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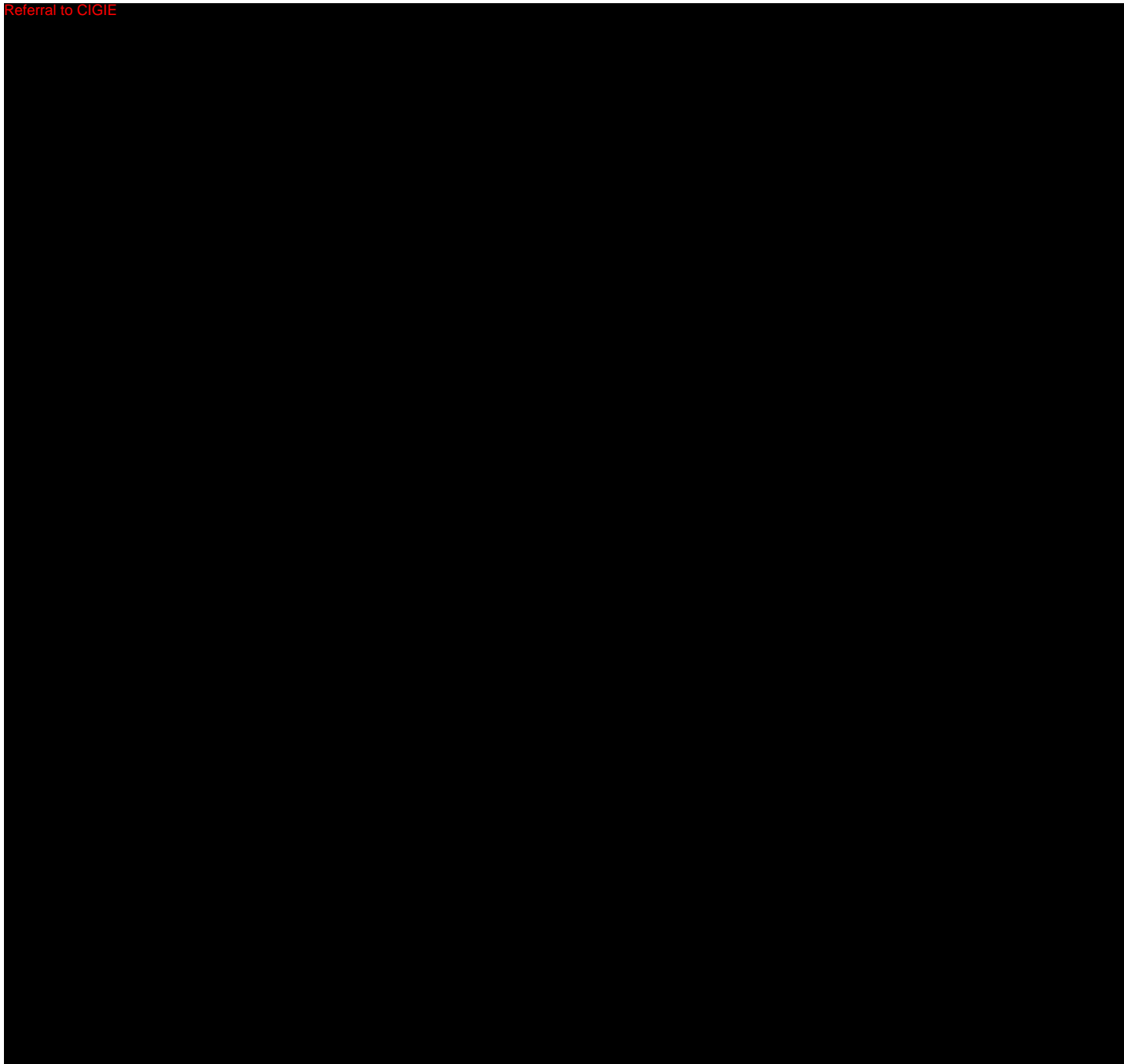
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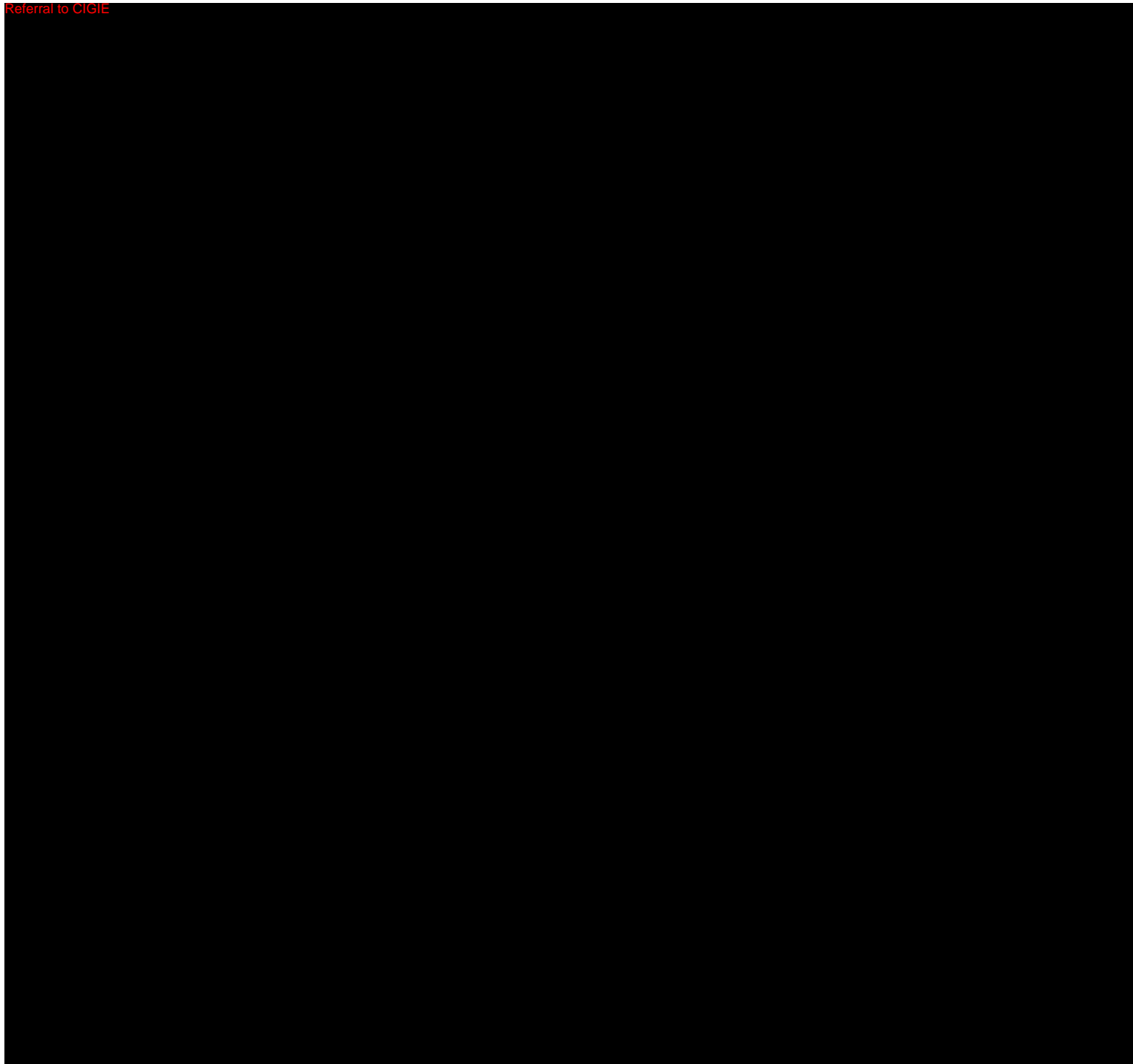


