Stocks	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• commodity futures	Yes	Yes
• other investment securities	Yes	Yes
• Assets listed above in dependent child's own or UGMA brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes[2]
• Mutual funds, exchange traded funds, 529 plans, index funds, and/or other "excepted investment funds"[3]	No	Yes
• Any asset in which the transaction amount is $1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals) or certificates of deposit	No	No
• Money market accounts and mutual funds	No	No
• US Treasury securities (e.g., T bills, Treasury bonds, savings bonds)	No	No
• Federal government retirement accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust[4]	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

Last updated November 2020

[1] This late fee is automatically imposed by law and is non-negotiable. You may request a waiver of any late filing fee from the Designated Agency Ethics Official or the Alternate DAEO if there are extraordinary circumstances. A fee waiver is at the sole discretion of the DAEO/ADAEO and is not subject to appeal. A filer who has unpaid late fees will be referred to the appropriate federal office or agency for debt collection procedures.

[2] Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

[3] To be an excepted investment fund (EIF), the asset must be:

(a) widely held (more than 100 participants),
(b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
(c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

[4] OGC/Ethics must determine that your trust qualifies as an "excepted trust." For help, email ethics@epa.gov.

The reporting periods for the OGE Form 278e vary depending on the type of report being filed.

Part	Report Information for the Following Period…			
	Nominee, New Entrant, and Candidate	**Annual**	**Termination**	**Annual / Termination**
1. Filer's Positions Held Outside United States Government	Preceding Two Calendar Years to Filing Date	Preceding Calendar Year to Filing Date	Current Calendar Year to Term Date (in addition, the preceding calendar year if an Annual report for that year is required but has not yet been filed)	Preceding Calendar Year to Term Date
2. Filer's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
3. Filer's Employment Agreements and Arrangements	As of Filing Date	Preceding Calendar Year to Filing Date	Same as Part 1	Same as Part 1
4. Filer's Sources of Compensation Exceeding $5,000 in a Year	Preceding Two Calendar Years to Filing Date (n/a for Candidates)	N/A – Leave this Part blank	N/A – Leave this Part blank	N/A – Leave this Part blank
5. Spouse's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
6. Other Assets and Income	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
7. Transactions	N/A – Leave this Part blank	Preceding Calendar Year[2]	Same as Part 1[2]	Same as Part 1[2]
8. Liabilities	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
9. Gifts and Travel Reimbursements	N/A – Leave this Part blank	Preceding Calendar Year[3]	Same as Part 1[3]	Same as Part 1[3]

1. For example, if today is March 3, 2019, the reporting period would run from January 1, 2018, to March 3, 2019. When valuing assets and liabilities, the filer may choose any date that is fewer than 31 days before the filing date.
2. Filers do not need to include any period when they were not a public financial disclosure filer or an employee of the United States Government.
3. Filers do not need to include any period when they were not an employee of the United States Government.

Extensions Do Not Change the Reporting Period
The reporting period is tied to a report's original due date and is unaffected by any extensions. For example, a New Entrant report was originally due December 14, 2019. The filer received a 30-day extension and filed January 8, 2020. The Part 2 reporting period would start on January 1, 2018, and end on December 14, 2019.

From:	Fugh, Justina
To:	Harris, Sincere; Utech, Dan; Cassady, Alison; Hoffer, Melissa; Hamilton, Lindsay; Chaudhary, Dimple; Adhar, Radha; Fox, Radhika; Enobakhare, Rosemary; Fine, Philip; Katims, Casey; Arroyo, Victoria; Lucey, John; Goffman, Joseph; Carbonell, Tomas
Cc:	OGC Ethics; Payne, James (Jim)
Subject:	your ethics obligations ... briefing materials, references and the pledge
Date:	Friday, January 22, 2021 2:04:00 PM
Attachments:	Biden Ethics Pledge for digital signature.pdf Ethics Briefing Packet for Political Appointees.pdf

Hi there,

Thank you all for attending your initial ethics briefing on Thursday, January 21, 2021. All of us in OGC/Ethics appreciate your attentiveness and interest. Attached is the briefing material we promised you that includes information about your transaction reporting obligations, the form to use for notification of negotiation for non-federal employment, a handy Hatch Act chart, and a one-pager on embedding ethics in your calendaring process. The packet also includes a pdf of the Biden Executive Order on "Ethic Commitments" for your reference. And I have attached separately the Biden Ethics Pledge for you to sign digitally and return to ethics@epa.gov.

So what about your financial disclosure report? Well, I'm not ready for you to work on that if you haven't yet started. I need to set up new accounts for you using your EPA email addresses, then will send you a new email with instructions. I know that some of you already started your reports that were assigned to your personal email address, which is fine. That information is saved and will be transferred over to your new accounts under your EPA email addresses. Try to find something to occupy your time over the next day or so (ha!), and then you can spend a leisurely and frustrating time with the public financial disclosure report a bit later, once you get the email from me. Each of you will have a contact on the OGC/Ethics team to help you navigate your form and any ethics concerns you may have. Our contact information is included on the first page of your briefing material. We are all always just a call or an email away.

Happy Friday!

Justina

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ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban*. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. *Revolving Door Ban — All Appointees Entering Government*. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government*. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq*., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq*., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

   (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

   (b) participate in the specific issue area in which that particular matter falls; or

   (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

4. *Revolving Door Ban — Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

6. *Revolving Door Ban — Appointees Leaving Government to Lobby*. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

7. *Golden Parachute Ban*. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

8. *Employment Qualification Commitment*. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. *Assent to Enforcement*. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

_____ _____, 20_____

Signature Date

Name (Type or Print): _____

Ethics Briefing

1. The Ethics Program at the Environmental Protection Agency

You have ethics officials in the Office of General Counsel who can assist you:

Jim Payne Designated Agency Ethics Official (202) 564-0212 payne.james@epa.gov	
Justina Fugh Alternate Agency Ethics Official and Director of Ethics Office (202) 564-1786 fugh.justina@epa.gov	
Shannon Griffo Ethics Attorney (202) 564-7061 griffo.shannon@epa.gov	**Margaret Ross** Ethics Officer (202) 564-3221 ross.margaret@epa.gov
Jennie Keith Ethics Officer (202) 564-3412 keith.jennie@epa.gov	**Victoria Clarke** Ethics Attorney 202-564-1149 clarke.victoria@epa.gov
Ferne Mosley Ethics Attorney (202) 564-8046 mosley.ferne@epa.gov	**OGC/Ethics** All Staff and Helpline (202) 564-2200 ethics@epa.gov

You can also visit the OGC/Ethics SharePoint site for more information.

2. The General Principles of Ethical Conduct

As public servants, we have a duty to ensure that every citizen has complete confidence in the integrity of the United States and that we are not putting personal or private interests ahead of the public trust. There are 14 principles that form your basic obligation of public service that we'll address in this briefing material.

3. The President's Executive Order (for political appointees only)

On January 20, 2021, President Biden issued an Executive Order that includes an ethics pledge you must sign as a condition of your appointment. You are agreeing to a broader "ethics in government" plan to restore and maintain public trust in government, so please review the preamble carefully. The significant points of the pledge itself are described below:

If you were a federally registered lobbyist or registered foreign agent in the past 2 years:

- For the next 2 years, do not participate in any particular matter on which you lobbied or were registrable for under the Foreign Agents Registration Act within the previous 2 years and do not participate in the specific issue area in which that particular matter falls.

- Do not seek or accept employment with any government agency that you lobbied or engaged in registrable activity under FARA within the past 2 years.

While you are a federally employee:

- Do not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions (e.g., preexisting personal relationship, discount or benefit available to all government employees) but check with an ethics official for guidance.

- For 2 years from the date of your appointment, do not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former clients, including regulations and contracts.

    - Note: The definition of *former employer* excludes the federal government, state or local governments, D.C., Native American tribes, U.S. territories or possessions, or any international organization in which the U.S. is a member state. But under the federal impartiality rules, you will still have a one-year cooling off period with those entities (except if your former employer was already the US government).

- Any hiring or other employment decisions that you make will be based on the candidate's qualifications, competence and experience.

- Do not accept any salary or cash payment or any other non-cash benefit from a former employer for entering into government service.

When you leave federal service, you are agreeing to the following:

- If you are a "senior employee" subject to the one-year cooling off period under 18 U.S.C. § 207(c), your cooling off period will be extended by another year, for a total of two years.

- If you are a "senior employee" subject to either 18 U.S.C. § 207(c) or (d), for one year following your departure from federal service, you will not work behind the scenes to materially assist others in making communications or appearances to the United States Government that you would otherwise be unable to make under the post-employment restrictions.

- You will not lobby any covered executive branch official or non-career SES appointee for the remainder of this Administration or for 2 years following the end of your appointment, whichever is later.

- You will not engage in any activity on behalf of a foreign government or foreign political party

that would require you to register under the Foreign Agents Registration Act for the remainder of this Administrator or 2 years following the end of your appointment, whichever is later.

A copy of the Executive Order and the Biden Ethics Pledge that you must sign are included in this packet of materials.

4. Financial Disclosure Reporting

In your position, you are required to complete a public financial disclosure report as you begin the federal service and every year thereafter. You will file this report in INTEGRITY, an electronic system managed by the Office of Government Ethics. When you leave EPA, you will be required to submit a termination financial disclosure report. In addition, you are required to have one hour of ethics training as a new entrant (PAS appointees have an additional requirement for a specialized one-on-one ethics briefing), and also required to have one hour of ethics training each year. The Ethics Office in the Office of General Counsel (OGC/Ethics) provides your training either in person or virtually.

You must report any transaction of securities (stocks or bonds) over $1000 on a periodic basis in INTEGRITY using the 278T. These periodic transactions must be reported the earlier of 30 days after learning of the transaction or 45 days after the transaction takes place. Failure to file timely results in late fees that are assessed as a matter of law.

In addition, you are required to notify OGC/Ethics within three days of beginning to negotiate for employment with any non-federal entity. To do so, use our Notification of Negotiation form.

Included in this packet of materials are reminders about the types of transactions that are to be reported periodically and not being tardy in filing any reports with OGC/Ethics.

5. Attorney Client Privilege & FOIA

By regulation, disclosure by an employee to an ethics official is not protected by the attorney-client privilege. 5 C.F.R. § 2635.107(b). This means that if our records (or yours) are requested under the Freedom of Information Act (FOIA), then we will not be able to redact our advice to you using the attorney-client privilege. However, we can -- and do -- assert personal privacy and deliberative process privileges where applicable. For example, the deliberative process privilege may apply to pre-decisional ethics advice documents, but please note that our final advice to you is generally releasable.

This should **not** stop you from seeking the advice of your ethics officials! Not only does it show you are being a steward of the public trust, but good faith reliance on advice received from your ethics officials after disclosing all relevant facts can shield you from disciplinary action and is a factor that the Department of Justice considers when deciding which cases they wish to prosecute.

6. Conflicts of Interest

Do not participate as an agency official in any matter if there is an actual conflict of interest or even the appearance of a conflict of interest. It's a crime to participate *personally and substantially* in *any particular matter* in which, to your knowledge, you or a person whose interests are imputed to you has a financial interest if the particular matter will have a *direct and predictable effect* on that interest.

Example: you own a lot of stock in XYZ Corporation, which is a chemical manufacturer. If your office is considering taking an enforcement action against XYZ Corporation, you must disqualify yourself from participating in the decision. Even if your mother gave your 10-year old twins the stock, you can't participate in the matter because their interest is imputed to you.

Remember, the interests of your spouse, dependent children, general business partner, and any organization in which you serve as officer, director, trustee or employee are imputed to you. This means that, under the criminal statute, it's the same thing as if you held those assets. So, you can't participate in any particular matter that may have a financial impact on the interests that are imputed to you.

7. Appearance of a Loss of Impartiality

Even if an action is not strictly prohibited, it is prudent to be careful of any action that a reasonable person with knowledge of the relevant facts may perceive as a violation of the ethics rules, or (if applicable) your ethics pledge and the Executive Order. You must avoid even the appearance of a loss of impartiality when performing official duties.

When we consider impartiality, we expand the ambit of relationships beyond the conflicts realm of "imputed interests." We consider all of your "covered relationships," which includes a lot more people: anybody with whom you have a business, contractual or financial relationship that is more than just a routine consumer transaction; any member of your household or a relative with whom you are close; the employer/partner or prospective employer/partner of your spouse, parent or dependent child; any person or organization for which you have served in the last year as an officer, agent, employee, etc.; and any organization in which you are an active participant.

You should refrain from engaging in official acts that may be perceived as an "appearance problem" by a reasonable person (and the reasonable person is not you, but rather your ethics officials).

Ethics officials can provide advice and determine whether a proposed course of action is appropriate by issuing an impartiality determination, but we cannot provide cover if you have already done the deed.

8. No representation back to the federal government

As a federal employee, you are prohibited from representing the interest of any other entity back to the federal government, whether you are paid for those services or not. For the purposes of these criminal statues, 18 U.S.C. §§ 203 and 205, it does not matter that you are representing the interests of another in your private capacity. You cannot serve as agent or attorney for another entity back to the United States on a particular matter in which the US is a party or has a direct and substantial interest.

9. Acceptance of Gifts

Be careful of any gift from people outside the Agency, particularly those that are worth more than $20. Gifts are anything of value and include allowing others to pick up the lunch tab, free tickets, invitations to receptions, and lovely fruit baskets. There are only a few exceptions, so consult your ethics officials before accepting any gift. Remember, political appointees can't take gifts from federally registered lobbyists.

EPA does not have broad Agency gift authority, so prohibited gifts must be paid for or returned. You should also not generally accept gifts exceeding $10 from EPA employees, nor give gifts exceeding $10 to your superiors. There are some exceptions, so check with an ethics official. By the way, you may give gifts to any EPA person who makes less money than you provided that person is not your supervisor.

10. Attendance at Widely-Attended Gatherings (ethics check required)

Your ethics official must make a written determination in advance as to whether your participation and attendance at certain events meet the criteria for a "widely attended gathering" exception of the gift rule. You can't make that determination yourself (nor can the sponsor of the event). For a WAG determination, your ethics official will consider the type of event, who is attending, and whether your attendance will further an Agency interest. This analysis must be done in writing and in advance of your attending the event. Any WAG that is approved is considered a gift to you, so you will be responsible for reporting the value of the gift on your financial disclose report if it exceeds the reporting threshold. For political appointees, though, please bear in mind that this exception does not apply to federally registered lobbyists. Political appointees cannot accept free attendance at a widely attended gathering that is sponsored by or hosted by a federally registered lobbyist.

IMPORTANT NOTE about **Embedding Ethics into Your Calendaring Process**

> Many ethics issues typically arise through the calendaring process of an EPA principal. Since you are responsible for your ethics obligations, we know you might need a little help. To assist you in navigating calendar and invitation issues, the EPA Ethics Office offers specialized assistance to you and your front office staff to advise on invitations, gifts associated with those invitations, etc. Embedding ethics is a proactive counseling practice that brings together the Principals, their staff, and local Deputy Ethics Officials to establish a process for incorporating ethics vetting into your or the Principal's calendar. Contact Jennie Keith to get started!

11. Travel Issues

Approval of gifts of travel, lodging and meals from non-Federal sources for meetings and similar events must be obtained from OGC/Ethics prior to the event. You can't accept such offerings on your own! We have an electronic form that we use to process such requests, and we must report the approvals to the Office of Government Ethics twice a year. See http://intranet.epa.gov/ogc/ethics/travel.htm . Prior to the pandemic, OGC/Ethics accepted over $1 million each year in discretionary travel paid by non-federal sources.

12. Preferential Treatment of Non-Federal Entities (Endorsement)

Be careful about showing preferential treatment to any entity. We cannot endorse the products, services or enterprises of another, so you need to be careful about extolling the virtues of a regulated entity, a particular contractor or applicant, etc. Seek ethics advice before collaborating with non-federal entities on initiatives and events because not all of EPA's statutes allow us to cooperate with non-feds.

13. Political Activities

You are now bound by the Hatch Act, which governs the political activity of federal employees, even in your personal capacity. Career SES employees are bound by even more restrictions, while Presidentially Appointed and Senate Confirmed (PAS) employees enjoy more liberties. Do not rely on what you think other people can do; find out for yourself by asking your ethics officials.

Some limitations under the Hatch Act are 24/7, meaning that you have restrictions even on your time. For example, you are never permitted to solicit, accept or receive political contributions, not even in your personal time. You can never use your EPA title or position to fundraise in connection with any political activity. Because the Hatch Act rules vary depending on your type of appointment, please see the attached chart and consult your ethics officials.

14. Lobbying Issues

EPA employees cannot use appropriated funds to engage in indirect or grassroots lobbying regarding any legislative proposal. Indirect or grassroots lobbying generally means urging members of special interest groups or the general public to contact legislators to support or oppose a legislative proposal. EPA employees cannot make explicit statements to the public to contact members of Congress in support of or in opposition to a legislative proposal. Other prohibited grassroots lobbying includes an employee's explicit request, while on official time, to an outside group asking it to contact Congress to support or oppose EPA's appropriations bill.

In addition, EPA is prohibited from using appropriated funds for activities that would "tend to promote" the public to contact Congress in support of or in opposition to a legislative proposal, even if an EPA employee does not expressly state that the public should contact Congress. This activity is considered "indirect lobbying" and is prohibited. You may, after coordinating with OCIR and Public Affairs, directly contact or lobby members of Congress and their staffs regarding the Administration's legislative proposals. Again, after getting approval from OCIR, you may also educate and inform the public of the Administration's position on legislative proposals by delivering speeches and making public remarks explaining the Administration's position on a legislative proposal.

15. Use of Government Personnel and Resources

EPA policy permits employees to "limited use" of government equipment, including the telephone, copying machines, fax machines, etc. Employees cannot, however, engage in outside activity or employment on government time. GSA regulations also prohibit any fundraising on federal property (except for the Combined Federal Campaign), so employees cannot raise money for their favorite charity (i.e., sell cookies, candy or wrapping paper for a "good cause"). They also cannot use the internet connection for gambling or to access pornography. See EPA's Limited Personal Use of Government Equipment Policy. Avoid using your EPA email address for personal matters, and do not use your personal email address for EPA matters.

16. Outside Activities

We were advised by the Biden Presidential Transition Team that non-PAS political appointees may have outside positions that are consistent with federal ethics regulations, including the Agency's ethics regulations. Non-Career SES and Schedule C appointees must seek prior approval from EPA Ethics for certain outside activity consistent with EPA's Supplemental Ethics Regulations at 5 C.F.R. § 6401.103. Examples of activity that require prior approval are practicing a profession or teaching, speaking or writing on subjects related to EPA programs, policies or operations. While there is a *de minimis* use of government equipment, that never applies to any compensated outside activity.

Most EPA employees may not receive any compensation for teaching, speaking or writing (including consulting) that relates in significant part to your assigned EPA duties, duties to which you've been assigned in the previous year, or to any ongoing Agency program, policy or operation. But if you are a non-career SES employee, then your restriction is even broader: you may not receive compensation at all for any teaching, speaking or writing that relates to your official duties or even to EPA's general subject matter area, industry, or economic sector primarily affected by EPA's programs and operations. 5 C.F.R. § 2635.807(a)(2)(i)(E)(3).

Non-Career SESers must also abide by these additional restrictions:

- You are subject to the outside earned income cap that is set each January. As of January 2021, that amount is $29,595. See 5 C.F.R. § 2635.804(b) and 5 C.F.R. § 2636.304. This amount changes each year;

- You cannot receive compensation for practicing a profession that involves a fiduciary relationship; affiliating with or being employed by a firm or other entity that provides professional services involving a fiduciary relationship; or teaching without prior approval. See note to 5 C.F.R. § 2635.804(b) and 5 C.F.R. § 2636.305;

- You may be permitted to serve as an officer or member of the board of any association, corporation or other entity, but cannot be compensated for such service. See 5 C.F.R. § 2636.306; and

- You may not receive compensation for any other teaching unless specifically authorized in advance by OGC/Ethics (specifically, the Designated or Alternate Designated Agency Ethics Official listed on the first page of this briefing material). See 5 C.F.R. § 2636.307.

17. Ethics Obligations of Supervisors

If you are a supervisor, you must model ethical behavior for your staff. Set forth below are your additional ethics responsibilities, found at 5 C.F.R. § 2638.103:

> Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials. Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

Your staff may ask you ethics questions, but unless you are an ethics official, you are not authorized to answer those ethics questions. If you receive an ethics question, then contact your own local Deputy Ethics Official or notify OGC/Ethics at ethics@epa.gov.

18. Seeking Employment

It's always odd to talk about seeking employment when we are welcoming you to EPA, but be mindful of the fact that there are restrictions that will apply. You won't be able to participate in a particular matter involving a party with which you are seeking employment, and that obligation starts as soon as you directly or indirectly contact a prospective employer, or as soon as you get a response expressing interest in you. You will need to disqualify yourself from particular matters that may affect the prospective employer.

19. Negotiating for Employment

Should your pursuit of future employment advance to "negotiating" for employment with a particular entity, then you will have conflicts of interest. The financial interests of any person or entity with whom you are "negotiating" for employment are imputed to you for the purposes of the criminal conflict of interest statute, 18 U.S.C. § 208. You will need to recuse yourself from participating in any particular matter that will have a direct and predictable effect upon the interests of the prospective employer, either as a specific party or as a member of a class, which will include particular matters that apply generally to the prospective employer's industry or class.

Filers of the public financial disclosure report are further subject to the Ethics In Government Act, as amended by the STOCK Act, which requires you to notify OGC/Ethics within three days of commencing negotiations for future employment with a non-federal employer. Yes, we have a form for that notification.

20. Post-Government Employment - Representational Restrictions

Even after you leave federal service, there are federal post-employment restrictions. Your pledge restrictions are supplementary to these restrictions. Your ethics officials are still available to answer your post-employment questions, even after you leave EPA. You will need to have an exit discussion with OGC/Ethics before you leave EPA, but here are the highlights of what we'll discuss regarding the federal law. You will also be bound by the additional restrictions of the Biden Ethics Pledge adumbrated on pp. 2-3 of this briefing material.

Lifetime bar - on particular matters that you worked on

You will be prohibited by criminal statute from representing back to the federal government on any particular matter involving specific parties in which you participated personally and substantially while in federal service. "Representation back""means making an appearance or communication, on behalf of another, with the intent to influence an official action. And the matter must involve the United States or be one in which the US has an interest.

> Example: You are asked by XYZ Corporation to contact EPA about seeking an exemption so that a particular permit you granted while in your position no longer applies to them. You cannot do that because you worked on that matter while at EPA. You are permanently barred from representing another back to the federal government on that same matter.

2-year bar - on EPA matters pending during your last year in federal service

You are prohibited (again, by criminal statute) from representing back to the federal government on any particular matter involving specific parties that was pending under your official responsibility during your last year of federal service. Even if you recuse yourself from a matter, you are still bound by the two-year bar. You are not permanently restricted, since you didn't work on the matter personally and substantially, but you are prohibited from representing another back to the federal government on that matter for two years.

Senior Employee "cooling off restriction" – on any matter

Depending on your rate of pay, you may be considered a "senior official" and will be restricted for one year from making any contact with EPA following your departure (under the federal ethics regulation). Political appointees have additional time restrictions under the Biden Ethics Pledge. This prohibition is not limited to particular matters. Rather, you cannot knowingly make any communication or appearance to EPA employees on behalf of another with the intent to influence in connection with any matter in which you seek official EPA action.

Effective January 3, 2021, the defining rate of pay for "senior officials" is $172,395 per year (excluding locality pay). If you make more than that (before locality pay), then you are a "senior employee" and will be bound by the cooling off period. By the way, SESers do not get locality pay so, most likely, any SESer will be a "senior employee" and subject to this restriction.

Welcome to EPA and thank you for keeping ethics in the forefront of all we do!

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

January 22, 2021

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: Justina Fugh Justina Fugh Digitally signed by Justina Fugh Date: 2021.01.22 12 07:49 -05'00'
Alternate Designated Agency Ethics Official

TO: All EPA Political Appointees

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app. to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position, you are required by this law to file these reports in the electronic system, *INTEGRITY*. As an executive branch employee, you are bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations. These reports are publicly available upon request and the reports of certain Presidential Appointees confirmed by the Senate will be posted on the U.S. Office of Government Ethics' website at www.oge.gov.

This memorandum formally informs you that you are required by law to file timely and accurate Public Financial Disclosure Reports (OGE 278e)[1] and Periodic Transaction Reports (OGE 278-Ts).[2] **Filing a late report will result in a $200 late filing fee** unless you formally request and receive a waiver of the late fee from me or the Designated Agency Ethics Official (DAEO), Jim Payne, after describing extraordinary circumstances that caused you to file a late report.[3] **Unpaid late fees are subject to the Agency's[4] and the government's debt collection procedures and will be referred for collection if left unpaid after 30 days.**

Please refer to this chart for your filing obligations:

[1] *See* 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.
[2] Pub. L. 112-105 § 11 (STOCK Act).
[3] *See* 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).
[4] *See* Resource Management Directive System 2540-03-P2 dated 07/12/2016.

OGE 278e - New Entrant reports	**Within 30 days** of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	**No later than May 15**
OGE 278e – Termination reports	**No later than 30 days after** leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports[5]	**The *earlier of* 30 days** after learning of a transaction or **45 days** of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date.** Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. *See* 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not "extraordinary" circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAEO and is final.

Your colleagues in OGC/Ethics are available to provide assistance but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is $56,216.[6]

As public servants, we hope that you will take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278-T*

[5] *See* attached guidance – *When to Report Transactions on the OGE 278 and OGE 278-T.*
[6] In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of $15,000 and still had to file the termination report.

When to Report Transactions

DUE DATE: The earlier of the following: 30 Days from Notification or 45 Days from Transaction

Investment Assets	Periodic Transaction Report Report on the OGE 278-T?	Annual and/or Termination Report Report on Part 7 of the OGE 278e?
Transactions of $1,000 or less		
• Any asset in which the transaction amount is $1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes[1]
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds"[2]	No	Yes
• Any asset in which the transaction amount is $1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust[3]	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

[1] Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

[2] To be an excepted investment fund (EIF), the asset must be:

(a) widely held (more than 100 participants),
(b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
(c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

[3] OGC/Ethics must determine that your trust qualifies as an "excepted trust." For help, email ethics@epa.gov.

REQUIREMENT: Notify OGC/Ethics within 3 business days of commencing the negotiation or agreement for post-government employment or compensation

NOTIFICATION OF NEGOTIATION OR AGREEMENT

Your full name

Your telephone number*

Date negotiation or agreement began

Your Title / Office / AAship or Region

Your email address*

Name of non-federal entity that you are negotiating with or have an agreement for employment or compensation

* *Provide information for OGC/Ethics to use to contact you as part of our official duty. For this purpose, you may provide a personal email address or cell number.*

RECUSAL STATEMENT

To assist in identifying your recusal obligations, check the appropriate boxes below:

	Yes	No	
1.	☐	☐	EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment.
2.	☐	☐	My office in EPA does work that affects the non-federal entity with which I am seeking employment.
3.	☐	☐	The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Need help answering these statements? See page 2.

For as long as I am negotiating for, or have an agreement of, employment or compensation with the entity listed above, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity, unless I first obtain from OGC/Ethics a written authorization or waiver consistent with 5 C.F.R. § 2635.605 or 18 U.S.C. § 208(b)(1). I understand that it is my responsibility to consult with OGC/Ethics if I have questions regarding my recusal obligations.

Sign and submit to ethics@epa.gov:

Your signature

OGC/Ethics Use Only:

Statement 1: EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment.

If your answer is "yes" to any of the following questions, then you must answer "yes" to statement 1.

- Is the non-federal entity seeking official action from EPA (even if not your own office)?
- Does the non-federal entity do business or seek to do business with the EPA (even if not your own office)?
- Does the non-federal entity conduct activities that EPA regulates (even if not in your own office)?
- Does the non-federal entity have interests that may be substantially affected by the performance or non-performance of your official duties?
- Is the non-federal entity a membership organization in which the majority of the members are described in the preceding questions?

Statement 2: My office in EPA does work that affects the non-federal entity with which I am seeking employment.

To answer this question, think about the nexus between the work of your office and the non-federal entity. The closer the nexus, the more likely you will have to check "yes" to statement 2.

- Consider the particular matters your office works on and whether there is any connection to the work of this entity. Does your office work on permits, investigations, litigation, grants, licenses, contracts, applications, enforcement cases, or other similar types of matters where there is an identified non-federal entity (i.e., particular matters involving specific parties)?
- Also consider whether your office is involved in scientific programs, media programs, or other types of policies, procedures, guidance documents, regulations, etc., that would affect this particular industry or sector (i.e., particular matters of general applicability).

Statement 3: The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Think about the nexus between your work and the non-federal entity as well as its respective class, industry or sector. The closer the nexus between your work and the sector the non-federal entity belongs to, the more likely you will check have to check "yes" to statement 3.

- Will the work you do affect the sector? Don't concentrate on whether your personal contributions will be determinative but rather, overall, how the outcome of the work itself will affect the sector and the non-federal entity with which you are negotiating.
- Do you advise on or consult with your colleagues' projects and work? Does their work affect this sector or the non-federal entity?
- Do you actively supervise or assign work to subordinates? Do those assignments affect the sector or the non-federal entity?

Need help answering these statements? Contact ethics@epa.gov to discuss.

Updated September 2020

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity "directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group."