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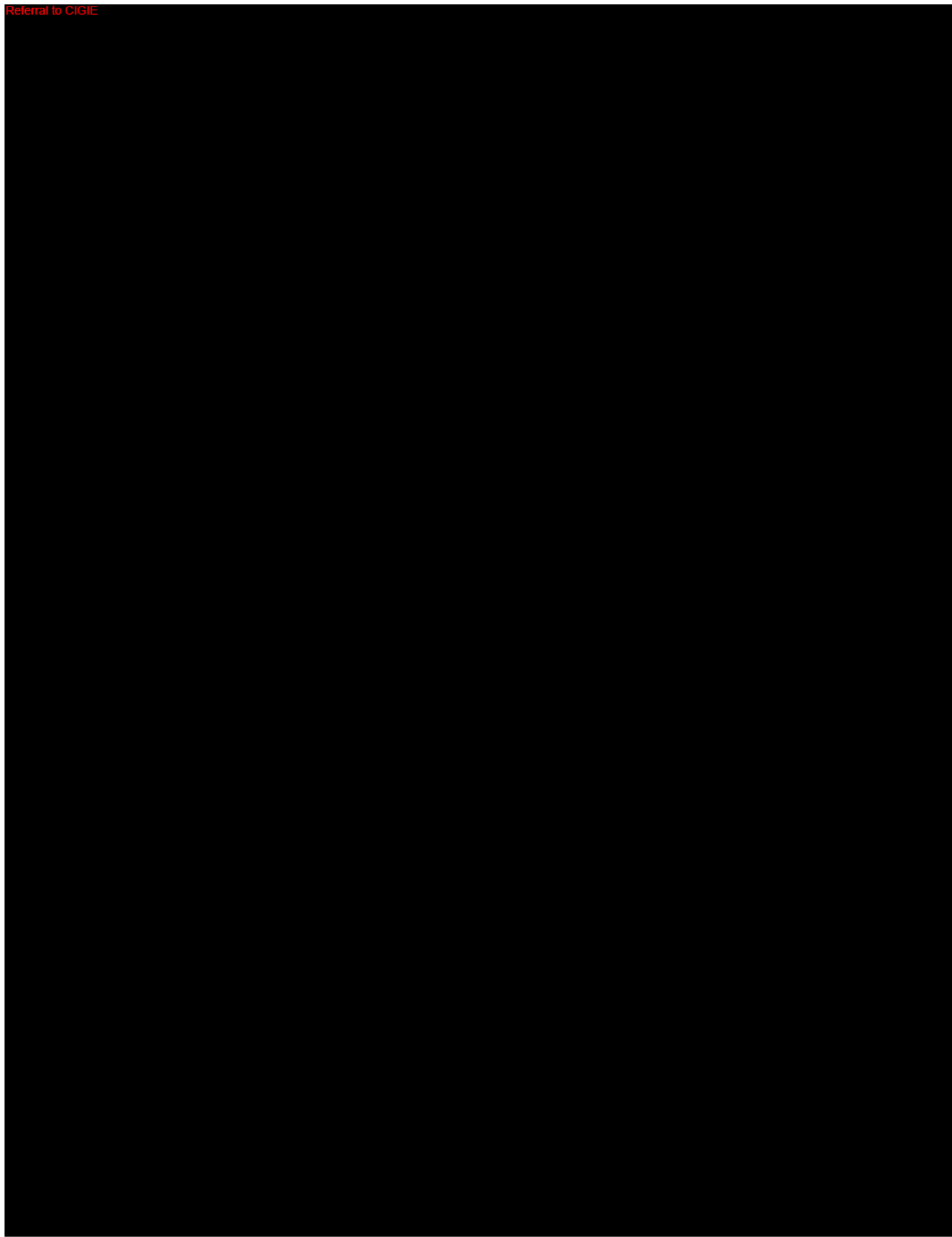