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day and receive compensation for that work	Yes	Yes	Yes but nonpartisan only
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

**PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service*

EPA Ethics Program

Counseling Practice Area: **Vetting Invitations**

Quick Summary:

One of the more visible ways ethics issues arise are those that come up during the calendaring of events and invitations for an EPA principal and their immediate staff. The ethics issues run the whole gambit:

Recusal Obligations ✦ Gifts ✦ Fundraising ✦ Political Activity ✦ Endorsements
President's Ethics Pledge ✦ Misuse of Position

Embedding ethics is a proactive counseling practice that brings together the Principals, their immediate staff, and Deputy Ethics Officials to establish a process for incorporating ethics vetting into the Principal's calendar. This helps and supports the EPA principal to meet their ethics obligations and maintain integrity of agency programs and operations.

Who:

Principals (Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators, certain Deputy Associate Administrators), their immediate staff, and Deputy Ethics Officials.

What:

Preventing conflicts of interest and other ethics issues by embedding ethics review into the calendaring process for principals.

When:

Upon the appointee's start of EPA service

Where:

Through coordination in the principal's front office and immediate staff

Why:

Principals and other political appointees encounter frequent ethics issues arising through acceptance of external events, travel, and meetings with external participants. With increased public scrutiny and ethics legal frameworks, this is a high risk area in the ethics program. It is the principal's responsibility to avoid ethics issues and to maintain public trust in government.

How:

To navigate these ethics issues, we establish a process, use standard event information gathering forms, and train periodically, so a principal's front office can obtain all relevant information for an event and ethics officials can advise appropriately and timely prior to acceptance.

Executive Order on Ethic Commitments by Executive Branch Personnel

JANUARY 20, 2021 • PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2021, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

"Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. Lobbyist Gift Ban. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"2. Revolving Door Ban — All Appointees Entering Government. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"3. Revolving Door Ban — Lobbyists and Registered Agents Entering Government. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 et seq., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 et seq., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

"4. Revolving Door Ban — Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

"5. Revolving Door Ban — Senior and Very Senior Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

"6. Revolving Door Ban — Appointees Leaving Government to Lobby. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

"7. Golden Parachute Ban. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

"8. Employment Qualification Commitment. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. Assent to Enforcement. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Personnel,' issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

Sec. 2. Definitions. For purposes of this order and the pledge set forth in section 1 of this order:

(a) "Executive agency" shall include each "executive agency" as defined by section 105 of title 5, United States Code, and shall include the Executive Office of the President; provided, however, that "executive agency" shall include the United States Postal Service and Postal Regulatory Commission, but shall exclude the Government Accountability Office.

(b) "Appointee" shall include every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Gift":

(i) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(ii) shall include gifts that are solicited or accepted indirectly, as defined in section 2635.203(f) of title 5, Code of Federal Regulations; and

(iii) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) and (3), and (j) through (l) of title 5, Code of Federal Regulations.

(d) "Covered executive branch official" and "lobbyist" shall have the definitions set forth in section 1602 of title 2, United States Code.

(e) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(f) "Lobby" and "lobbied" shall mean to act or have acted as a registered lobbyist.

(g) "Lobbying activities" shall have the definition set forth in section 1602 of title 2, United States Code.

(h) "Materially assist" means to provide substantive assistance but does not include providing background or general education on a matter of law or policy based upon an individual's subject matter expertise, nor any conduct or assistance permitted under section 207(j) of title 18, United States Code.

(i) "Particular matter" shall have the same meaning as set forth in section 207 of title 18, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(j) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(k) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, any United States territory or possession, or any international organization in which the United States is a member state.

(l) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service

provided was limited to speeches or similar appearances. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(m) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(n) "Participate" means to participate personally and substantially.

(o) "Government official" means any employee of the executive branch.

(p) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(q) "Pledge" means the ethics pledge set forth in section 1 of this order.

(r) "Senior White House staff" means any person appointed by the President to a position under sections 105(a)(2)(A) or (B) of title 3, United States Code, or by the Vice President to a position under sections 106(a)(1)(A) or (B) of title 3.

(s) All references to provisions of law and regulations shall refer to such provisions as are in effect on January 20, 2021.

Sec. 3. Waiver. (a) The Director of the Office of Management and Budget (OMB), in consultation with the Counsel to the President, may grant to any current or former appointee a written waiver of any restrictions contained in the pledge signed by such appointee if, and to the extent that, the Director of OMB certifies in writing:

(i) that the literal application of the restriction is inconsistent with the purposes of the restriction; or

(ii) that it is in the public interest to grant the waiver. Any such written waiver should reflect the basis for the waiver and, in the case of a waiver of the restrictions set forth in paragraphs 3(b) and (c) of the pledge, a discussion of the findings with respect to the factors set forth in subsection (b) of this section.

(b) A waiver shall take effect when the certification is signed by the Director of OMB and shall be made public within 10 days thereafter.

(c) The public interest shall include, but not be limited to, exigent circumstances relating to national security, the economy, public health, or the environment. In determining whether it is in the public interest to grant a waiver of the restrictions contained in paragraphs 3(b) and (c) of the pledge, the responsible official may consider the following factors:

(i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment;

(ii) the uniqueness of the individual's qualifications to meet the government's needs;

(iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and

(iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services, such as those required by paragraph 3(a) of the pledge.

Sec. 4. Administration. (a) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate to ensure:

(i) that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee;

(ii) that compliance with paragraph 3 of the pledge is addressed in a written ethics agreement with each appointee to whom it applies, which agreement shall also be approved by the Counsel to the President prior to the appointee commencing work;

(iii) that spousal employment issues and other conflicts not expressly addressed by the pledge are addressed in ethics agreements with appointees or, where no such agreements are required, through ethics counseling; and

(iv) that the agency generally complies with this order.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) of this order shall be the responsibility of the Counsel to the President.

(c) The Director of the Office of Government Ethics shall:

(i) ensure that the pledge and a copy of this order are made available for use by agencies in fulfilling their duties under section 4(a) of this order;

(ii) in consultation with the Attorney General or the Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(iii) in consultation with the Attorney General and the Counsel to the President, adopt such rules or procedures as are necessary or appropriate:

(A) to carry out the foregoing responsibilities;

(B) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(C) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(D) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by the employees' official actions do not affect the integrity of the Government's programs and operations;

(E) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 6 of the pledge is honored by every employee of the executive branch;

(iv) in consultation with the Director of OMB, report to the President on whether full compliance is being achieved with existing laws and regulations governing executive branch procurement lobbying disclosure. This report shall include recommendations on steps the executive branch can take to expand, to the fullest extent practicable, disclosure of both executive branch procurement lobbying and of lobbying for Presidential pardons. These recommendations shall include both immediate actions the executive branch can take and, if necessary, recommendations for legislation; and

(v) provide an annual public report on the administration of the pledge and this order.

(d) The Director of the Office of Government Ethics shall, in consultation with the Attorney General, the Counsel to the President, and the Director of the Office of Personnel Management, report to the President on steps the executive branch can take to expand to the fullest extent practicable the revolving door ban set forth in paragraph 5 of the pledge to all executive branch employees who are involved in the procurement process such that they may not for 2 years after leaving Government service lobby any Government official regarding a Government contract that was under their official responsibility in the last 2 years of their Government service. This report shall include both immediate actions the executive branch can take and, if necessary, recommendations for legislation.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States pursuant to this section by any legally available means, including debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from lobbying any officer or employee of that agency for up to 5 years in addition to the time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which procedures shall include (but not be limited to) providing for fact-finding and investigation of possible violations of this order and for referrals to the Attorney General for consideration pursuant to subsection (c) of this order.

(c) The Attorney General is authorized:

(i) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(ii) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in any United States District Court with jurisdiction to consider the matter.

(d) In any such civil action, the Attorney General is authorized to request any and all relief authorized by law, including but not limited to:

(i) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(ii) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

Sec. 6. General Provisions. (a) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
January 20, 2021.

From: Fugh, Justina
To: JOANN CHASE
Subject: RE: Biden Ethics Pledge from JoAnn Chase
Date: Tuesday, February 09, 2021 2:20:00 PM

Thanks! And I heard from Victoria (b) (6) …. Sorry to hear that! (b) (6)

From: JOANN CHASE <(b) (6)
Sent: Tuesday, February 09, 2021 2:14 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Biden Ethics Pledge from JoAnn Chase

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban.* I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. *Revolving Door Ban — All Appointees Entering Government.* I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government.* If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq.*, or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.*, within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

   (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

   (b) participate in the specific issue area in which that particular matter falls; or

   (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

4. *Revolving Door Ban — Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

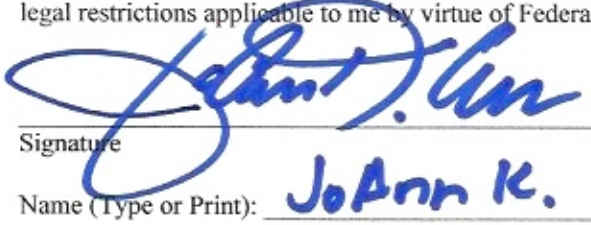
5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

6. *Revolving Door Ban — Appointees Leaving Government to Lobby.* In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

7. *Golden Parachute Ban.* I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

8. *Employment Qualification Commitment.* I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. *Assent to Enforcement.* I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.



Signature

02/02, 20 21

Date

Name (Type or Print): JoAnn K. Chase

From: Fugh, Justina
To: JoAnn Chase
Cc: Mosley, Ferne
Subject: RE: A query from JoAnn Chase
Date: Friday, January 22, 2021 2:55:00 PM

Hi JoAnn,
(b) (6) Please don't worry about the 278. The clock doesn't really start ticking until you start at EPA and then you have 30 days. What you have now is just a place holder. If you have a sense for your anticipated start date, then we can change it on the form. In the meantime, allow me to introduce you virtually to Ferne Mosley, a senior ethics attorney, who is going to work with you. Since you left EPA, the size of the EPA Ethics Office doubled, so now you get to meet even more people who still provide great service. You'll be in good hands with Ferne.

Again, my condolences!
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

-----Original Message-----
From: JoAnn Chase <(b) (6) >
Sent: Friday, January 22, 2021 9:10 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: A query from JoAnn Chase

Greetings Justina. (b) (6) Is it possible to get an extension for the FS278.

Warmly,

JoAnn

From: Chase, Joann
To: Fugh, Justina
Subject: A Request from JoAnn Chase
Date: Thursday, February 25, 2021 11:26:05 AM

Justina, (b) (6) . I am seeking an extension for my financial disclosures I owe your crew.

Thank you for your consideration.

Warmly,

JoAnn

Sent from my iPhone

From: JoAnn Chase
To: Clarke, Victoria
Cc: Fugh, Justina; Chase, Joann; Mosley, Ferne
Subject: Re: Did you start at EPA?
Date: Monday, February 08, 2021 9:44:27 AM

Hi Victoria. (b) (6) I still owe Justina some items as well. Is it possible to schedule the training for later in the week?

Warmly,

JoAnn

> On Feb 8, 2021, at 9:29 AM, Clarke, Victoria <clarke.victoria@epa.gov> wrote:
>
> Hi Joann!
> I've gone ahead and added you to the calendar invitation for today's ethics briefing at 3 PM. If you can't make it, no worries, just let me know of a good time for you.
> Looking forward to seeing you!
> Victoria
> Victoria Clarke
> Attorney-Advisor
> U.S. Environmental Protection Agency
> Office of General Counsel
> Washington, D.C. |7348 WJCN
> EPA Office: 202-564-1149
> EPA Cell: 202-336-9101
>
> **From:** Fugh, Justina <Fugh.Justina@epa.gov>
> **Sent:** Saturday, February 06, 2021 4:51 PM
> **To:** JoAnn Chase (b) (6)
> **Cc:** Chase, Joann <Chase.Joann@epa.gov>; Mosley, Ferne <mosley.ferne@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
> **Subject:** RE: Did you start at EPA?
>
> It was unusual not to hear from you, so of course I started to worry. SO GLAD you're back AND safe!
>
> Justina
>
> Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772
>
> **From:** JoAnn Chase (b) (6)
> **Sent:** Saturday, February 06, 2021 4:40 PM
> **To:** Fugh, Justina <Fugh.Justina@epa.gov>
> **Cc:** Chase, Joann <Chase.Joann@epa.gov>; Mosley, Ferne <mosley.ferne@epa.gov>;

Clarke, Victoria <clarke.victoria@epa.gov>
Subject: Re: Did you start at EPA?
(b) (6) [redacted]. I'll sign this as soon as I get home. I have a ton of stuff to do for Deborah as well. Finally, I am breathing EPA again.
Warmly,
JC

> On Feb 6, 2021, at 4:11 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:
>
> Hi JoAnn,
> I invited you to attend your mandatory ethics briefing on Thursday of last week, but you didn't. Did you start work at EPA on Monday? If so, you need to have one hour of ethics training and you must sign the attached Biden ethics pledge. Plus, you have to do that public financial disclosure report! Let me know if everything's okay with you so we can get your ethics issues square away. Ferne Mosley, copied here, will be your ethics POC for your disclosure report, and Victoria Clarke will be doing the "make up" ethics briefing for the other person who missed last week. She can add you to that session if you reach out.
> Thanks,
> Justina
> Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772
>
> <Biden Ethics Pledge for digital signature.pdf>

From: Fugh, Justina
To: (b) (6)
Cc: Mosley, Ferne
Subject: Welcome (back) to the world of public financial disclosure reporting!
Date: Wednesday, January 06, 2021 1:36:00 AM
Attachments: Advisory to all 278 filers about filing fee.pdf
reporting periods for 278s.docx
When to Report Transactions on the OGE 278 and Part 7 - November 2020.docx
Hatch Act chart Sept 2020.docx
2017 certified term report.pdf

Hi JoAnn,

Welcome back! As I mentioned to you last week, I think you should get started on completing the public financial disclosure report since you will be joining EPA on or about 1/20/21 as a Schedule C appointee as the American Indian Office Director and Senior Advisor, OITA (remember, my office has nothing at all to do with the type of appointment; we received your appointment information from Sinceré). Given this type of appointment, you are required by the Ethics in Government Act of 1978 to file the Public Financial Disclosure Report. What follows is a long, chatty email with tons of information. If you need help, then please contact Ferne Mosley, who is going to be your contact person. She already knows that you are the (b) (6), so she will want to talk further to you about that. Ferne joined EPA Ethics about a year ago from DHS and is an experienced ethics attorney. You're going to love working with her!

DEADLINE FOR SUBMITTING THE REPORT

Technically, your "new entrant" report is due no later than 30 days from your effective date at EPA or 2/19/21. If you need additional time, you must contact ethics@epa.gov before your deadline expires. There is a limit to how much additional time we can give you, and we can't grant any extension after the fact.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

EPA uses an electronic filing system (www.INTEGRITY.gov) for the public financial disclosure reports that is operated and secured by the U.S. Office of Government Ethics (OGE). You are required by law to complete the form, and we will use it to determine whether you have any financial conflicts of interest or other ethics concerns.

We revived your account in INTEGRITY and have assigned you a "new entrant" report. Your filer category is "Schedule C" and your filer status is "full time." We pre-populated the address field with EPA's address because, well, this is a public form and we don't want anyone to know your personal address. For help in INTEGRITY, check out the OGE Public Financial Disclosure Guide. The email from INTEGRITY.gov will provide you with specific instructions to log into the federal government's max.gov site, the gateway to INTEGRITY. If you didn't receive your account notification, then check your clutter box for messages from INTEGRITY.gov, or contact ethics@epa.gov.

I think that you'll be able to access your prior information, but if not, I've attached a pdf of your last certified report. As you'll recall, there are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in

this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of $200 for not filing your report timely.

REQUIREMENT TO ANSWER ANY FOLLOW UP QUESTIONS WITHIN 14 DAYS

We will review your report as quickly as possible. If we have any questions, then we will notify you. At that point, you will have 14 calendar days to respond and resubmit your report back to us with any necessary changes.

REPORTING TRANSACTIONS

While you are in this position, you are a public financial disclosure filer who is subject to certain additional requirements of the Ethics In Government Act as amended by the STOCK Act. You will be required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds $1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. We will go over this requirement during your initial ethics training, but I've also attached our reminder about late fees and when to report transactions. Remember, you are responsible for reporting transactions, even if you have a managed account, and you will be fined for a tardy periodic transaction report.

YES, YOU CAN BE FINED FOR NOT FILING PROMPTLY

It's worth repeating that you can be fined $200 for not meeting the submission deadline (and you still have to file that report). PLEASE pay attention to your filing requirements! If you need an extension, then you must ask before your deadline expires. There is a limit to how much additional time you may receive.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form, so just know that you will have to provide a lot of information.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income, and other assets and income. You must report assets for yourself, your spouse and any dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than $1000. Include any income from any source that exceeded $200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than $5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide

the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).

- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation but, for these assets in tax deferred instruments, you do not need to provide the amount of income accrued.

- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan information

- If you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.

- If your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.

- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments. Do not report term life insurance.

- If you have nothing to report in a section, be sure to click the "nothing to report" button

- The various parts of the form have different reporting periods, so please consult the attached "reporting periods" chart. Remember to check out the Office of Government Ethics' Public Financial Disclosure Guide or to contact OGC/Ethics for help. We know this is a beast of a form, so we really are here to help you.

OTHER ETHICS REQUIREMENTS FOR YOU

HATCH ACT

As a federal employee, you will be "lesser restricted" under the Hatch Act. During your new employee orientation, the ethics staff will go over the Hatch Act, which governs the political activity of government employees. For a refresher, you can familiarize yourself with the Hatch Act as it affects you by reviewing our attached handy chart.

ETHICS TRAINING

As a public financial disclosure filer, you must take one hour of ethics training this year. The new employee training you will have with the ethics staff meets your annual training requirement for this year. Next year, you will take the annual training online.

If you have any questions regarding this message or your obligations, then please contact Ferne Mosley or me. We'll be happy to assist you.

Cheers,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely Filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: David Cozad 8/29/19
Acting Designated Agency Ethics Official

TO: All EPA Public Financial Disclosure Report Filers

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app., to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position (either permanently or for more than 60 days on detail), you are required by this statute to file the public financial disclosure report. As executive branch employees, we are all bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations.

This memorandum formally reminds you that you are required by law to timely and accurately file your Public Financial Disclosure Reports (OGE 278e)[1] and Periodic Transaction Reports (OGE 278-Ts).[2] Failure to file timely will result in a **$200 late filing fee** unless you formally request and receive a waiver of the late fee from the Designated Agency Ethics Official (DAEO) or Alternate Designated Agency Ethics Official (ADAEO).[3] Unpaid late fees are subject to the Agency's[4] and the government's debt collection procedures.

In addition to filing timely, you must also file a complete and accurate report. Should OGC/Ethics contact you for any additional required information, you will have no more than **30 days** to update your report. For guidance on how to file an accurate report, please refer to the Public Financial Disclosure Guide or contact OGE/Ethics at ethics@epa.gov.

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[1] *See* 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.
[2] Pub. L. 112-105 § 11 (STOCK Act).
[3] *See* 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).
[4] *See* Resource Management Directive System 2540-03-P2 dated 07/12/2016.

Please refer to this chart for your filing obligations:

OGE 278e - New Entrant reports	**Within 30 days** of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	**No later than May 15**
OGE 278e – Termination reports	**No later than 30 days after** leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports[5]	**The *earlier of* 30 days** after learning of a transaction or **45 days** of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date.** Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. *See* 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov, to the attention of the DAEO and ADAEO, describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not "extraordinary" circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAEO and is final.

You are required by law to comply with these financial reporting obligations. Your colleagues in OGC/Ethics are available to provide assistance, but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is $56,216.[6]

As public servants, we know that you take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278T*

cc: Justina Fugh, Alternate Designated Agency Ethics Official

---

[5] *See* attached guidance – *When to Report Transactions on the OGE 278 and OGE 278T.*

[6] In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of $15,000 and still had to file the termination report.

Updated September 2020

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity "directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group."

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day and receive compensation for that work	Yes	Yes	Yes but nonpartisan only
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

**PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service*

The reporting periods for the OGE Form 278e vary depending on the type of report being filed.

Part	Report Information for the Following Period…			
	Nominee, New Entrant, and Candidate	**Annual**	**Termination**	**Annual / Termination**
1. Filer's Positions Held Outside United States Government	Preceding Two Calendar Years to Filing Date	Preceding Calendar Year to Filing Date	Current Calendar Year to Term Date (in addition, the preceding calendar year if an Annual report for that year is required but has not yet been filed)	Preceding Calendar Year to Term Date
2. Filer's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
3. Filer's Employment Agreements and Arrangements	As of Filing Date	Preceding Calendar Year to Filing Date	Same as Part 1	Same as Part 1
4. Filer's Sources of Compensation Exceeding $5,000 in a Year	Preceding Two Calendar Years to Filing Date (n/a for Candidates)	N/A – Leave this Part blank	N/A – Leave this Part blank	N/A – Leave this Part blank
5. Spouse's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
6. Other Assets and Income	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
7. Transactions	N/A – Leave this Part blank	Preceding Calendar Year[2]	Same as Part 1[2]	Same as Part 1[2]
8. Liabilities	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
9. Gifts and Travel Reimbursements	N/A – Leave this Part blank	Preceding Calendar Year[3]	Same as Part 1[3]	Same as Part 1[3]

1. For example, if today is March 3, 2019, the reporting period would run from January 1, 2018, to March 3, 2019. When valuing assets and liabilities, the filer may choose any date that is fewer than 31 days before the filing date.
2. Filers do not need to include any period when they were not a public financial disclosure filer or an employee of the United States Government.
3. Filers do not need to include any period when they were not an employee of the United States Government.

Extensions Do Not Change the Reporting Period
The reporting period is tied to a report's original due date and is unaffected by any extensions. For example, a New Entrant report was originally due December 14, 2019. The filer received a 30-day extension and filed January 8, 2020. The Part 2 reporting period would start on January 1, 2018, and end on December 14, 2019.

When to Report Transactions

FILING DEADLINE : 30 days from notification or 45 days from transaction *whichever is earlier*

A $200 late filing fee penalty is assessed for each late periodic reporting period[1]

Investment Assets	Periodic Transaction Report Report on the OGE 278-T?	Annual and/or Termination Report Report on Part 7 of the OGE 278e?
Transactions of $1,000 or less		
• Any asset in which the transaction amount is $1,000 or less regardless of the type of asset or who owns the asset	No	No
Investment assets held by you, your spouse, or jointly held		
• Stocks or stock options	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• Commodity futures	Yes	Yes
• Other investment securities	Yes	Yes
• Assets listed above in your individual, joint, or spousal brokerage accounts managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Stocks	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• commodity futures	Yes	Yes
• other investment securities	Yes	Yes
• Assets listed above in dependent child's own or UGMA brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes[2]
• Mutual funds, exchange traded funds, 529 plans, index funds, and/or other "excepted investment funds"[3]	No	Yes
• Any asset in which the transaction amount is $1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals) or certificates of deposit	No	No
• Money market accounts and mutual funds	No	No
• US Treasury securities (e.g., T bills, Treasury bonds, savings bonds)	No	No
• Federal government retirement accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust[4]	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

Last updated November 2020

[1] This late fee is automatically imposed by law and is non-negotiable. You may request a waiver of any late filing fee from the Designated Agency Ethics Official or the Alternate DAEO if there are extraordinary circumstances. A fee waiver is at the sole discretion of the DAEO/ADAEO and is not subject to appeal. A filer who has unpaid late fees will be referred to the appropriate federal office or agency for debt collection procedures.

[2] Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

[3] To be an excepted investment fund (EIF), the asset must be:

(a) widely held (more than 100 participants),
(b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
(c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

[4] OGC/Ethics must determine that your trust qualifies as an "excepted trust." For help, email ethics@epa.gov.

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban*. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. *Revolving Door Ban — All Appointees Entering Government*. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government*. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq*., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq*., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

   (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

   (b) participate in the specific issue area in which that particular matter falls; or

   (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

4. *Revolving Door Ban — Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

6. *Revolving Door Ban — Appointees Leaving Government to Lobby*. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

7. *Golden Parachute Ban*. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

8. *Employment Qualification Commitment*. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. *Assent to Enforcement*. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

_____ _____, 20_____

Signature Date

Name (Type or Print): _____

From: Rosemary Enobakhare
To: Clarke, Victoria
Cc: Fugh, Justina
Subject: Re: EPA Ethics Discussion
Date: Thursday, January 07, 2021 4:50:10 PM

Amazing! Thank you so much.

See you tomorrow,
Rosemary

On Thu, Jan 7, 2021 at 3:10 PM Clarke, Victoria <clarke.victoria@epa.gov> wrote:

> 3 PM sounds great! I'll send you a calendar invite for an hour-long Teams meeting. We may not need the full hour, but better to give more time than less.
>
> Victoria
>
> Victoria Clarke
>
> Attorney-Advisor
>
> U.S. Environmental Protection Agency
>
> Office of General Counsel
>
> Washington, D.C. |7348 WJCN
>
> EPA Office: 202-564-1149
>
> EPA Cell: 202-336-9101
>
> **From:** Rosemary Enobakhare <(b) (6)
> **Sent:** Thursday, January 07, 2021 2:53 PM
> **To:** Clarke, Victoria <clarke.victoria@epa.gov>
> **Cc:** Fugh, Justina <Fugh.Justina@epa.gov>
> **Subject:** Re: EPA Ethics Discussion
>
> Hi there!
>
> Thank you so much for reaching out. Happy to chat with you tomorrow. How does 3pm sound to you? If that works please let me know if we should hop on a conference call or have a microsoft team meeting.

On Thu, Jan 7, 2021 at 11:47 AM Clarke, Victoria <clarke.victoria@epa.gov> wrote:

> Hi Rosemary!
>
> This is Victoria Clarke from OGC Ethics. While Justina is likely going to handle your official onboarding to the Agency, I wanted to meet with you before then to get a sense of your ethics obligations, talk to you about them, and also introduce myself as the Deputy Ethics Official for the Office of Public Engagement and Environmental Education. I can also answer any pesky financial disclosure questions, if you've got them.
>
> Do you have any time soon for a Microsoft Teams meeting? Tomorrow is largely open for me, as is Monday and Wednesday of next week.
>
> Victoria
>
> Victoria Clarke
>
> Attorney-Advisor
>
> U.S. Environmental Protection Agency
>
> Office of General Counsel
>
> Washington, D.C. |7348 WJCN
>
> EPA Office: 202-564-1149
>
> EPA Cell: 202-336-9101

From:	Enobakhare, Rosemary
To:	Fugh, Justina; Clarke, Victoria
Cc:	ethics@epa.go
Subject:	RE: Friendly reminder to please sign the attached Biden Ethics pledge
Date:	Tuesday, January 26, 2021 2:08:15 PM
Attachments:	Signed Biden Ethics Pledge for digital signature.pdf

Here's the signed version of the Biden Ethics Pledge.
Thank you!

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Tuesday, January 26, 2021 12:22 AM
To: Adhar, Radha <Adhar.Radha@epa.gov>; Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>; Fox, Radhika <Fox.Radhika@epa.gov>; Hamilton, Lindsay <Hamilton.Lindsay@epa.gov>; Harris, Sincere <Harris.Sincere@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>; Katims, Casey <Katims.Casey@epa.gov>; Utech, Dan <Utech.Dan@epa.gov>
Subject: Friendly reminder to please sign the attached Biden Ethics pledge
Thanks in advance! You can send it back to me or to ethics@epa.gov.

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban*. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. *Revolving Door Ban — All Appointees Entering Government*. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government*. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq*., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq*., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

4. *Revolving Door Ban — Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

6. *Revolving Door Ban — Appointees Leaving Government to Lobby*. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

7. *Golden Parachute Ban*. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

8. *Employment Qualification Commitment*. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. *Assent to Enforcement*. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

Enobakhare, Rosemary Digitally signed by Enobakhare, Rosemary
Date: 2021.01.26 14:05:49 -05'00'

_____ _____, 20_____

Signature Date

Name (Type or Print): _____

From:	Enobakhare, Rosemary
To:	Clarke, Victoria
Subject:	RE: I can"t assign you a new entrant report
Date:	Monday, January 25, 2021 4:40:54 PM

Done and Done! I will work on this as soon as I have access! Thank you Victoria!!

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, January 25, 2021 4:40 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: I can't assign you a new entrant report

Technically, no. Your submission date is still 30 days from the day you entered your covered position, unless you ask for an extension of time.
If it was me, I'd put this fairly high on my priority list for a couple of reasons – one, I know that my ethics official can't write me a recusal statement without one (though if I'm remembering rightly from our discussion, I don't think you're particularly complex in terms of your financial holdings!), and two, 278s get requested by the public on a fairly frequent basis. Well, there's also three, I wouldn't want to pay a $200 late fee. And four – I'd just want to get it done and out of the way!
Victoria
Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Monday, January 25, 2021 4:36 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: I can't assign you a new entrant report

Does my submission date change since I didn't previously have access? Just trying to figure out where to put this on my priority list.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, January 25, 2021 4:28 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: I can't assign you a new entrant report

My pleasure to help when necessary, Rosemary.
Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Monday, January 25, 2021 4:14 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: I can't assign you a new entrant report
Done! Just sent it over and copied the two of you.
And yes, Victoria I am going to need some help! Lol! So thank you in advance!
Thank you both!
Rosemary

From: Fugh, Justina <Fugh.Justina@epa.gov>
Sent: Monday, January 25, 2021 4:03 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Cc: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: I can't assign you a new entrant report
Hi Rosemary,
Because you have an inactive max.gov account, you need to send an email to maxsupport@max.gov to ask them to activate your Enobakhare.Rosemary@epa.gov account. I can't do that for you. Once that happens, I can assign you a new entrant public financial disclosure report. Let me know, please, when you're set up so I can assign you the new report. Also, Victoria Clarke, copied here, will be your ethics POC in case you need help with your filing.
Cheers,
Justina
Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Enobakhare, Rosemary
To: Clarke, Victoria
Subject: RE: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore
Date: Friday, March 05, 2021 9:03:06 AM
Attachments: image001.png

Super helpful! From what I know there is no gift or compensation associated with this event. Thanks again for your help on this.