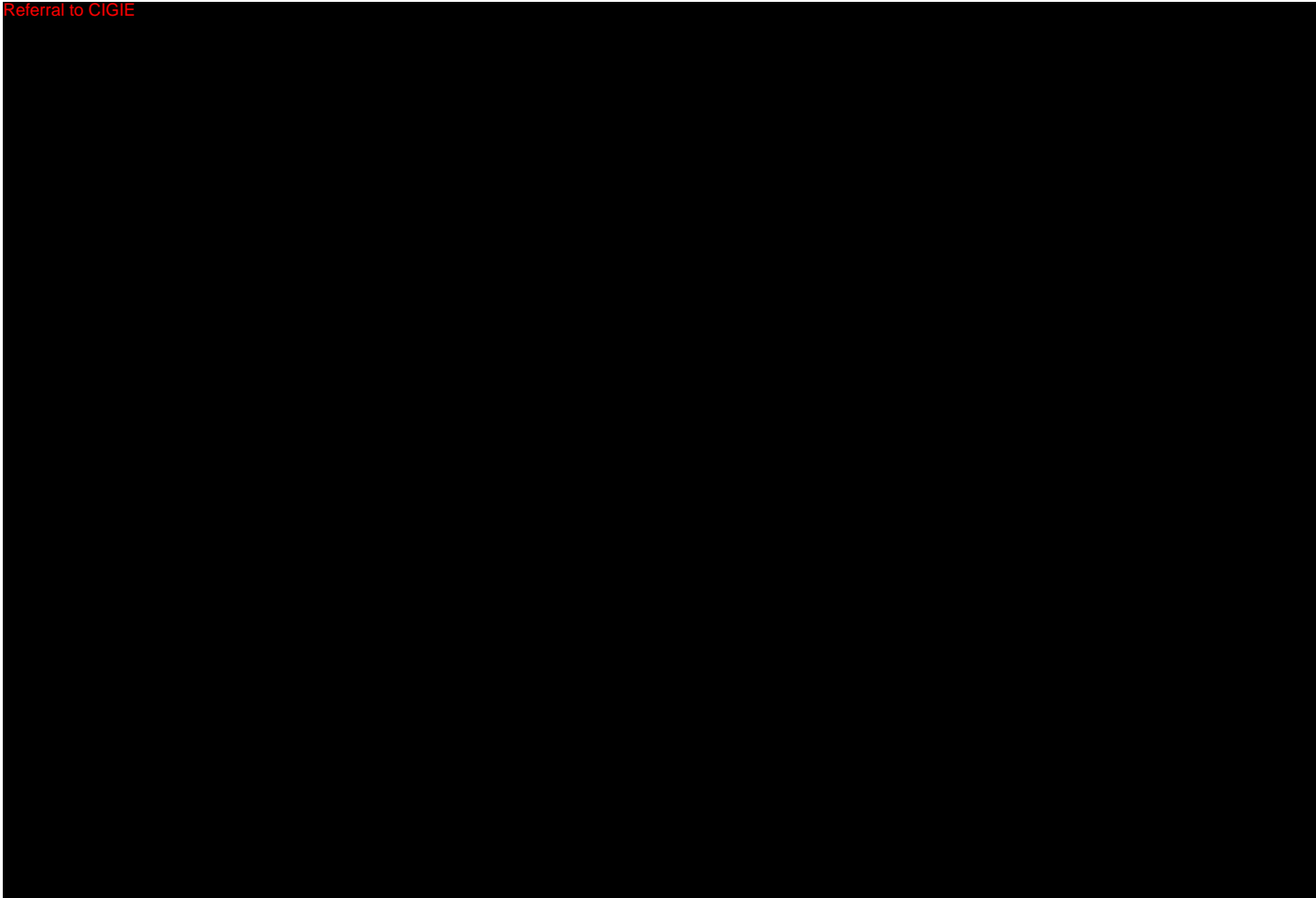


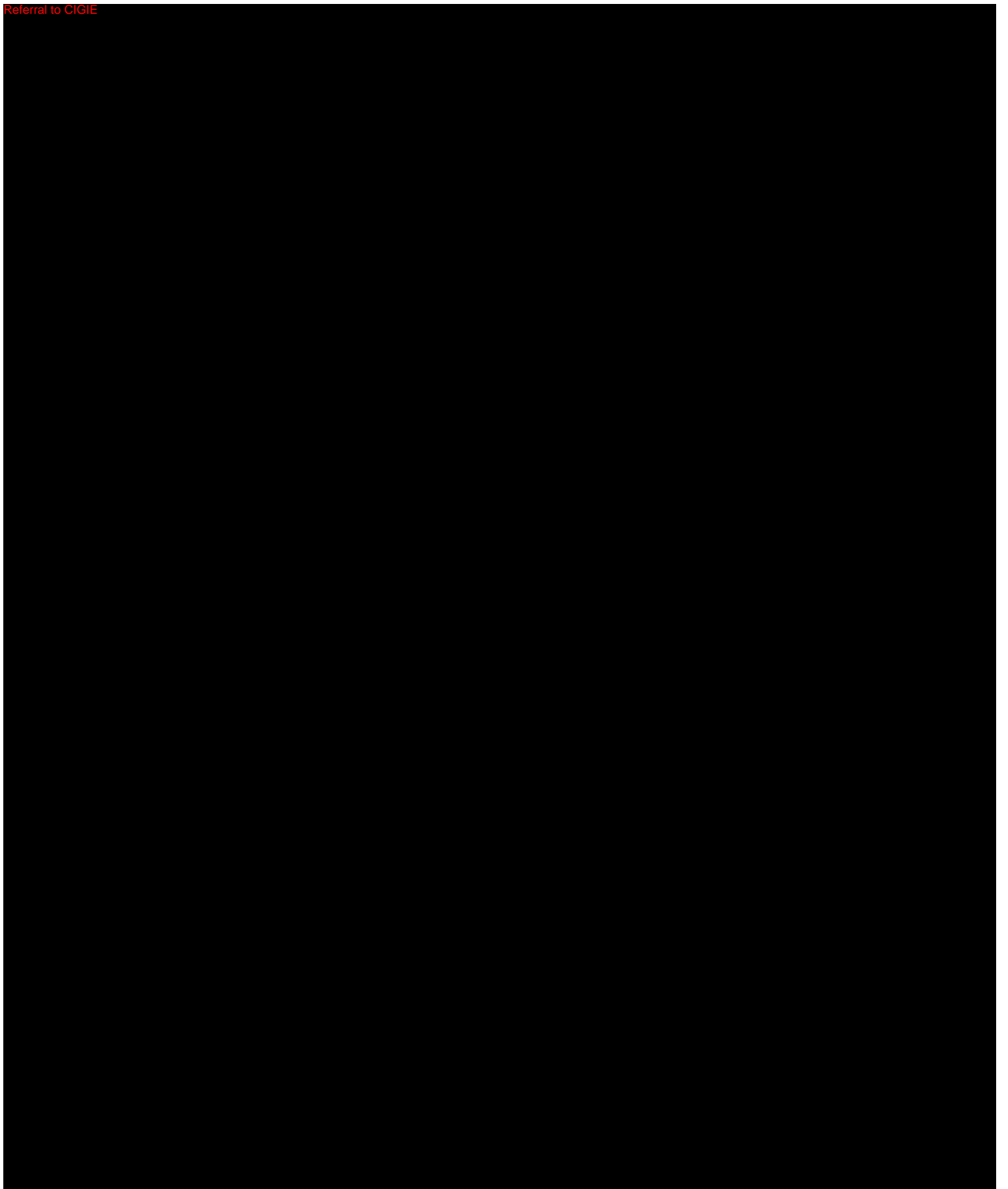


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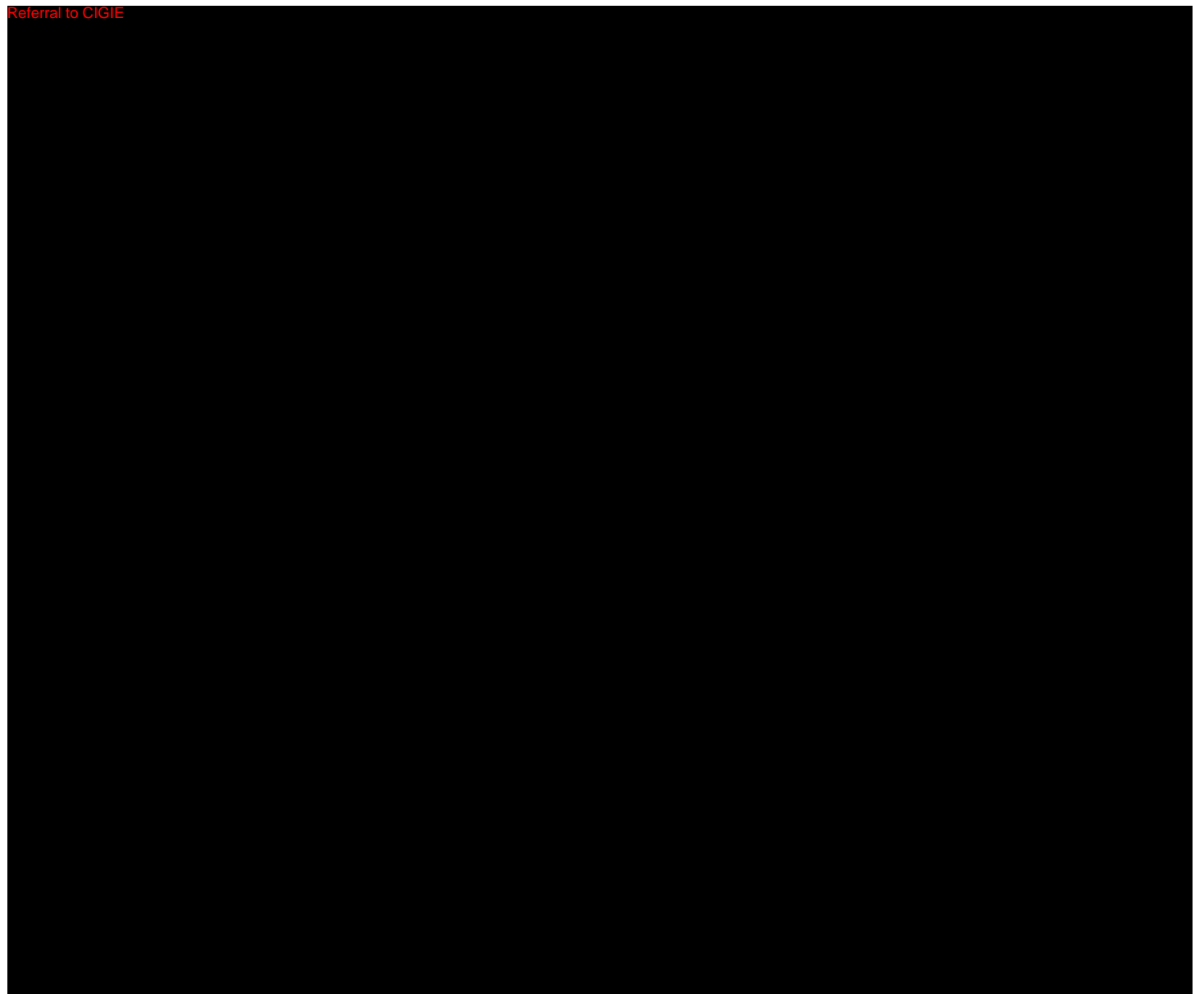






Referral to CIGIE





From: Partnership for Public Service
To: [Walter M. Shaub](#)
Subject: A look back on our 2016 highlights
Date: Thursday, June 01, 2017 3:04:01 PM

Reflect on what we've done and look ahead to what we hope to achieve.

[View this email in your browser](#)

Partnership for Public Service 2016 Annual Report



I am pleased to share the Partnership for Public Service's 2016 annual report, which highlights our programs and impact over the past year and shares how we plan to continue working toward a government that is more effective, innovative and responsive to the needs of its citizens.

Today, our federal government is under tremendous pressure. It is trying to respond to the complex challenges facing our nation while navigating an uncertain and perilous budget environment. While daunting, this time of disruption also creates an opportunity for change that might not otherwise exist. And, we believe that our 15 years of experience and reputation as an effective, nonpartisan champion of good government position us well to help federal leaders and their agencies in the years to come.

Of course none of our work would be possible without the engagement and support of our many partners. Thank you for your continued interest and involvement in our work.

Very best regards,



Max Stier

[GET THE REPORT](#)

In case you missed it: Check out [this editorial](#) from *The New York Times* that highlights the outstanding accomplishments of several 2017 [Samuel J. Heyman Service to America Medal](#) finalists.

[Partnership for Public Service](#)



From: Steve O'Keeffe
To: [Walter M. Shaub](#)
Subject: GSA and More on FedRAMP's Future – See You Next Week?
Date: Thursday, June 01, 2017 3:09:41 PM

Good afternoon,

With recent adjustments to the FedRAMP program, things are looking up for FedRAMP and those involved have taken notice – from the Hill to the agencies to the CSPs, 3PAOs, and more.

Get the inside track on the future of the program from **GSA's FedRAMP Director Matt Goodrich and 18F Cloud Portfolio Lead Jay Huie** next **Wednesday, June 7** at the Newseum in D.C. during a special afternoon deep dive at the [MeriTalk Cloud Computing Brainstorm](#).

We'll drill down on the key metrics we can look towards to identify success, how to keep up the momentum and encourage greater agency reuse, and the recent feedback on FedRAMP accelerated and FedRAMP Tailored.

This program is complimentary to attend and will take place immediately following the [MeriTalk Cloud Computing Brainstorm](#) from **12:30 p.m. - 2 p.m.** – you don't want to miss it. For more information or to register, please visit our website [here](#).

We hope to see you next week.