Rosemary

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 5, 2021 8:57 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore

Okay, very good!

There should not be a problem with you participating in your official capacity in this virtual event. When you are speaking in your official capacity:

- You are permitted to use your Agency title and be introduced/referenced by that title;
- You may use Agency resources to prepare for and attend the event, including use of subordinates and email;
- You may use official time to prepare and participate in the event;
- You do not need to use a disclaimer when speaking; and
- You may not share non-public information.

In the invitation, I did not see any reference to compensation or any sort of prize or gift that would be given to panelists. If you find that there is such a thing, please let me know, as I'll have to do a gift analysis to see if it is appropriate for you to accept any associated gift.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Friday, March 05, 2021 8:39 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore

Good morning!

Yes, this will be in my official capacity.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 5, 2021 8:06 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore

Hi Rosemary,

Is this something that you seek to do in your personal capacity, or something that you have permission to do in your official capacity as a representative of EPA? I am assuming that it is in your official capacity, but want to make sure!

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Thursday, March 04, 2021 9:38 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: FW: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore

Hey Victoria,

Flagging the speaking request I received from The Climate Reality Project. They are hosting a virtual panel discussion that will highlight the Administration's climate change priorities and opportunities for grassroots advocacy around key federal actions. This event will be pre-recorded later this month and will be streamed sometime around earth day to amplify the Administration's climate commitments following the White House climate summit. Let me know if you have any issues with me participating.

Thanks,
Rosemary

From: Erin Taylor <(b) (6) @climatereality.com>
Sent: Thursday, March 4, 2021 5:31 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>

Subject: FW: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore

Hi Rosemary,

We sure hope you will be able to join us for this event at our spring training on US advocacy. We expect several thousand US activists and you can record ahead of time, not have to do it live. I know you're busy but I think you'd be a remarkable fit for this discussion. If you need more info or have questions, please let me know.

Thanks for your consideration.

Erin

Erin Taylor | Senior Vice President – Programs
Pronouns: she/her/hers
555 11th Street, NW, Suite 601 | Washington, DC 20004
T: (b) (6)
E-mail: (b) (6) @climatereality.com
signature_408721755

NOTICE OF CONFIDENTIALITY & DISCLAIMER
The information contained in this e-mail and any attachments is CONFIDENTIAL and is intended only for the use of he addressee. Any unau horized use, disclosure, distribu ion, dissemina ion, or copying is strictly prohibited and may be unlawful. If you are not the intended recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify us immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments and any copies of such printouts. Al hough this e-mail and any attachments are believed to be free of any virus or o her defect that might negatively affect any computer system into which it is received and opened, it is the responsibility of the recipient to ensure hat it is virus-free and no responsibility is accepted by the sender for any loss or damage arising in any way in the event that such a virus or defect exists. Thank you for your cooperation.

From: Kenneth Berlin <events2021@climatereality.com>
Date: Tuesday, March 2, 2021 at 3:23 PM
To: Rosemary Enobakhare <enobakhare.rosemary@epa.gov>
Cc: Felicia Hall <(b) (6) @climatereality.com>, Erin Taylor <(b) (6) @climatereality.com>
Subject: Speaker Invitation: Climate Reality Leadership Corps with Former Vice President Al Gore

March 2, 2021

Rosemary Enobakhare
Associate Administrator for Public Engagement and Environmental Education
Environmental Protection Agency
Washington, DC

Dear Ms. Enobakhare,

I'm writing to invite you to speak at the Virtual US Climate Reality Leadership Corps Training, where you will join former Vice President Al Gore and a host of leading community leaders, innovators, advocates, and scientists to train the next generation of climate change agents.

Since 2006, The Climate Reality Project and Al Gore have hosted Climate Reality Leadership Corps trainings to inspire everyday people to join the fight for a more equitable and sustainable future. During the ongoing COVID-19 public health response, an online gathering allows us to meet the urgency of the moment by building the movement for climate solutions while working for a safe and just recovery from COVID-19 that centers equity and justice.

We are excited to bring together people from all corners of the United States to undergo this training, and would be honored to have you **join a panel on the state of play and opportunities for federal climate change advocacy, focusing on the role of grassroots advocacy.**

The event is scheduled for April 22 – May 2, but your 40-minute panel will be a pre-recorded segment recorded with our producers between March 23 – April 2. Once you've confirmed your participation, we will coordinate a time that works for all the panelists to record from your respective locations. Climate Reality staff will assist you throughout the process by developing a run-of-show and navigating the technical set-up.

We would sincerely appreciate your yes or no response to participation no later than Friday, March 5. If you are able to join us, please send a biography (200 words or less, including your pronouns if you'd like) and a photograph for us to use for the event.

Our Climate Reality Leaders are community leaders, educators, students, business professionals, and passionate citizens who feel called to make a difference at this critical time. Your expert perspective would be instrumental in helping these individuals turn their personal commitment into real progress.

I sincerely hope that you will join us for this unique virtual event. Felicia Hall at Climate Reality is available to answer any questions you may have. She can be reached at (b) (6) @climatereality.com and is copied in this email.

Warm regards,

Kenneth Berlin (he/him/his)
President and CEO, The Climate Reality Project

From: Clarke, Victoria
To: Enobakhare, Rosemary
Subject: RE: time to chat today?
Date: Tuesday, April 06, 2021 10:24:00 AM

Yay! Of course, I will. Thank you, Rosemary!!!!

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Tuesday, April 06, 2021 10:23 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: time to chat today?

I did it! I submitted the 278! Let me know if you have any questions or concerns about the doc.

From: Enobakhare, Rosemary
Sent: Friday, March 26, 2021 10:34 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: time to chat today?

Thank you! Looking forward to chatting through this!

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 26, 2021 9:52 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: time to chat today?

Absolutely! I'll send you a calendar invite.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Friday, March 26, 2021 9:49 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>

Subject: RE: time to chat today?

You're too kind, thank you! Does today at 1:30pm work for you?

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Friday, March 26, 2021 9:48 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: time to chat today?

I always have time for you, Rosemary! What's a good time for you?

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Friday, March 26, 2021 9:42 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: time to chat today?

Hey lady,

Im trying to work through my financial disclosure and would love your help. Do you have some time today to do this?

Rosemary Enobakhare
Associate Administrator
Office of Public Engagement and Environmental Education
U.S. EPA Office of the Administrator
1200 Pennsylvania Ave., N.W.
Washington, DC 20460
Cell: (b) (6)

From: Enobakhare, Rosemary
To: Clarke, Victoria
Subject: RE: Your 278
Date: Monday, May 03, 2021 10:23:53 AM

I think it's (b) (6) [redacted]

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, May 3, 2021 9:45 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Your 278

Hi Rosemary,

Thanks for confirming income! With respect to (b) (6) [redacted]

The reason I ask is because OGE doesn't allow filers to simply report their IRA and the associated financial institution. In order to do a proper conflicts analysis, we need to look at each IRA's underlying funds.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Monday, May 03, 2021 9:36 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Your 278

No, it hasn't (b) (6) [redacted]

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, May 3, 2021 9:20 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Your 278

Perfect! And you left this comment: (b) (6) [redacted]

(b) (6) [redacted] Let me know how I should report this?

(b) (6) [redacted] ?

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Monday, May 03, 2021 9:18 AM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Your 278

(b) (6) [redacted]

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Monday, May 3, 2021 8:54 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Your 278

Hi Rosemary, thank you SO much!

In Part 2: (b) (6) [redacted]

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. | 7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Sunday, May 02, 2021 9:52 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Your 278

Hi Victoria,

Thanks so much for bearing with me on this. I just submitted the document. Please let me know if you have any additional questions or concerns.

Thank you!

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Tuesday, April 27, 2021 9:05 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: Your 278

Hi Rosemary!

I took a first look at your 278 and returned it to you with questions/comments. Have you had a moment to pop into INTEGRITY and address them, so I can certify your report?

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel | Ethics Office
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary
To: Clarke, Victoria
Subject: RE: Your New Entrant Report
Date: Thursday, February 18, 2021 7:46:27 PM

Thank you so much. I am promising you that I will get this done this weekend.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Thursday, February 18, 2021 6:36 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Your New Entrant Report

Certainly, Rosemary. I'll give you 45 days – you don't need to take all 45, though.

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Thursday, February 18, 2021 6:35 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Your New Entrant Report

Hi Victoria,

Can I have an extension until next Friday? I can work on it this weekend.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Thursday, February 18, 2021 9:39 AM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: RE: Your New Entrant Report

Hi Rosemary!

Your New Entrant Report is due tomorrow. Are you making any headway on this? Do you need help? More time? Please let me know.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel

Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Sent: Wednesday, February 10, 2021 8:46 PM
To: Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Your New Entrant Report

Thank you! I will get it done. Sorry for the delay here.

From: Clarke, Victoria <clarke.victoria@epa.gov>
Sent: Wednesday, February 10, 2021 4:12 PM
To: Enobakhare, Rosemary <Enobakhare.Rosemary@epa.gov>
Subject: Your New Entrant Report

Hi Rosemary!

This is Victoria from OGC Ethics. I wanted to gently remind you that your New Entrant report is due next week on Friday the 19th. I am ever so sorry to nag you about this when you're so busy, but we need to see a completed report in order to get you a recusal statement (if necessary!), so getting it done is a pretty big priority for our office.

If you need any help with the New Entrant Report, please let me know – I'm your point of contact in OGC Ethics for any questions that you might have with respect to it.

Victoria

Victoria Clarke
Attorney-Advisor
U.S. Environmental Protection Agency
Office of General Counsel
Washington, D.C. |7348 WJCN
EPA Office: 202-564-1149
EPA Cell: 202-336-9101

From: Fugh, Justina
To: (b) (6)
Cc: Clarke, Victoria
Subject: Welcome (back) to the world of public financial disclosure reporting!
Date: Wednesday, January 06, 2021 1:42:38 AM
Attachments: Advisory to all 278 filers about filing fee.pdf
reporting periods for 278s.docx
When to Report Transactions on the OGE 278 and Part 7 - November 2020.docx
Hatch Act chart Sept 2020.docx

Hi Rosemary,

Welcome back! As I mentioned to you last week, I think you should get started on completing the public financial disclosure report since you will be joining EPA on or about 1/20/21 as a non-career SES appointee as the Associate Administrator, Office of Public Engagement and Environmental Education. Given this type of appointment, you are required by the Ethics in Government Act of 1978 to file the Public Financial Disclosure Report. What follows is a long, chatty email with tons of information. If you need help, then please contact Victoria Clarke of EPA Ethics, who is going to be your contact person. Victoria also serves as the Deputy Ethics Official for OPEEE, so you'll get to work with her in that capacity too.

DEADLINE FOR SUBMITTING THE REPORT

Technically, your "new entrant" report is due no later than 30 days from your effective date at EPA or 2/19/21. If you need additional time, you must contact ethics@epa.gov before your deadline expires. There is a limit to how much additional time we can give you, and we can't grant any extension after the fact.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

EPA uses an electronic filing system (www.INTEGRITY.gov) for the public financial disclosure reports that is operated and secured by the U.S. Office of Government Ethics (OGE). You are required by law to complete the form, and we will use it to determine whether you have any financial conflicts of interest or other ethics concerns.

We revived your account in INTEGRITY and have assigned you a "new entrant" report. Your filer category is "non-career SES" and your filer status is "full time." We pre-populated the address field with EPA's address because, well, this is a public form and we don't want anyone to know your personal address. For help in INTEGRITY, check out the OGE Public Financial Disclosure Guide. The email from INTEGRITY.gov will provide you with specific instructions to log into the federal government's max.gov site, the gateway to INTEGRITY. If you didn't receive your account notification, then check your clutter box for messages from INTEGRITY.gov, or contact ethics@epa.gov.

I think that you'll be able to access your prior information, but if not, we may need to merge your accounts. In the meantime, I've attached a pdf of your last certified report. As you'll recall, there are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of $200 for not filing your report timely.

REQUIREMENT TO ANSWER ANY FOLLOW UP QUESTIONS WITHIN 14 DAYS

We will review your report as quickly as possible. If we have any questions, then we will notify you. At that point, you will have 14 calendar days to respond and resubmit your report back to us with any necessary changes.

REPORTING TRANSACTIONS

While you are in this position, you are a public financial disclosure filer who is subject to certain additional requirements of the Ethics In Government Act as amended by the STOCK Act. You will be required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds $1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. We will go over this requirement during your initial ethics training, but I've also attached our reminder about late fees and when to report transactions. Remember, you are responsible for reporting transactions, even if you have a managed account, and you will be fined for a tardy periodic transaction report.

YES, YOU CAN BE FINED FOR NOT FILING PROMPTLY

It's worth repeating that you can be fined $200 for not meeting the submission deadline (and you still have to file that report). PLEASE pay attention to your filing requirements! If you need an extension, then you must ask before your deadline expires. There is a limit to how much additional time you may receive.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form, so just know that you will have to provide a lot of information.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income, and other assets and income. You must report assets for yourself, your spouse and any dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than $1000. Include any income from any source that exceeded $200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than $5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).

- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation but, for these assets in tax deferred instruments, you do not need to provide the amount of income accrued.

- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan information

- If you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.

- If your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.

- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments. Do not report term life insurance.

- If you have nothing to report in a section, be sure to click the "nothing to report" button

- The various parts of the form have different reporting periods, so please consult the attached "reporting periods" chart. Remember to check out the Office of Government Ethics' Public Financial Disclosure Guide or to contact OGC/Ethics for help. We know this is a beast of a form, so we really are here to help you.

OTHER ETHICS REQUIREMENTS FOR YOU

HATCH ACT

As a federal employee, you will be "lesser restricted" under the Hatch Act. During your new employee orientation, the ethics staff will go over the Hatch Act, which governs the political activity of government employees. For a refresher, you can familiarize yourself with the Hatch Act as it affects you by reviewing our attached handy chart.

ETHICS TRAINING

As a public financial disclosure filer, you must take one hour of ethics training this year. The new employee training you will have with the ethics staff meets your annual training requirement for this year. Next year, you will take the annual training online.

If you have any questions regarding this message or your obligations, then please contact Victoria Clarke or me. We'll be happy to assist you.

Cheers,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely Filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: David Cozad 8/29/19
Acting Designated Agency Ethics Official

TO: All EPA Public Financial Disclosure Report Filers

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app., to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position (either permanently or for more than 60 days on detail), you are required by this statute to file the public financial disclosure report. As executive branch employees, we are all bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations.

This memorandum formally reminds you that you are required by law to timely and accurately file your Public Financial Disclosure Reports (OGE 278e)[1] and Periodic Transaction Reports (OGE 278-Ts).[2] Failure to file timely will result in a **$200 late filing fee** unless you formally request and receive a waiver of the late fee from the Designated Agency Ethics Official (DAEO) or Alternate Designated Agency Ethics Official (ADAEO).[3] Unpaid late fees are subject to the Agency's[4] and the government's debt collection procedures.

In addition to filing timely, you must also file a complete and accurate report. Should OGC/Ethics contact you for any additional required information, you will have no more than **30 days** to update your report. For guidance on how to file an accurate report, please refer to the Public Financial Disclosure Guide or contact OGE/Ethics at ethics@epa.gov.

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[1] *See* 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.
[2] Pub. L. 112-105 § 11 (STOCK Act).
[3] *See* 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).
[4] *See* Resource Management Directive System 2540-03-P2 dated 07/12/2016.

Please refer to this chart for your filing obligations:

OGE 278e - New Entrant reports	**Within 30 days** of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	**No later than May 15**
OGE 278e – Termination reports	**No later than 30 days after** leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports[5]	**The *earlier of* 30 days** after learning of a transaction or **45 days** of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date.** Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. *See* 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov, to the attention of the DAEO and ADAEO, describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not "extraordinary" circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAEO and is final.

You are required by law to comply with these financial reporting obligations. Your colleagues in OGC/Ethics are available to provide assistance, but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is $56,216.[6]

As public servants, we know that you take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278T*

cc: Justina Fugh, Alternate Designated Agency Ethics Official

---

[5] *See* attached guidance – *When to Report Transactions on the OGE 278 and OGE 278T.*

[6] In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of $15,000 and still had to file the termination report.

Updated September 2020

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity "directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group."

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day and receive compensation for that work	Yes	Yes	Yes but nonpartisan only
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

**PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service*

The reporting periods for the OGE Form 278e vary depending on the type of report being filed.

Part	Report Information for the Following Period…			
	Nominee, New Entrant, and Candidate	**Annual**	**Termination**	**Annual / Termination**
1. Filer's Positions Held Outside United States Government	Preceding Two Calendar Years to Filing Date	Preceding Calendar Year to Filing Date	Current Calendar Year to Term Date (in addition, the preceding calendar year if an Annual report for that year is required but has not yet been filed)	Preceding Calendar Year to Term Date
2. Filer's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
3. Filer's Employment Agreements and Arrangements	As of Filing Date	Preceding Calendar Year to Filing Date	Same as Part 1	Same as Part 1
4. Filer's Sources of Compensation Exceeding $5,000 in a Year	Preceding Two Calendar Years to Filing Date (n/a for Candidates)	N/A – Leave this Part blank	N/A – Leave this Part blank	N/A – Leave this Part blank
5. Spouse's Employment Assets & Income and Retirement Accounts	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
6. Other Assets and Income	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
7. Transactions	N/A – Leave this Part blank	Preceding Calendar Year[2]	Same as Part 1[2]	Same as Part 1[2]
8. Liabilities	Preceding Calendar Year to Filing Date[1]	Preceding Calendar Year	Same as Part 1	Same as Part 1
9. Gifts and Travel Reimbursements	N/A – Leave this Part blank	Preceding Calendar Year[3]	Same as Part 1[3]	Same as Part 1[3]

1. For example, if today is March 3, 2019, the reporting period would run from January 1, 2018, to March 3, 2019. When valuing assets and liabilities, the filer may choose any date that is fewer than 31 days before the filing date.
2. Filers do not need to include any period when they were not a public financial disclosure filer or an employee of the United States Government.
3. Filers do not need to include any period when they were not an employee of the United States Government.

Extensions Do Not Change the Reporting Period
The reporting period is tied to a report's original due date and is unaffected by any extensions. For example, a New Entrant report was originally due December 14, 2019. The filer received a 30-day extension and filed January 8, 2020. The Part 2 reporting period would start on January 1, 2018, and end on December 14, 2019.

When to Report Transactions

FILING DEADLINE : 30 days from notification or 45 days from transaction *whichever is earlier*

A $200 late filing fee penalty is assessed for each late periodic reporting period[1]

Investment Assets	Periodic Transaction Report Report on the OGE 278-T?	Annual and/or Termination Report Report on Part 7 of the OGE 278e?
Transactions of $1,000 or less		
• Any asset in which the transaction amount is $1,000 or less regardless of the type of asset or who owns the asset	No	No
Investment assets held by you, your spouse, or jointly held		
• Stocks or stock options	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• Commodity futures	Yes	Yes
• Other investment securities	Yes	Yes
• Assets listed above in your individual, joint, or spousal brokerage accounts managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Stocks	Yes	Yes
• Corporate or municipal bonds (exclude U.S. Treasury securities)	Yes	Yes
• commodity futures	Yes	Yes
• other investment securities	Yes	Yes
• Assets listed above in dependent child's own or UGMA brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes[2]
• Mutual funds, exchange traded funds, 529 plans, index funds, and/or other "excepted investment funds"[3]	No	Yes
• Any asset in which the transaction amount is $1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals) or certificates of deposit	No	No
• Money market accounts and mutual funds	No	No
• US Treasury securities (e.g., T bills, Treasury bonds, savings bonds)	No	No
• Federal government retirement accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust[4]	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

Last updated November 2020

[1] This late fee is automatically imposed by law and is non-negotiable. You may request a waiver of any late filing fee from the Designated Agency Ethics Official or the Alternate DAEO if there are extraordinary circumstances. A fee waiver is at the sole discretion of the DAEO/ADAEO and is not subject to appeal. A filer who has unpaid late fees will be referred to the appropriate federal office or agency for debt collection procedures.

[2] Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

[3] To be an excepted investment fund (EIF), the asset must be:

(a) widely held (more than 100 participants),
(b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
(c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

[4] OGC/Ethics must determine that your trust qualifies as an "excepted trust." For help, email ethics@epa.gov.

From:	Fugh, Justina
To:	Harris, Sincere; Utech, Dan; Cassady, Alison; Hoffer, Melissa; Hamilton, Lindsay; Chaudhary, Dimple; Adhar, Radha; Fox, Radhika; Enobakhare, Rosemary; Fine, Philip; Katims, Casey; Arroyo, Victoria; Lucey, John; Goffman, Joseph; Carbonell, Tomas
Cc:	OGC Ethics; Payne, James (Jim)
Subject:	your ethics obligations ... briefing materials, references and the pledge
Date:	Friday, January 22, 2021 2:04:00 PM
Attachments:	Biden Ethics Pledge for digital signature.pdf Ethics Briefing Packet for Political Appointees.pdf

Hi there,

Thank you all for attending your initial ethics briefing on Thursday, January 21, 2021. All of us in OGC/Ethics appreciate your attentiveness and interest. Attached is the briefing material we promised you that includes information about your transaction reporting obligations, the form to use for notification of negotiation for non-federal employment, a handy Hatch Act chart, and a one-pager on embedding ethics in your calendaring process. The packet also includes a pdf of the Biden Executive Order on "Ethic Commitments" for your reference. And I have attached separately the Biden Ethics Pledge for you to sign digitally and return to ethics@epa.gov.

So what about your financial disclosure report? Well, I'm not ready for you to work on that if you haven't yet started. I need to set up new accounts for you using your EPA email addresses, then will send you a new email with instructions. I know that some of you already started your reports that were assigned to your personal email address, which is fine. That information is saved and will be transferred over to your new accounts under your EPA email addresses. Try to find something to occupy your time over the next day or so (ha!), and then you can spend a leisurely and frustrating time with the public financial disclosure report a bit later, once you get the email from me. Each of you will have a contact on the OGC/Ethics team to help you navigate your form and any ethics concerns you may have. Our contact information is included on the first page of your briefing material. We are all always just a call or an email away.

Happy Friday!

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

ETHICS PLEDGE

I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. *Lobbyist Gift Ban*. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. *Revolving Door Ban — All Appointees Entering Government*. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. *Revolving Door Ban — Lobbyists and Registered Agents Entering Government*. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 *et seq*., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq*., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

   (a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

   (b) participate in the specific issue area in which that particular matter falls; or

   (c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

4. *Revolving Door Ban — Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

5. *Revolving Door Ban — Senior and Very Senior Appointees Leaving Government*. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

6. *Revolving Door Ban — Appointees Leaving Government to Lobby*. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

7. *Golden Parachute Ban*. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

8. *Employment Qualification Commitment*. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. *Assent to Enforcement*. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

_____ _____, 20_____

Signature Date

Name (Type or Print): _____

Ethics Briefing

1. The Ethics Program at the Environmental Protection Agency

You have ethics officials in the Office of General Counsel who can assist you:

Jim Payne Designated Agency Ethics Official (202) 564-0212 payne.james@epa.gov	
Justina Fugh Alternate Agency Ethics Official and Director of Ethics Office (202) 564-1786 fugh.justina@epa.gov	
Shannon Griffo Ethics Attorney (202) 564-7061 griffo.shannon@epa.gov	**Margaret Ross** Ethics Officer (202) 564-3221 ross.margaret@epa.gov
Jennie Keith Ethics Officer (202) 564-3412 keith.jennie@epa.gov	**Victoria Clarke** Ethics Attorney 202-564-1149 clarke.victoria@epa.gov
Ferne Mosley Ethics Attorney (202) 564-8046 mosley.ferne@epa.gov	**OGC/Ethics** All Staff and Helpline (202) 564-2200 ethics@epa.gov

You can also visit the OGC/Ethics SharePoint site for more information.

2. The General Principles of Ethical Conduct

As public servants, we have a duty to ensure that every citizen has complete confidence in the integrity of the United States and that we are not putting personal or private interests ahead of the public trust. There are 14 principles that form your basic obligation of public service that we'll address in this briefing material.

3. The President's Executive Order (for political appointees only)

On January 20, 2021, President Biden issued an Executive Order that includes an ethics pledge you must sign as a condition of your appointment. You are agreeing to a broader "ethics in government" plan to restore and maintain public trust in government, so please review the preamble carefully. The significant points of the pledge itself are described below:

If you were a federally registered lobbyist or registered foreign agent in the past 2 years:

- For the next 2 years, do not participate in any particular matter on which you lobbied or were registrable for under the Foreign Agents Registration Act within the previous 2 years and do not participate in the specific issue area in which that particular matter falls.

- Do not seek or accept employment with any government agency that you lobbied or engaged in registrable activity under FARA within the past 2 years.

While you are a federally employee:

- Do not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions (e.g., preexisting personal relationship, discount or benefit available to all government employees) but check with an ethics official for guidance.

- For 2 years from the date of your appointment, do not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former clients, including regulations and contracts.

    - Note: The definition of *former employer* excludes the federal government, state or local governments, D.C., Native American tribes, U.S. territories or possessions, or any international organization in which the U.S. is a member state. But under the federal impartiality rules, you will still have a one-year cooling off period with those entities (except if your former employer was already the US government).

- Any hiring or other employment decisions that you make will be based on the candidate's qualifications, competence and experience.

- Do not accept any salary or cash payment or any other non-cash benefit from a former employer for entering into government service.

When you leave federal service, you are agreeing to the following:

- If you are a "senior employee" subject to the one-year cooling off period under 18 U.S.C. § 207(c), your cooling off period will be extended by another year, for a total of two years.

- If you are a "senior employee" subject to either 18 U.S.C. § 207(c) or (d), for one year following your departure from federal service, you will not work behind the scenes to materially assist others in making communications or appearances to the United States Government that you would otherwise be unable to make under the post-employment restrictions.

- You will not lobby any covered executive branch official or non-career SES appointee for the remainder of this Administration or for 2 years following the end of your appointment, whichever is later.

- You will not engage in any activity on behalf of a foreign government or foreign political party

that would require you to register under the Foreign Agents Registration Act for the remainder of this Administrator or 2 years following the end of your appointment, whichever is later.

A copy of the Executive Order and the Biden Ethics Pledge that you must sign are included in this packet of materials.

4. Financial Disclosure Reporting

In your position, you are required to complete a public financial disclosure report as you begin the federal service and every year thereafter. You will file this report in INTEGRITY, an electronic system managed by the Office of Government Ethics. When you leave EPA, you will be required to submit a termination financial disclosure report. In addition, you are required to have one hour of ethics training as a new entrant (PAS appointees have an additional requirement for a specialized one-on-one ethics briefing), and also required to have one hour of ethics training each year. The Ethics Office in the Office of General Counsel (OGC/Ethics) provides your training either in person or virtually.

You must report any transaction of securities (stocks or bonds) over $1000 on a periodic basis in INTEGRITY using the 278T. These periodic transactions must be reported the earlier of 30 days after learning of the transaction or 45 days after the transaction takes place. Failure to file timely results in late fees that are assessed as a matter of law.

In addition, you are required to notify OGC/Ethics within three days of beginning to negotiate for employment with any non-federal entity. To do so, use our Notification of Negotiation form.

Included in this packet of materials are reminders about the types of transactions that are to be reported periodically and not being tardy in filing any reports with OGC/Ethics.

5. Attorney Client Privilege & FOIA

By regulation, disclosure by an employee to an ethics official is not protected by the attorney-client privilege. 5 C.F.R. § 2635.107(b). This means that if our records (or yours) are requested under the Freedom of Information Act (FOIA), then we will not be able to redact our advice to you using the attorney-client privilege. However, we can -- and do -- assert personal privacy and deliberative process privileges where applicable. For example, the deliberative process privilege may apply to pre-decisional ethics advice documents, but please note that our final advice to you is generally releasable.

This should **not** stop you from seeking the advice of your ethics officials! Not only does it show you are being a steward of the public trust, but good faith reliance on advice received from your ethics officials after disclosing all relevant facts can shield you from disciplinary action and is a factor that the Department of Justice considers when deciding which cases they wish to prosecute.

6. Conflicts of Interest

Do not participate as an agency official in any matter if there is an actual conflict of interest or even the appearance of a conflict of interest. It's a crime to participate *personally and substantially* in *any particular matter* in which, to your knowledge, you or a person whose interests are imputed to you has a financial interest if the particular matter will have a *direct and predictable effect* on that interest.

Example: you own a lot of stock in XYZ Corporation, which is a chemical manufacturer. If your office is considering taking an enforcement action against XYZ Corporation, you must disqualify yourself from participating in the decision. Even if your mother gave your 10-year old twins the stock, you can't participate in the matter because their interest is imputed to you.

Remember, the interests of your spouse, dependent children, general business partner, and any organization in which you serve as officer, director, trustee or employee are imputed to you. This means that, under the criminal statute, it's the same thing as if you held those assets. So, you can't participate in any particular matter that may have a financial impact on the interests that are imputed to you.

7. Appearance of a Loss of Impartiality

Even if an action is not strictly prohibited, it is prudent to be careful of any action that a reasonable person with knowledge of the relevant facts may perceive as a violation of the ethics rules, or (if applicable) your ethics pledge and the Executive Order. You must avoid even the appearance of a loss of impartiality when performing official duties.