Cheers,

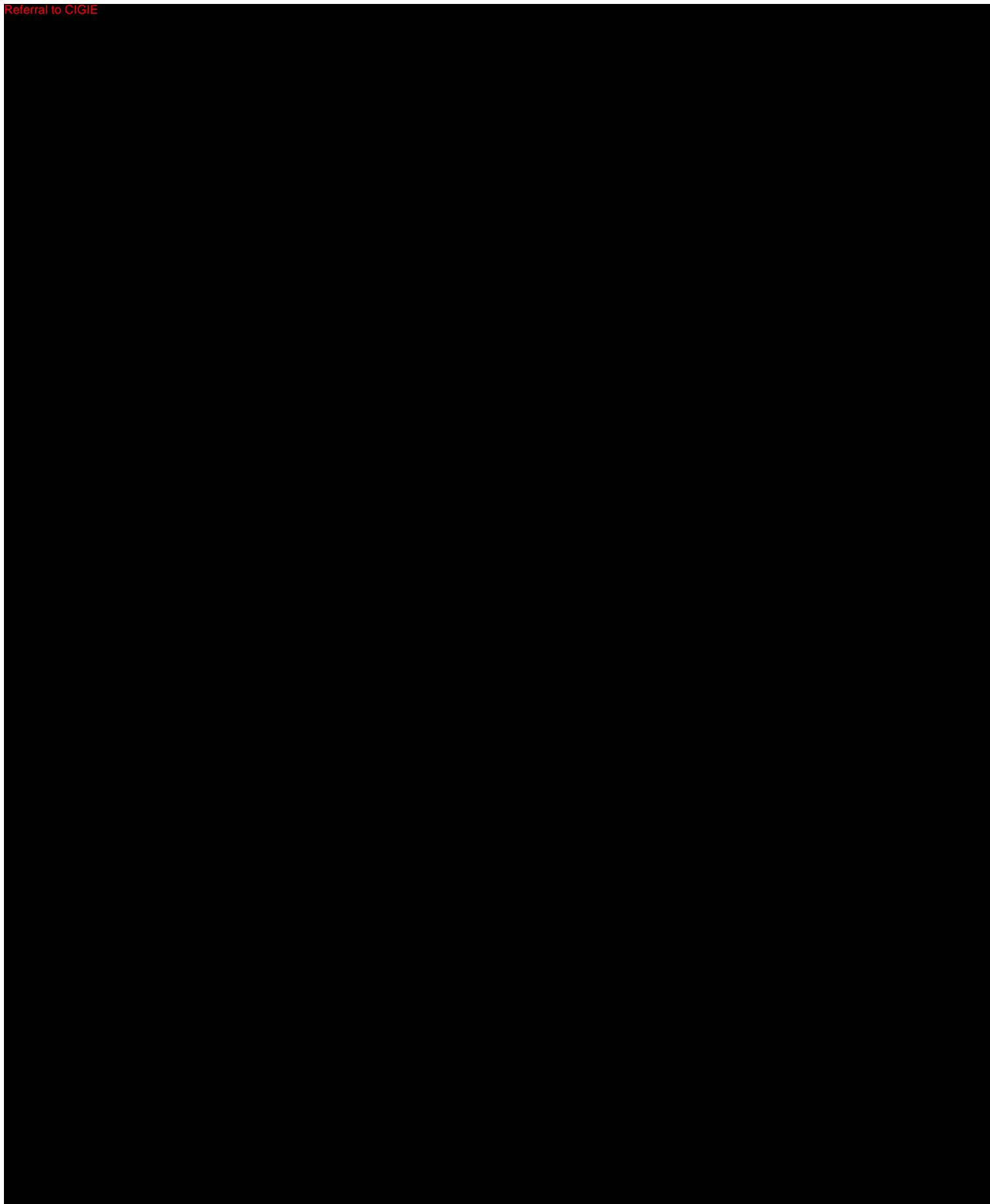
Steve

MeriTalk - P.O. Box 1356 - Alexandria, VA 22313

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Referral to CIGIE

Referral to CIGIE





From: [Walter M. Shaub](#)
To: [Jennifer Matis](#)
Subject: one more responsive record
Date: Friday, June 02, 2017 12:58:41 PM
Attachments: [waivers and authorizations.msg](#)

Attachment released below

A black rectangular redaction box covers the content of the email attachment mentioned in the subject line.

From: [Walter M. Shaub](#)
To: "[Craig Holman](#)"
Subject: RE: Agency waivers
Date: Friday, June 02, 2017 1:25:29 PM

I have not heard anything about the White House being involved. OGE is releasing them. Here's the details:

<https://www.oge.gov/web/OGE.nsf/Director's%20Notes/837EE833C26A32F985258133005EAC26?opendocument>

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Craig Holman [mailto:[\(b\) \(6\)](#)]
Sent: Friday, June 02, 2017 11:09 AM
To: Walter M. Shaub
Subject: Agency waivers

Good Morning, Walter:

The White House has said it will make public the waivers for executive branch agencies soon. I have heard rumors that this may happen next Thursday, June 8.

Do you know anything further on the expected release date for the next set of waivers?

Craig Holman, Ph.D.
Government affairs lobbyist
Public Citizen
215 Pennsylvania Avenue SE
Washington, D.C. 20003

TEL: [\(b\) \(6\)](#)

CEL: [\(b\) \(6\)](#)

From: briefings@ethics.org
To: [Walter M. Shaub](#)
Subject: Here is your latest ECI briefing from the world of ethics and compliance
Date: Friday, June 02, 2017 1:57:28 PM



THE DAILY BRIEF

June 02, 2017

The Daily Brief is intended to help streamline your daily dose of news that is important to ethics and compliance professionals. We also hope to add a little fun too.

Keeping up to date on current E&C changes, risks and events is basically a full-time job.

As an ethics & compliance professional staying current is a critical part of your job, but no one has the time to search the hundreds of journals, news sites and portals that supply that information. That is why the Ethics & Compliance Initiative created The Daily Brief™

Every hour of every day our automated listening tools read E&C information from thousands of sources.

ECI reviews the information that is collected and curates it into a source of knowledge worthy of your time. If the topics we are currently curating don't meet your needs, please let us know. If you like what you see, please share it with friends and colleagues. It's free and always will be.

When you share for the first time you will need to take less than a minute to complete your registration by confirming your name and choosing a password.

SHARE

Corporate Culture

[A New Resource for Corporate Counsel](#)

June, 02 2017 - 11:00 AM by Corporate Compliance

Today we share an interview between CCI's own Maurice Gilbert and Bloomberg Law's VP and GM of Corporate, Tech & IP, Alex Butler. Alex chats with Maurice about the future of compliance and ethics prog...

[The Emergence of a Cognitive Risk Era: Human-Centered Risk Management](#)

June, 02 2017 - 11:00 AM by James Bone

Risk management has undergone a sea change over the past few decades, yet risk management practices have evolved very little. Scarcely evolved to keep pace. Though organizations enjoy robust technolog...

Enforcement Action

[Former NYC software technician earns \\$30 million from false claims settlement](#)

June, 02 2017 - 10:28 AM by Richard L. Cassin

A software technician who worked for the City of New York's health care division was awarded \$30 million for filing a whistleblower lawsuit that alleged a software vendor misrepresented what its produ...

Just Interesting

[North Korea, cyberattacks and 'Lazarus': What we really know](#)

June, 02 2017 - 03:59 PM by ERIC TALMADGE

TOKYO (AP) — With the dust now settling after "WannaCry," the biggest ransomware attack in history, cybersecurity experts are taking a deep dive into how it was carried out, what can be done to protec...

['THIS IS A DEATH SPIRAL': The tsunami of store closures is doubling in size](#)

June, 02 2017 - 03:58 PM by Hayley Peterson

Retailers are closing stores at a staggering rate. About 2,000 store closures have been announced just within the last six weeks, bringing the total number of planned closures this year to nearly 5,10...

Opinion

Articles in this section may not represent the views of ECI, its Board of Directors or staff.

[Are we missing the point of risk management activities?](#)

June, 02 2017 - 03:52 PM

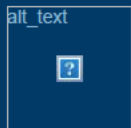
Concomitantly, governance of risk management became essential ... Maintaining Resilience in Times of Uncertainty," PennWell Publishing, 2003 S kich, Geary W., "Risk and Compliance: Are you driving the...

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From: Crump, Julie EOP/OMB
To: [FN-OMB-GovReform](#)
Cc: [Bussow, Mark A. EOP/OMB](#); [Daphnis, Kristy L. EOP/OMB](#); [Mirza, Asma Y. EOP/OMB](#); [Wiggins, Mary Ellen E. EOP/OMB](#); [Seidner, Rob B. EOP/OMB](#); [DL-OMB-PPM-Performance Leads](#)
Subject: Now available: (b) (5)
Date: Friday, June 02, 2017 4:39:06 PM

All,

(b) (5)

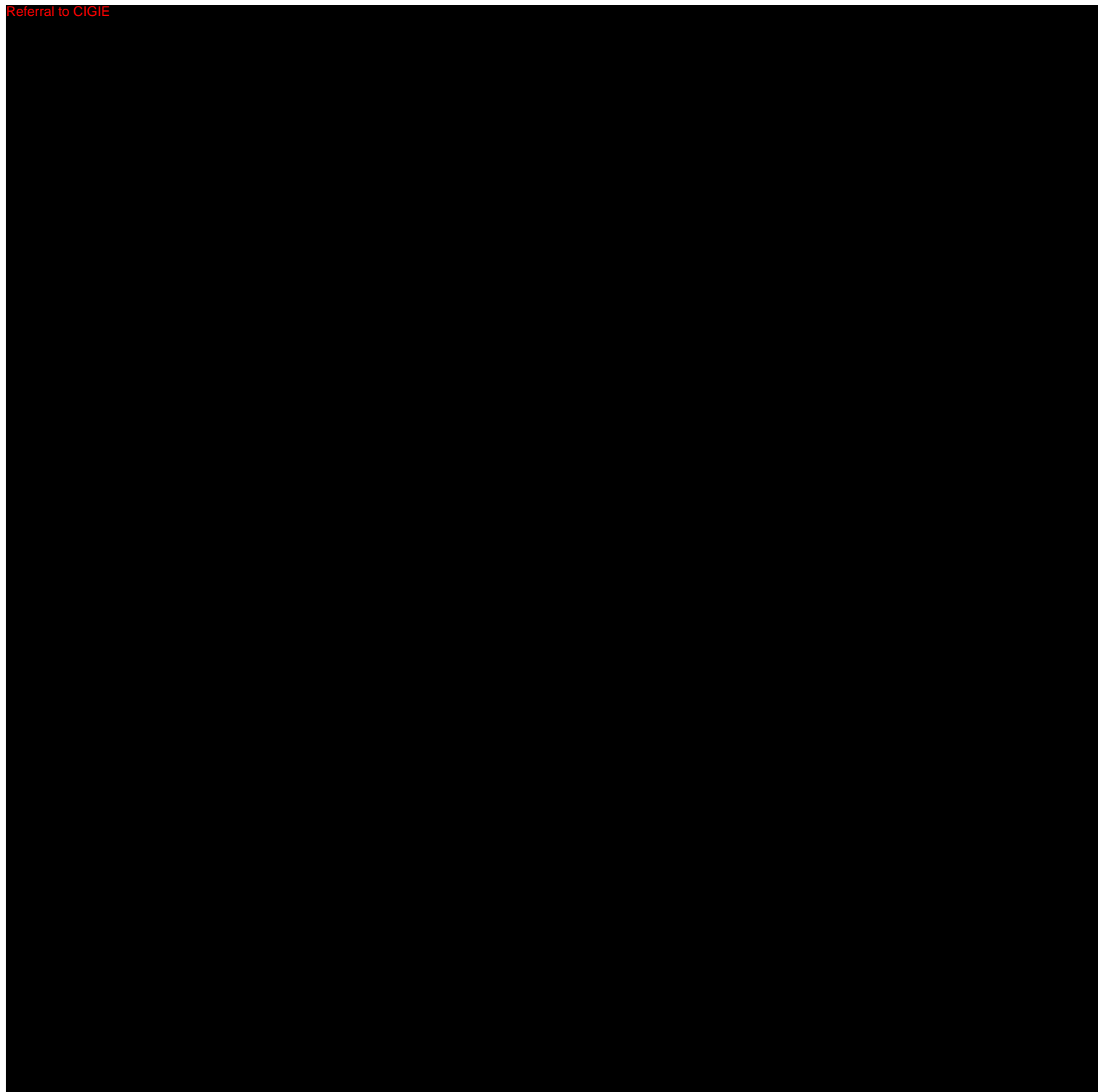


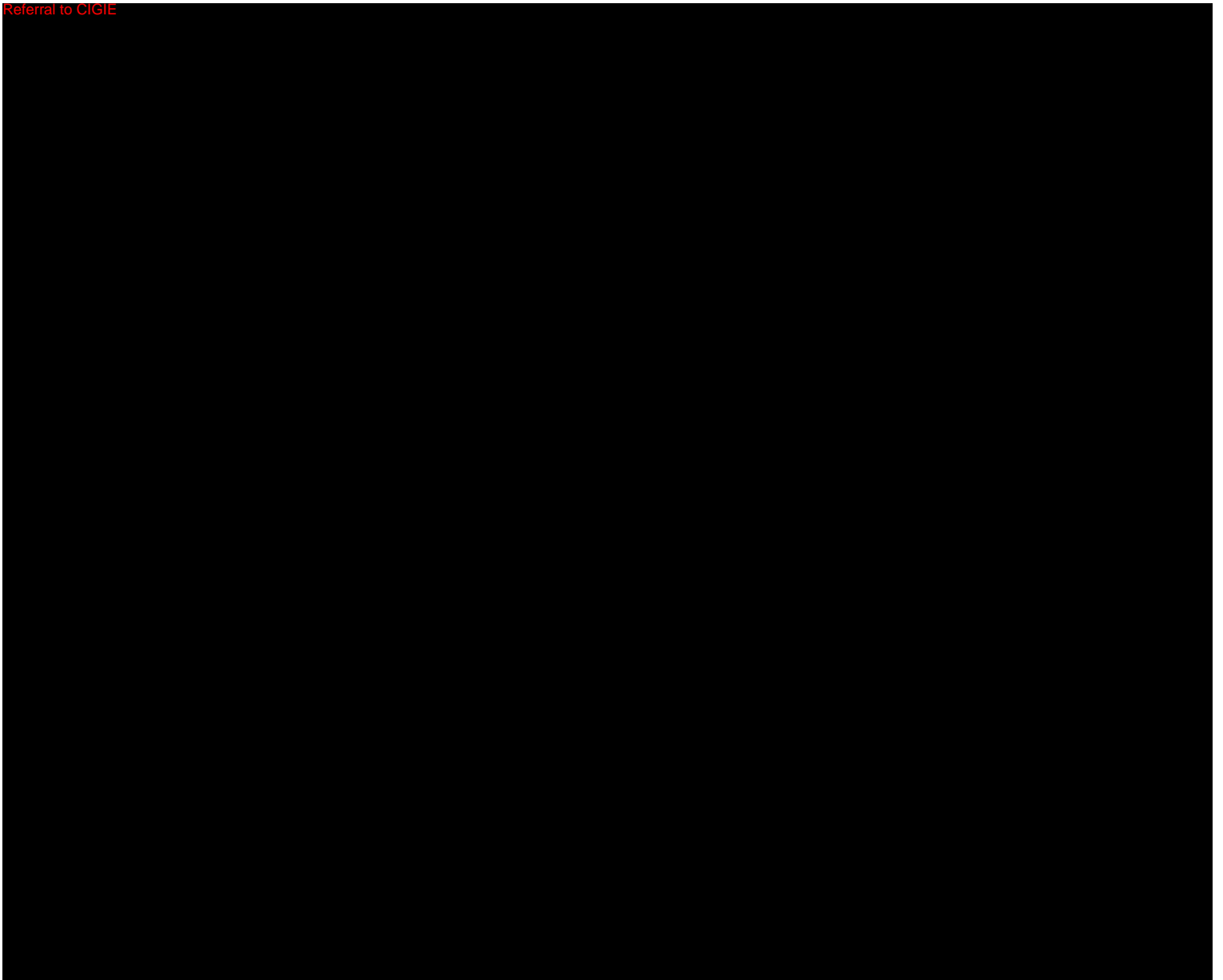
Have a great weekend!