When we consider impartiality, we expand the ambit of relationships beyond the conflicts realm of "imputed interests." We consider all of your "covered relationships," which includes a lot more people: anybody with whom you have a business, contractual or financial relationship that is more than just a routine consumer transaction; any member of your household or a relative with whom you are close; the employer/partner or prospective employer/partner of your spouse, parent or dependent child; any person or organization for which you have served in the last year as an officer, agent, employee, etc.; and any organization in which you are an active participant.

You should refrain from engaging in official acts that may be perceived as an "appearance problem" by a reasonable person (and the reasonable person is not you, but rather your ethics officials).

Ethics officials can provide advice and determine whether a proposed course of action is appropriate by issuing an impartiality determination, but we cannot provide cover if you have already done the deed.

8. No representation back to the federal government

As a federal employee, you are prohibited from representing the interest of any other entity back to the federal government, whether you are paid for those services or not. For the purposes of these criminal statues, 18 U.S.C. §§ 203 and 205, it does not matter that you are representing the interests of another in your private capacity. You cannot serve as agent or attorney for another entity back to the United States on a particular matter in which the US is a party or has a direct and substantial interest.

9. Acceptance of Gifts

Be careful of any gift from people outside the Agency, particularly those that are worth more than $20. Gifts are anything of value and include allowing others to pick up the lunch tab, free tickets, invitations to receptions, and lovely fruit baskets. There are only a few exceptions, so consult your ethics officials before accepting any gift. Remember, political appointees can't take gifts from federally registered lobbyists.

EPA does not have broad Agency gift authority, so prohibited gifts must be paid for or returned. You should also not generally accept gifts exceeding $10 from EPA employees, nor give gifts exceeding $10 to your superiors. There are some exceptions, so check with an ethics official. By the way, you may give gifts to any EPA person who makes less money than you provided that person is not your supervisor.

10. Attendance at Widely-Attended Gatherings (ethics check required)

Your ethics official must make a written determination in advance as to whether your participation and attendance at certain events meet the criteria for a "widely attended gathering" exception of the gift rule. You can't make that determination yourself (nor can the sponsor of the event). For a WAG determination, your ethics official will consider the type of event, who is attending, and whether your attendance will further an Agency interest. This analysis must be done in writing and in advance of your attending the event. Any WAG that is approved is considered a gift to you, so you will be responsible for reporting the value of the gift on your financial disclose report if it exceeds the reporting threshold. For political appointees, though, please bear in mind that this exception does not apply to federally registered lobbyists. Political appointees cannot accept free attendance at a widely attended gathering that is sponsored by or hosted by a federally registered lobbyist.

IMPORTANT NOTE about **Embedding Ethics into Your Calendaring Process**

> Many ethics issues typically arise through the calendaring process of an EPA principal. Since you are responsible for your ethics obligations, we know you might need a little help. To assist you in navigating calendar and invitation issues, the EPA Ethics Office offers specialized assistance to you and your front office staff to advise on invitations, gifts associated with those invitations, etc. Embedding ethics is a proactive counseling practice that brings together the Principals, their staff, and local Deputy Ethics Officials to establish a process for incorporating ethics vetting into your or the Principal's calendar. Contact Jennie Keith to get started!

11. Travel Issues

Approval of gifts of travel, lodging and meals from non-Federal sources for meetings and similar events must be obtained from OGC/Ethics prior to the event. You can't accept such offerings on your own! We have an electronic form that we use to process such requests, and we must report the approvals to the Office of Government Ethics twice a year. See http://intranet.epa.gov/ogc/ethics/travel.htm . Prior to the pandemic, OGC/Ethics accepted over $1 million each year in discretionary travel paid by non-federal sources.

12. Preferential Treatment of Non-Federal Entities (Endorsement)

Be careful about showing preferential treatment to any entity. We cannot endorse the products, services or enterprises of another, so you need to be careful about extolling the virtues of a regulated entity, a particular contractor or applicant, etc. Seek ethics advice before collaborating with non-federal entities on initiatives and events because not all of EPA's statutes allow us to cooperate with non-feds.

13. Political Activities

You are now bound by the Hatch Act, which governs the political activity of federal employees, even in your personal capacity. Career SES employees are bound by even more restrictions, while Presidentially Appointed and Senate Confirmed (PAS) employees enjoy more liberties. Do not rely on what you think other people can do; find out for yourself by asking your ethics officials.

Some limitations under the Hatch Act are 24/7, meaning that you have restrictions even on your time. For example, you are never permitted to solicit, accept or receive political contributions, not even in your personal time. You can never use your EPA title or position to fundraise in connection with any political activity. Because the Hatch Act rules vary depending on your type of appointment, please see the attached chart and consult your ethics officials.

14. Lobbying Issues

EPA employees cannot use appropriated funds to engage in indirect or grassroots lobbying regarding any legislative proposal. Indirect or grassroots lobbying generally means urging members of special interest groups or the general public to contact legislators to support or oppose a legislative proposal. EPA employees cannot make explicit statements to the public to contact members of Congress in support of or in opposition to a legislative proposal. Other prohibited grassroots lobbying includes an employee's explicit request, while on official time, to an outside group asking it to contact Congress to support or oppose EPA's appropriations bill.

In addition, EPA is prohibited from using appropriated funds for activities that would "tend to promote" the public to contact Congress in support of or in opposition to a legislative proposal, even if an EPA employee does not expressly state that the public should contact Congress. This activity is considered "indirect lobbying" and is prohibited. You may, after coordinating with OCIR and Public Affairs, directly contact or lobby members of Congress and their staffs regarding the Administration's legislative proposals. Again, after getting approval from OCIR, you may also educate and inform the public of the Administration's position on legislative proposals by delivering speeches and making public remarks explaining the Administration's position on a legislative proposal.

15. Use of Government Personnel and Resources

EPA policy permits employees to "limited use" of government equipment, including the telephone, copying machines, fax machines, etc. Employees cannot, however, engage in outside activity or employment on government time. GSA regulations also prohibit any fundraising on federal property (except for the Combined Federal Campaign), so employees cannot raise money for their favorite charity (i.e., sell cookies, candy or wrapping paper for a "good cause"). They also cannot use the internet connection for gambling or to access pornography. See EPA's Limited Personal Use of Government Equipment Policy. Avoid using your EPA email address for personal matters, and do not use your personal email address for EPA matters.

16. Outside Activities

We were advised by the Biden Presidential Transition Team that non-PAS political appointees may have outside positions that are consistent with federal ethics regulations, including the Agency's ethics regulations. Non-Career SES and Schedule C appointees must seek prior approval from EPA Ethics for certain outside activity consistent with EPA's Supplemental Ethics Regulations at 5 C.F.R. § 6401.103. Examples of activity that require prior approval are practicing a profession or teaching, speaking or writing on subjects related to EPA programs, policies or operations. While there is a *de minimis* use of government equipment, that never applies to any compensated outside activity.

Most EPA employees may not receive any compensation for teaching, speaking or writing (including consulting) that relates in significant part to your assigned EPA duties, duties to which you've been assigned in the previous year, or to any ongoing Agency program, policy or operation. But if you are a non-career SES employee, then your restriction is even broader: you may not receive compensation at all for any teaching, speaking or writing that relates to your official duties or even to EPA's general subject matter area, industry, or economic sector primarily affected by EPA's programs and operations. 5 C.F.R. § 2635.807(a)(2)(i)(E)(3).

Non-Career SESers must also abide by these additional restrictions:

- You are subject to the outside earned income cap that is set each January. As of January 2021, that amount is $29,595. See 5 C.F.R. § 2635.804(b) and 5 C.F.R. § 2636.304. This amount changes each year;

- You cannot receive compensation for practicing a profession that involves a fiduciary relationship; affiliating with or being employed by a firm or other entity that provides professional services involving a fiduciary relationship; or teaching without prior approval. See note to 5 C.F.R. § 2635.804(b) and 5 C.F.R. § 2636.305;

- You may be permitted to serve as an officer or member of the board of any association, corporation or other entity, but cannot be compensated for such service. See 5 C.F.R. § 2636.306; and

- You may not receive compensation for any other teaching unless specifically authorized in advance by OGC/Ethics (specifically, the Designated or Alternate Designated Agency Ethics Official listed on the first page of this briefing material). See 5 C.F.R. § 2636.307.

17. Ethics Obligations of Supervisors

If you are a supervisor, you must model ethical behavior for your staff. Set forth below are your additional ethics responsibilities, found at 5 C.F.R. § 2638.103:

> Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials. Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

Your staff may ask you ethics questions, but unless you are an ethics official, you are not authorized to answer those ethics questions. If you receive an ethics question, then contact your own local Deputy Ethics Official or notify OGC/Ethics at ethics@epa.gov.

18. Seeking Employment

It's always odd to talk about seeking employment when we are welcoming you to EPA, but be mindful of the fact that there are restrictions that will apply. You won't be able to participate in a particular matter involving a party with which you are seeking employment, and that obligation starts as soon as you directly or indirectly contact a prospective employer, or as soon as you get a response expressing interest in you. You will need to disqualify yourself from particular matters that may affect the prospective employer.

19. Negotiating for Employment

Should your pursuit of future employment advance to "negotiating" for employment with a particular entity, then you will have conflicts of interest. The financial interests of any person or entity with whom you are "negotiating" for employment are imputed to you for the purposes of the criminal conflict of interest statute, 18 U.S.C. § 208. You will need to recuse yourself from participating in any particular matter that will have a direct and predictable effect upon the interests of the prospective employer, either as a specific party or as a member of a class, which will include particular matters that apply generally to the prospective employer's industry or class.

Filers of the public financial disclosure report are further subject to the Ethics In Government Act, as amended by the STOCK Act, which requires you to notify OGC/Ethics within three days of commencing negotiations for future employment with a non-federal employer. Yes, we have a form for that notification.

20. Post-Government Employment - Representational Restrictions

Even after you leave federal service, there are federal post-employment restrictions. Your pledge restrictions are supplementary to these restrictions. Your ethics officials are still available to answer your post-employment questions, even after you leave EPA. You will need to have an exit discussion with OGC/Ethics before you leave EPA, but here are the highlights of what we'll discuss regarding the federal law. You will also be bound by the additional restrictions of the Biden Ethics Pledge adumbrated on pp. 2-3 of this briefing material.

Lifetime bar - on particular matters that you worked on

You will be prohibited by criminal statute from representing back to the federal government on any particular matter involving specific parties in which you participated personally and substantially while in federal service. "Representation back""means making an appearance or communication, on behalf of another, with the intent to influence an official action. And the matter must involve the United States or be one in which the US has an interest.

> Example: You are asked by XYZ Corporation to contact EPA about seeking an exemption so that a particular permit you granted while in your position no longer applies to them. You cannot do that because you worked on that matter while at EPA. You are permanently barred from representing another back to the federal government on that same matter.

2-year bar - on EPA matters pending during your last year in federal service

You are prohibited (again, by criminal statute) from representing back to the federal government on any particular matter involving specific parties that was pending under your official responsibility during your last year of federal service. Even if you recuse yourself from a matter, you are still bound by the two-year bar. You are not permanently restricted, since you didn't work on the matter personally and substantially, but you are prohibited from representing another back to the federal government on that matter for two years.

Senior Employee "cooling off restriction" – on any matter

Depending on your rate of pay, you may be considered a "senior official" and will be restricted for one year from making any contact with EPA following your departure (under the federal ethics regulation). Political appointees have additional time restrictions under the Biden Ethics Pledge. This prohibition is not limited to particular matters. Rather, you cannot knowingly make any communication or appearance to EPA employees on behalf of another with the intent to influence in connection with any matter in which you seek official EPA action.

Effective January 3, 2021, the defining rate of pay for "senior officials" is $172,395 per year (excluding locality pay). If you make more than that (before locality pay), then you are a "senior employee" and will be bound by the cooling off period. By the way, SESers do not get locality pay so, most likely, any SESer will be a "senior employee" and subject to this restriction.

Welcome to EPA and thank you for keeping ethics in the forefront of all we do!

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

January 22, 2021

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Timely filing of Public Financial Disclosure and Periodic Transaction Reports

FROM: Justina Fugh Justina Fugh Digitally signed by Justina Fugh Date: 2021.01.22 12 07:49 -05'00'
Alternate Designated Agency Ethics Official

TO: All EPA Political Appointees

In 1978, Congress enacted the Ethics In Government Act, 5 U.S.C. app. to establish the Executive Branch financial disclosure reporting system that requires mandatory public disclosure of financial and employment information of certain officials and their immediate families. Because you occupy a designated position, you are required by this law to file these reports in the electronic system, *INTEGRITY*. As an executive branch employee, you are bound by federal ethics laws and regulations, including prohibitions against financial conflicts of interest and loss of impartiality. Your disclosures allow the Office of General Counsel's Ethics Office (OGC/Ethics) to assist you in identifying and addressing potential or actual conflicts of interest in order to maintain the integrity of the Agency's programs and operations. These reports are publicly available upon request and the reports of certain Presidential Appointees confirmed by the Senate will be posted on the U.S. Office of Government Ethics' website at www.oge.gov.

This memorandum formally informs you that you are required by law to file timely and accurate Public Financial Disclosure Reports (OGE 278e)[1] and Periodic Transaction Reports (OGE 278-Ts).[2] **Filing a late report will result in a $200 late filing fee** unless you formally request and receive a waiver of the late fee from me or the Designated Agency Ethics Official (DAEO), Jim Payne, after describing extraordinary circumstances that caused you to file a late report.[3] **Unpaid late fees are subject to the Agency's[4] and the government's debt collection procedures and will be referred for collection if left unpaid after 30 days.**

Please refer to this chart for your filing obligations:

[1] *See* 5 U.S.C. app. § 101; 5 C.F.R. § 2634.201.
[2] Pub. L. 112-105 § 11 (STOCK Act).
[3] *See* 5 U.S.C. app. § 104(d)(1); 5 C.F.R. § 2634.704(a).
[4] *See* Resource Management Directive System 2540-03-P2 dated 07/12/2016.

OGE 278e - New Entrant reports	**Within 30 days** of entering a covered position (either by appointment to a permanent or acting in covered position)
OGE 278e – Incumbent reports	**No later than May 15**
OGE 278e – Termination reports	**No later than 30 days after** leaving a covered position (either through reassignment, resignation, or the end of acting in a covered position) (Reports may be submitted within 15 days prior to termination)
OGE 278T – Periodic transaction reports[5]	**The *earlier of* 30 days** after learning of a transaction or **45 days** of the transaction taking place.

How to request an extension of the filing deadline:

For good cause (e.g., travel, workload issues, sickness), you may request up to two 45-day extensions. Submit the request by email, including the reason, to ethics@epa.gov **prior to the due date.** Extensions cannot be granted after the due date has passed.