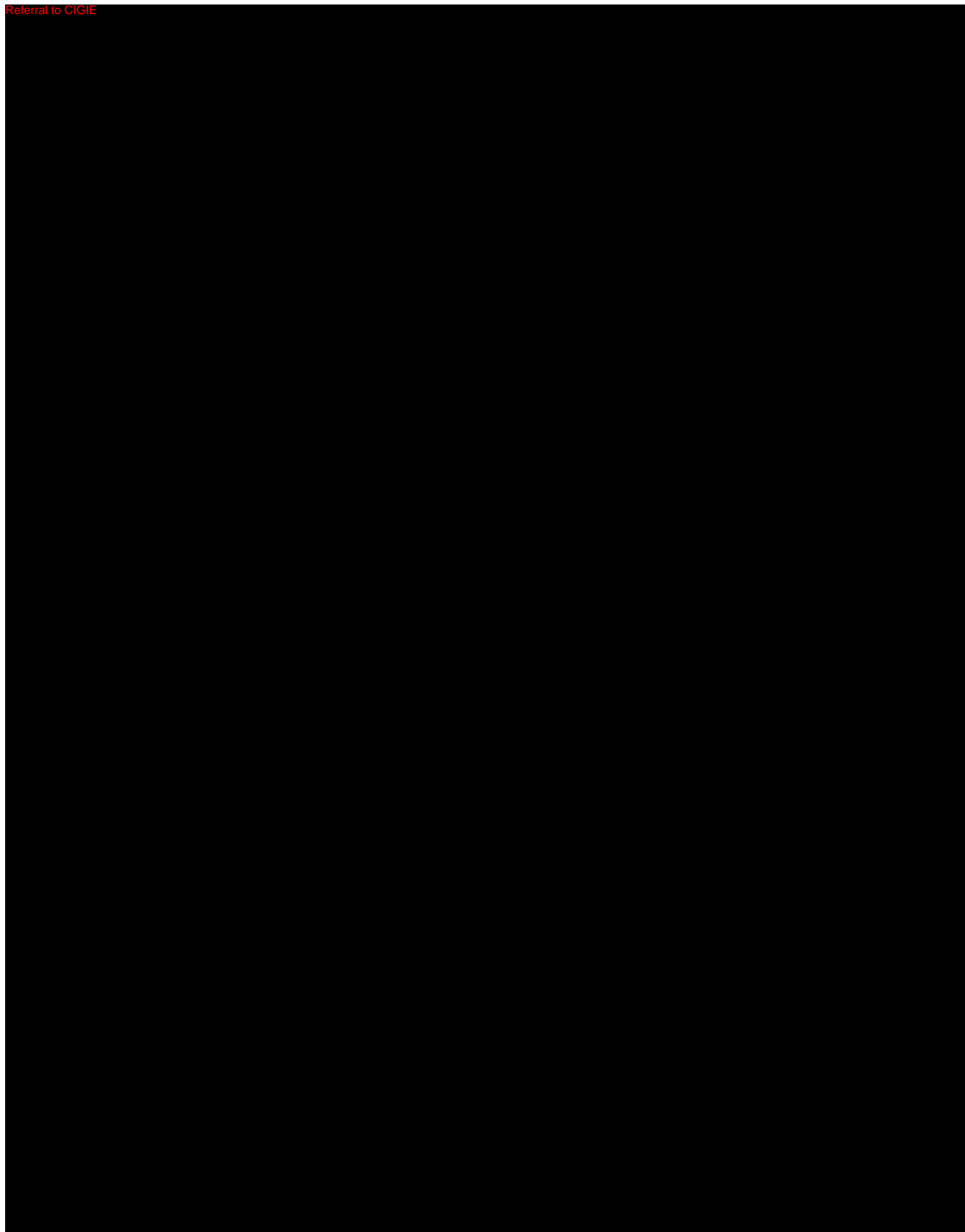
Julie Crump

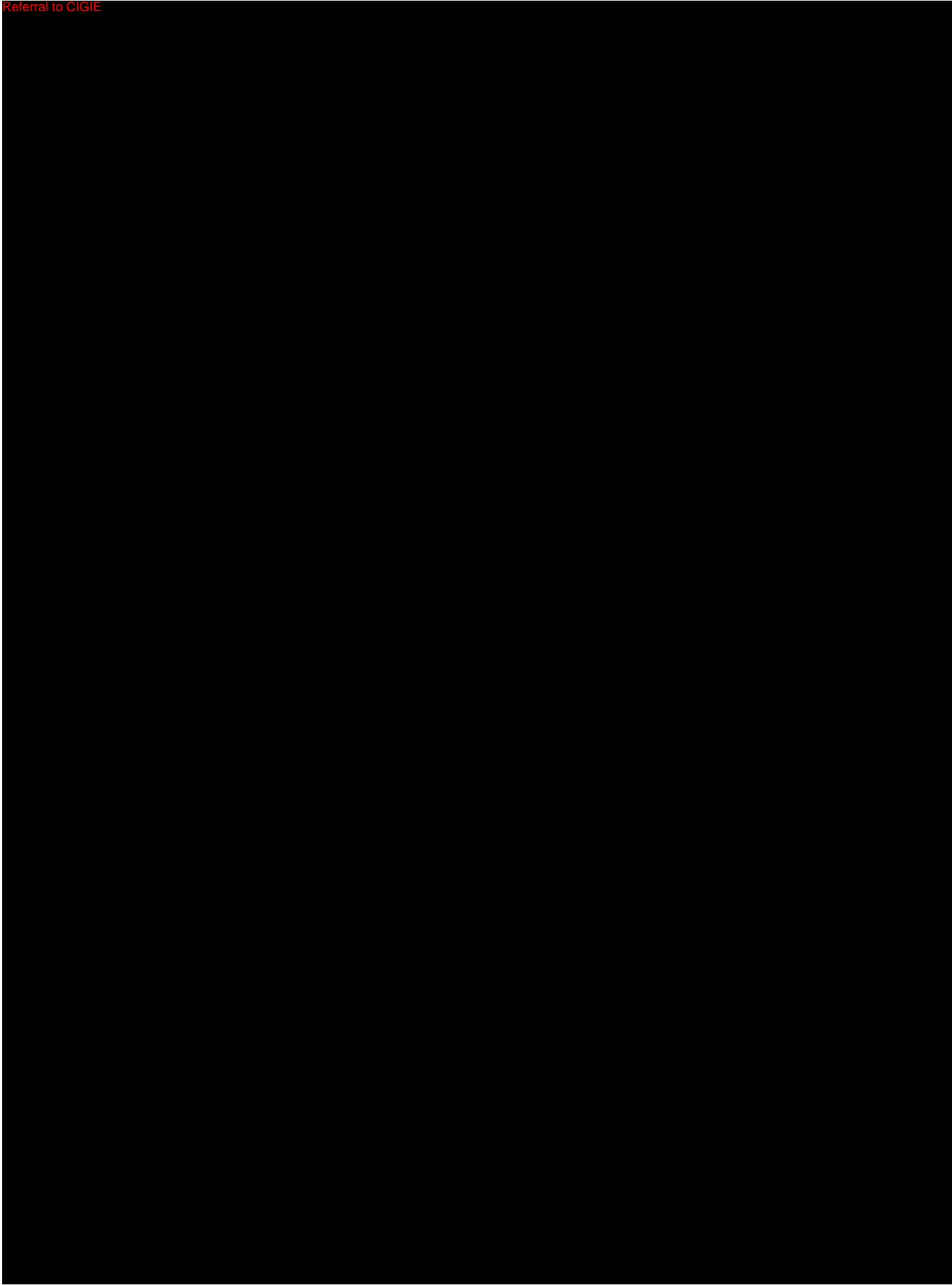
Referral to CIGIE











Referral to CIGIE

Bureau of the Fiscal Service email withheld in full - (b)(5)



From: [Walter M. Shaub](#)
To: [Dale A. Christopher](#)
Subject: FW: cheat sheet
Date: Wednesday, June 07, 2017 11:11:25 AM
Attachments: [waivers and authorizations list.pdf](#)
[waivers and authorizations list.docx](#)

1 page attachment withheld in full - (b)(5); 1 page attachment withheld in full - (b)(5)

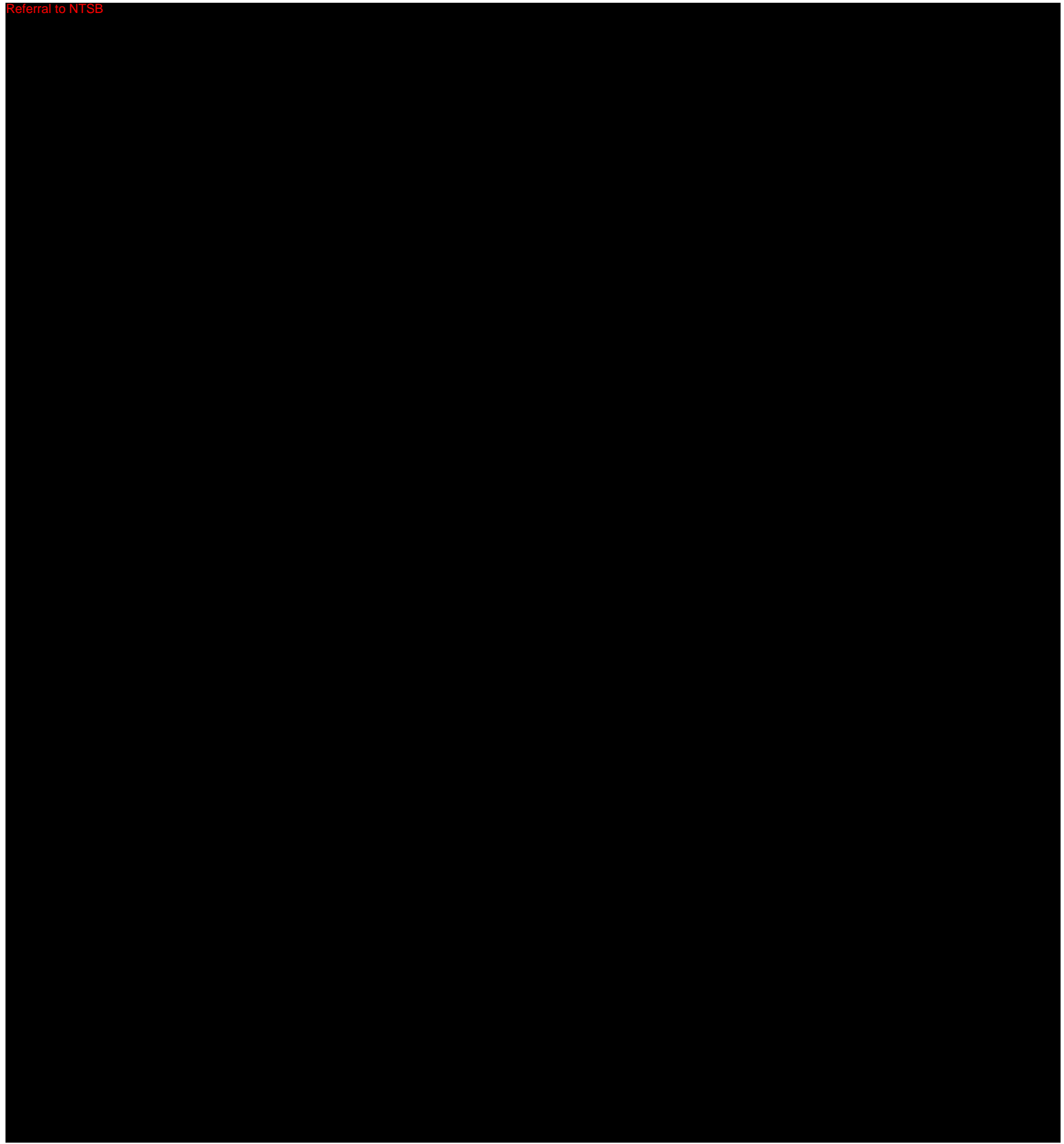
(Chip, the WH waivers and authorizations are in addition to this list.)

From: Walter M. Shaub
Sent: Wednesday, June 07, 2017 11:10 AM
To: Director of OGE; Vincent Salamone; Seth Jaffe; Elaine Newton; Leigh J. Francis
Cc: Shelley K. Finlayson; David J. Apol; Diana Veilleux; Dale A. Christopher; Nicole Stein; Jennifer Matis; Daniel L. Skalla
Subject: RE: cheat sheet

Re-sending with the document this time

From: Director of OGE
Sent: Wednesday, June 07, 2017 11:10 AM
To: Vincent Salamone; Seth Jaffe; Elaine Newton; Leigh J. Francis
Cc: Shelley K. Finlayson; David J. Apol; Diana Veilleux; Dale A. Christopher; Nicole Stein; Jennifer Matis; Daniel L. Skalla
Subject: cheat sheet

Cheat sheet in case you get calls today.



From: [Walter M. Shaub](#)
To: (b)(6) - Donna Bora's email address
Subject: Correction to your story
Date: Wednesday, June 07, 2017 5:53:41 PM
Attachments: [Excerpt from Transition Guide.pdf](#)

Attachment released below

Donna,

In your article today (<http://www.nbc-2.com/story/35610289/trump-is-crippling-his-agenda-by-leaving-top-jobs-unfilled>), you state that, "Tougher scrutiny by the Office of Government Ethics, run by Walter Shaub, who has repeatedly clashed with the White House, has also added to the bottleneck. The complexity of individuals' financial holdings has caused the agency to take longer to clear nominees of ethics entanglements."

I don't know who your source was for this statement, but it is untrue. OGE cannot review reports it has not received from the White House; however, we have cleared the ones we've received faster than we did during the last transition in 2009. That's an impressive accomplishment because the reports are more complex this time.

Also, as we explain in our Transition Guide the primary determinant of the speed of clearance is the responsiveness of the individual nominee:

[https://www.oge.gov/Web/OGEnsf/0/38CB66164D55ADD58525801B00591FFA/\\$FILE/Transition%20Guide%20Print%20Version.pdf](https://www.oge.gov/Web/OGEnsf/0/38CB66164D55ADD58525801B00591FFA/$FILE/Transition%20Guide%20Print%20Version.pdf)

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

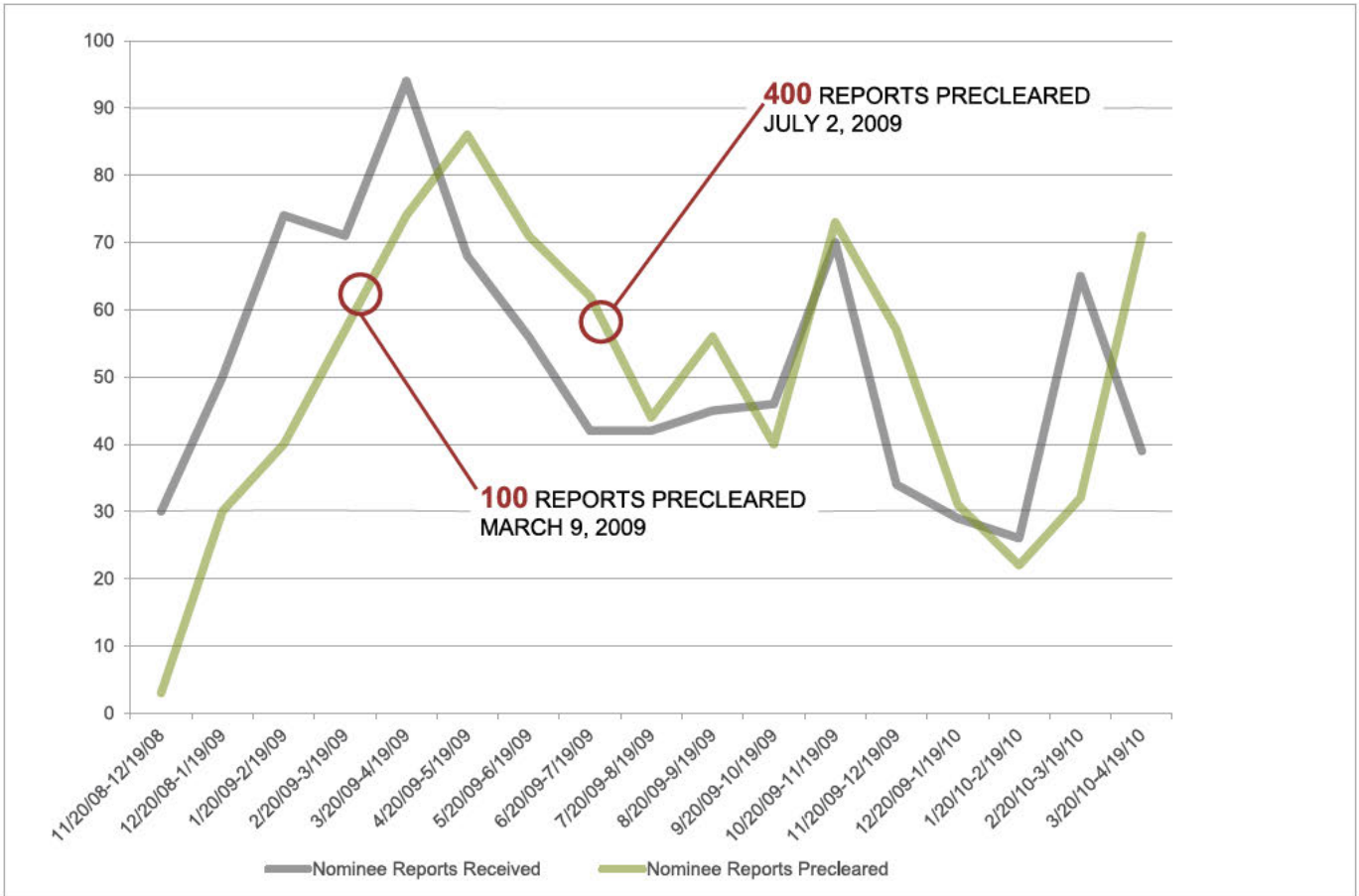
Telephone: 202.482.9292
Email: walter.shaub@oge.gov

INPUT DETERMINES OUTPUT

The new President will need to fill nearly 1,100 Senate-confirmed civilian positions in the executive branch. This is no small undertaking. The average time for the ethics review of a financial disclosure report, including development of an ethics agreement, is 43 days. OGE can expedite individual reports upon request, but the trade-off is that expediting one report may cause another one to take longer.

The graph on the opposite page illustrates the volume of reports that OGE reviewed in the last Presidential transition in 2009. The grey line represents the number of reports OGE received each month. The green line represents the number of reports OGE pre-cleared (i.e., tentatively approved for nomination) each month. The key takeaway from the graph is that while OGE's nominee process is highly efficient, OGE can't review financial disclosure reports it hasn't received. The sooner OGE receives reports, the sooner OGE can clear them.