How to request the waiver of a late filing fee:

If *extraordinary circumstances* prevented you from meeting the deadline and OGC/Ethics assessed a late fee, you may request a waiver of the late fee. *See* 5 C.F.R. § 2634.704. Submit your request in writing to ethics@epa.gov describing the extraordinary circumstances and provide any supporting documentation. Please note that vacations or routine work obligations are not "extraordinary" circumstances. The decision to grant or deny a waiver is at the sole discretion of the DAEO/ADAEO and is final.

Your colleagues in OGC/Ethics are available to provide assistance but it is always your obligation to file your reports timely and accurately. In fact, ethics regulations *require* that we refer individuals to the Department of Justice (DOJ) when there is reasonable cause to believe that they have willfully failed to file a required report or provide the information that the report requires. The current maximum civil penalty is $56,216.[6]

As public servants, we hope that you will take your ethics obligations seriously. As such, we expect you to make a good faith effort to adhere to the timeliness and completeness requirements of your financial disclosure reporting obligations. If you have any questions, please contact ethics@epa.gov.

ATTACHMENT - *When to Report Transactions on the OGE 278 and OGE 278-T*

[5] *See* attached guidance – *When to Report Transactions on the OGE 278 and OGE 278-T.*
[6] In 2012, OGC/Ethics referred an individual to DOJ for failure to file a termination report despite repeated reminders and entreaties. That individual paid a civil penalty of $15,000 and still had to file the termination report.

When to Report Transactions

DUE DATE: The earlier of the following: 30 Days from Notification or 45 Days from Transaction

Investment Assets	Periodic Transaction Report Report on the OGE 278-T?	Annual and/or Termination Report Report on Part 7 of the OGE 278e?
Transactions of $1,000 or less		
• Any asset in which the transaction amount is $1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes[1]
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds"[2]	No	Yes
• Any asset in which the transaction amount is $1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust[3]	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

[1] Do not report the purchase or sale of your personal residence on Part 7 unless you rent it out at any time during the reporting period.

[2] To be an excepted investment fund (EIF), the asset must be:

(a) widely held (more than 100 participants),
(b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
(c) publicly traded (or available) or widely diversified.

Managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs) are not excepted investment funds in and of themselves. It may be that individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. But the fact that you have a managed account does not absolve you of your reporting requirements. That account is legally owned by you, and you're responsible for its assets and reporting transactions. If you have questions, contact ethics@epa.gov.

[3] OGC/Ethics must determine that your trust qualifies as an "excepted trust." For help, email ethics@epa.gov.

REQUIREMENT: Notify OGC/Ethics within 3 business days of commencing the negotiation or agreement for post-government employment or compensation

NOTIFICATION OF NEGOTIATION OR AGREEMENT

Your full name

Your telephone number*

Date negotiation or agreement began

Your Title / Office / AAship or Region

Your email address*

Name of non-federal entity that you are negotiating with or have an agreement for employment or compensation

* *Provide information for OGC/Ethics to use to contact you as part of our official duty. For this purpose, you may provide a personal email address or cell number.*

RECUSAL STATEMENT

To assist in identifying your recusal obligations, check the appropriate boxes below:

	Yes	No	
1.	☐	☐	EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment.
2.	☐	☐	My office in EPA does work that affects the non-federal entity with which I am seeking employment.
3.	☐	☐	The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Need help answering these statements? See page 2.

For as long as I am negotiating for, or have an agreement of, employment or compensation with the entity listed above, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity, unless I first obtain from OGC/Ethics a written authorization or waiver consistent with 5 C.F.R. § 2635.605 or 18 U.S.C. § 208(b)(1). I understand that it is my responsibility to consult with OGC/Ethics if I have questions regarding my recusal obligations.

Sign and submit to ethics@epa.gov:

Your signature

OGC/Ethics Use Only:

Statement 1: EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment.

If your answer is "yes" to any of the following questions, then you must answer "yes" to statement 1.

- Is the non-federal entity seeking official action from EPA (even if not your own office)?
- Does the non-federal entity do business or seek to do business with the EPA (even if not your own office)?
- Does the non-federal entity conduct activities that EPA regulates (even if not in your own office)?
- Does the non-federal entity have interests that may be substantially affected by the performance or non-performance of your official duties?
- Is the non-federal entity a membership organization in which the majority of the members are described in the preceding questions?

Statement 2: My office in EPA does work that affects the non-federal entity with which I am seeking employment.

To answer this question, think about the nexus between the work of your office and the non-federal entity. The closer the nexus, the more likely you will have to check "yes" to statement 2.

- Consider the particular matters your office works on and whether there is any connection to the work of this entity. Does your office work on permits, investigations, litigation, grants, licenses, contracts, applications, enforcement cases, or other similar types of matters where there is an identified non-federal entity (i.e., particular matters involving specific parties)?
- Also consider whether your office is involved in scientific programs, media programs, or other types of policies, procedures, guidance documents, regulations, etc., that would affect this particular industry or sector (i.e., particular matters of general applicability).

Statement 3: The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Think about the nexus between your work and the non-federal entity as well as its respective class, industry or sector. The closer the nexus between your work and the sector the non-federal entity belongs to, the more likely you will check have to check "yes" to statement 3.

- Will the work you do affect the sector? Don't concentrate on whether your personal contributions will be determinative but rather, overall, how the outcome of the work itself will affect the sector and the non-federal entity with which you are negotiating.
- Do you advise on or consult with your colleagues' projects and work? Does their work affect this sector or the non-federal entity?
- Do you actively supervise or assign work to subordinates? Do those assignments affect the sector or the non-federal entity?

Need help answering these statements? Contact ethics@epa.gov to discuss.

Updated September 2020

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity "directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group."

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day and receive compensation for that work	Yes	Yes	Yes but nonpartisan only
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

**PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service*

EPA Ethics Program

Counseling Practice Area: **Vetting Invitations**

Quick Summary:

One of the more visible ways ethics issues arise are those that come up during the calendaring of events and invitations for an EPA principal and their immediate staff. The ethics issues run the whole gambit:

Recusal Obligations ✦ Gifts ✦ Fundraising ✦ Political Activity ✦ Endorsements
President's Ethics Pledge ✦ Misuse of Position

Embedding ethics is a proactive counseling practice that brings together the Principals, their immediate staff, and Deputy Ethics Officials to establish a process for incorporating ethics vetting into the Principal's calendar. This helps and supports the EPA principal to meet their ethics obligations and maintain integrity of agency programs and operations.

Who:

Principals (Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators, certain Deputy Associate Administrators), their immediate staff, and Deputy Ethics Officials.

What:

Preventing conflicts of interest and other ethics issues by embedding ethics review into the calendaring process for principals.

When:

Upon the appointee's start of EPA service

Where:

Through coordination in the principal's front office and immediate staff

Why:

Principals and other political appointees encounter frequent ethics issues arising through acceptance of external events, travel, and meetings with external participants. With increased public scrutiny and ethics legal frameworks, this is a high risk area in the ethics program. It is the principal's responsibility to avoid ethics issues and to maintain public trust in government.

How:

To navigate these ethics issues, we establish a process, use standard event information gathering forms, and train periodically, so a principal's front office can obtain all relevant information for an event and ethics officials can advise appropriately and timely prior to acceptance.

Executive Order on Ethic Commitments by Executive Branch Personnel

JANUARY 20, 2021 • PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2021, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"I recognize that this pledge is part of a broader ethics in government plan designed to restore and maintain public trust in government, and I commit myself to conduct consistent with that plan. I commit to decision-making on the merits and exclusively in the public interest, without regard to private gain or personal benefit. I commit to conduct that upholds the independence of law enforcement and precludes improper interference with investigative or prosecutorial decisions of the Department of Justice. I commit to ethical choices of post-Government employment that do not raise the appearance that I have used my Government service for private gain, including by using confidential information acquired and relationships established for the benefit of future clients.

"Accordingly, as a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. Lobbyist Gift Ban. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"2. Revolving Door Ban — All Appointees Entering Government. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"3. Revolving Door Ban — Lobbyists and Registered Agents Entering Government. If I was registered under the Lobbying Disclosure Act, 2 U.S.C. 1601 et seq., or the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 et seq., within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency with respect to which I lobbied, or engaged in registrable activity under FARA, within the 2 years before the date of my appointment.

"4. Revolving Door Ban — Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, and its implementing regulations, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment. I will abide by these same restrictions with respect to communicating with the senior White House staff.

"5. Revolving Door Ban — Senior and Very Senior Appointees Leaving Government. If, upon my departure from the Government, I am covered by the post-employment restrictions set forth in sections 207(c) or 207(d) of title 18, United States Code, and those sections' implementing regulations, I agree that, in addition, for a period of 1 year following the end of my appointment, I will not materially assist others in making communications or appearances that I am prohibited from undertaking myself by (a) holding myself out as being available to engage in lobbying activities in support of any such communications or appearances; or (b) engaging in any such lobbying activities.

"6. Revolving Door Ban — Appointees Leaving Government to Lobby. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2021, would require that I register under FARA, for the remainder of the Administration or 2 years following the end of my appointment, whichever is later.

"7. Golden Parachute Ban. I have not accepted and will not accept, including after entering Government, any salary or other cash payment from my former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government. I also have not accepted and will not accept any non-cash benefit from my former employer that is provided in lieu of such a prohibited cash payment.

"8. Employment Qualification Commitment. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. Assent to Enforcement. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Personnel,' issued by the President on January 20, 2021, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

Sec. 2. Definitions. For purposes of this order and the pledge set forth in section 1 of this order:

(a) "Executive agency" shall include each "executive agency" as defined by section 105 of title 5, United States Code, and shall include the Executive Office of the President; provided, however, that "executive agency" shall include the United States Postal Service and Postal Regulatory Commission, but shall exclude the Government Accountability Office.

(b) "Appointee" shall include every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Gift":

(i) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(ii) shall include gifts that are solicited or accepted indirectly, as defined in section 2635.203(f) of title 5, Code of Federal Regulations; and

(iii) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) and (3), and (j) through (l) of title 5, Code of Federal Regulations.

(d) "Covered executive branch official" and "lobbyist" shall have the definitions set forth in section 1602 of title 2, United States Code.

(e) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(f) "Lobby" and "lobbied" shall mean to act or have acted as a registered lobbyist.

(g) "Lobbying activities" shall have the definition set forth in section 1602 of title 2, United States Code.

(h) "Materially assist" means to provide substantive assistance but does not include providing background or general education on a matter of law or policy based upon an individual's subject matter expertise, nor any conduct or assistance permitted under section 207(j) of title 18, United States Code.

(i) "Particular matter" shall have the same meaning as set forth in section 207 of title 18, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(j) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(k) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, any United States territory or possession, or any international organization in which the United States is a member state.

(l) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service

provided was limited to speeches or similar appearances. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(m) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(n) "Participate" means to participate personally and substantially.

(o) "Government official" means any employee of the executive branch.

(p) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(q) "Pledge" means the ethics pledge set forth in section 1 of this order.

(r) "Senior White House staff" means any person appointed by the President to a position under sections 105(a)(2)(A) or (B) of title 3, United States Code, or by the Vice President to a position under sections 106(a)(1)(A) or (B) of title 3.

(s) All references to provisions of law and regulations shall refer to such provisions as are in effect on January 20, 2021.

Sec. 3. Waiver. (a) The Director of the Office of Management and Budget (OMB), in consultation with the Counsel to the President, may grant to any current or former appointee a written waiver of any restrictions contained in the pledge signed by such appointee if, and to the extent that, the Director of OMB certifies in writing:

(i) that the literal application of the restriction is inconsistent with the purposes of the restriction; or

(ii) that it is in the public interest to grant the waiver. Any such written waiver should reflect the basis for the waiver and, in the case of a waiver of the restrictions set forth in paragraphs 3(b) and (c) of the pledge, a discussion of the findings with respect to the factors set forth in subsection (b) of this section.

(b) A waiver shall take effect when the certification is signed by the Director of OMB and shall be made public within 10 days thereafter.

(c) The public interest shall include, but not be limited to, exigent circumstances relating to national security, the economy, public health, or the environment. In determining whether it is in the public interest to grant a waiver of the restrictions contained in paragraphs 3(b) and (c) of the pledge, the responsible official may consider the following factors:

(i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment;

(ii) the uniqueness of the individual's qualifications to meet the government's needs;

(iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and

(iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services, such as those required by paragraph 3(a) of the pledge.

Sec. 4. Administration. (a) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate to ensure:

(i) that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee;

(ii) that compliance with paragraph 3 of the pledge is addressed in a written ethics agreement with each appointee to whom it applies, which agreement shall also be approved by the Counsel to the President prior to the appointee commencing work;

(iii) that spousal employment issues and other conflicts not expressly addressed by the pledge are addressed in ethics agreements with appointees or, where no such agreements are required, through ethics counseling; and

(iv) that the agency generally complies with this order.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) of this order shall be the responsibility of the Counsel to the President.

(c) The Director of the Office of Government Ethics shall:

(i) ensure that the pledge and a copy of this order are made available for use by agencies in fulfilling their duties under section 4(a) of this order;

(ii) in consultation with the Attorney General or the Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(iii) in consultation with the Attorney General and the Counsel to the President, adopt such rules or procedures as are necessary or appropriate:

(A) to carry out the foregoing responsibilities;

(B) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(C) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(D) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by the employees' official actions do not affect the integrity of the Government's programs and operations;

(E) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 6 of the pledge is honored by every employee of the executive branch;

(iv) in consultation with the Director of OMB, report to the President on whether full compliance is being achieved with existing laws and regulations governing executive branch procurement lobbying disclosure. This report shall include recommendations on steps the executive branch can take to expand, to the fullest extent practicable, disclosure of both executive branch procurement lobbying and of lobbying for Presidential pardons. These recommendations shall include both immediate actions the executive branch can take and, if necessary, recommendations for legislation; and

(v) provide an annual public report on the administration of the pledge and this order.

(d) The Director of the Office of Government Ethics shall, in consultation with the Attorney General, the Counsel to the President, and the Director of the Office of Personnel Management, report to the President on steps the executive branch can take to expand to the fullest extent practicable the revolving door ban set forth in paragraph 5 of the pledge to all executive branch employees who are involved in the procurement process such that they may not for 2 years after leaving Government service lobby any Government official regarding a Government contract that was under their official responsibility in the last 2 years of their Government service. This report shall include both immediate actions the executive branch can take and, if necessary, recommendations for legislation.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States pursuant to this section by any legally available means, including debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from lobbying any officer or employee of that agency for up to 5 years in addition to the time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which procedures shall include (but not be limited to) providing for fact-finding and investigation of possible violations of this order and for referrals to the Attorney General for consideration pursuant to subsection (c) of this order.

(c) The Attorney General is authorized:

(i) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(ii) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in any United States District Court with jurisdiction to consider the matter.

(d) In any such civil action, the Attorney General is authorized to request any and all relief authorized by law, including but not limited to:

(i) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(ii) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

Sec. 6. General Provisions. (a) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,
January 20, 2021.