By all accounts, the 2009 Presidential transition was a highly successful one. This upcoming transition, however, can be more successful if the Presidential Transition Team releases draft nominee financial disclosure reports to OGE sooner. In order to achieve the President-elect's goals for filling leadership positions, we encourage you to invest the resources needed to move this graph to the left in late 2016 and 2017.



In order to achieve the President-elect's goals for filling leadership positions, we encourage you to invest the resources needed to move this graph to the left in late 2016 and 2017.

NOMINEE RESPONSE TIME MATTERS

The single biggest factor affecting the time it takes to review a nominee's financial disclosure report is the responsiveness of the nominee. Multiple rounds of questions and revisions are usually needed before a report can be finalized—the financial disclosure requirements in the Ethics in Government Act are just that complex.

Delays can occur whenever a nominee is slow in:

- Gathering documents needed to complete the financial disclosure report;
- Responding to questions from OGE or agency ethics officials;
- Contacting a source of needed information, such as a brokerage firm, a financial advisor, an employer's human resources office, a partner, etc.; or
- Wrapping up negotiations to plan for things like the dissolution of a partnership, the sale of a company, the termination of an employment relationship, etc.

Delays can also occur whenever a nominee is reluctant to agree to the steps legally required to resolve conflicts of interest, such as resignation, divestiture, or recusal.

Here are three simple ways you can reduce nominee response time:

- Provide nominees with OGE's Nominee Ethics Guide,
 - Emphasize the importance of nominees responding when OGE or agency ethics officials request additional information or corrections to the financial disclosure report, and
 - Warn nominees in advance that ethics laws and regulations may require them to make changes to their financial holdings.
-

WHAT TO TELL NOMINEES

Nominees should respond promptly to questions from ethics officials in order to avoid delays. They also need to be aware that ethics laws and regulations will require them to take certain actions to avoid conflicts of interest. Below is some suggested language that you can email to nominees:

1. It is imperative that you respond promptly to questions from agency ethics officials.

2. When directed to revise your financial disclosure report, revise the report and notify agency ethics officials as quickly as possible.

3. Be prepared for the unfortunate reality that the vetting and Senate confirmation processes can be burdensome and intrusive.

4. Be prepared for the possibility that conflict of interest laws may necessitate changes in your personal finances, potentially including the divestiture of assets and resignation from business or volunteer positions.

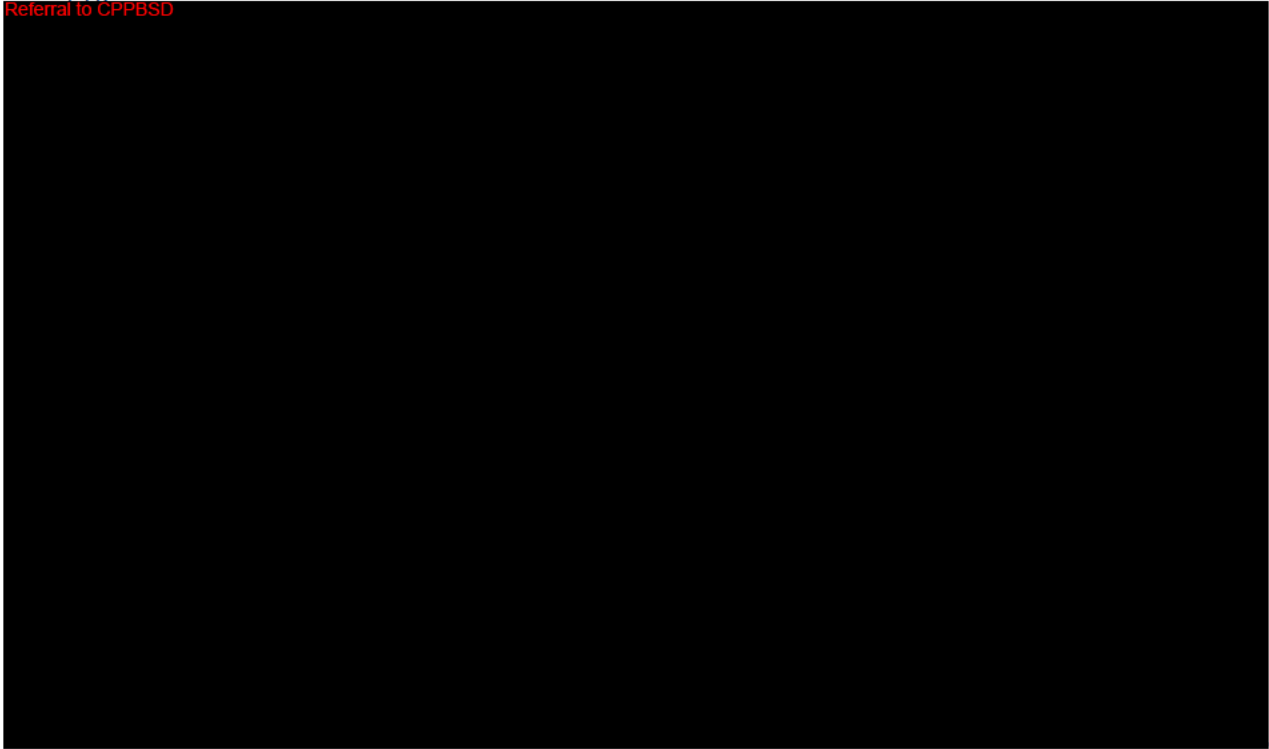
5. Be aware that conflict of interest laws also apply to the financial interests of your spouse and minor child. For this reason, they too may need to divest assets.

6. Be sure to review OGE's Nominee Ethics Guide at the beginning of the ethics process. Let us know if you have not received a copy of the guide.

From: [Seth Jaffe](#)
To: [Director of OGE](#)
Cc: [David J. Apol](#)
Subject: RE: Can we do a call on an ethics issue
Date: Thursday, June 08, 2017 8:45:37 AM

FYI:

Referral to CPPBSD




From: Director of OGE
Sent: Tuesday, June 06, 2017 4:12 PM
To: Seth Jaffe
Subject: RE: Can we do a call on an ethics issue
Thanks!

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917
Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Seth Jaffe
Sent: Tuesday, June 06, 2017 4:11 PM
To: Director of OGE; Matthew A. Marinec; David J. Apol
Subject: RE: Can we do a call on an ethics issue
Will do.

From: Director of OGE
Sent: Tuesday, June 06, 2017 4:11 PM
To: Matthew A. Marinec; Seth Jaffe; David J. Apol
Subject: FW: Can we do a call on an ethics issue
Dave or Seth, could you please help this IG?

Referral to CPPBSD



Referral to CPPBSD



From: Matthew A. Marinec
To: [Walter M. Shaud](#)
Subject: FW: Request for a visit to Costa Rica
Date: Thursday, June 08, 2017 11:48:04 AM

Please see below from Wendy regarding a potential international activity.

Thanks,
Matt Marinec

From: Wendy G. Pond
Sent: Thursday, June 08, 2017 11:46 AM
To: Matthew A. Marinec
Subject: FW: Request for a visit to Costa Rica

Walt asked me to forward this email. However, I don't have permission to send him emails. Can you forward for me?

From: (b)(6) - Otton Solis's email address
Sent: Wednesday, June 07, 2017 5:31 PM
To: Wendy G. Pond <wgpond@oge.gov>
Subject: RV: Request for a visit to Costa Rica

Dear Ms Pond,

I have just sent the letter you can see below to Mr Shaud. I will be most grateful if you can help regarding my request.

Sincerely,

Otton Solis
Congress Member
Costa Rica

De: Otton Solis [[\(b\)\(6\)](mailto:(b)(6))]
Enviado el: miércoles, 07 de junio de 2017 03:26 p.m.
Para: 'director@oge.gov.'
Asunto: Request for a visit to Costa Rica

June 7th, 2017
Asamblea Legislativa
San José, Costa Rica

Mr Walter Shaud, Director
Office of Government Ethics

Dear Mr Shaud,

I am a member of the Costa Rican Congress, most concerned about the ethical transgressions that often come to the surface in our politics and in our public administration. Certainly, Costa Rican politics is far from being as corrupt as the norm in Latin America, but still there is a lot of room for improvement.

I am aware of the brave, well substantiated and effective efforts you have been making in order to improve the ethical quality of the USA Government agencies.

For that reason I am writing in order to, respectfully, ask that you consider visiting Costa Rica in order to give a talk to a group of congress members interested on the issue and to hold some individual meetings. As we don't have funding for such a visit I have enquired at the American Embassy in San José and they will be willing to explore avenues to finance the trip.

Hoping for a positive answer to this request, I take this opportunity to congratulate you for the excellent way that you perform your very important duties.

Sincerely,

Otton Solis
Congress Member
Costa Rica

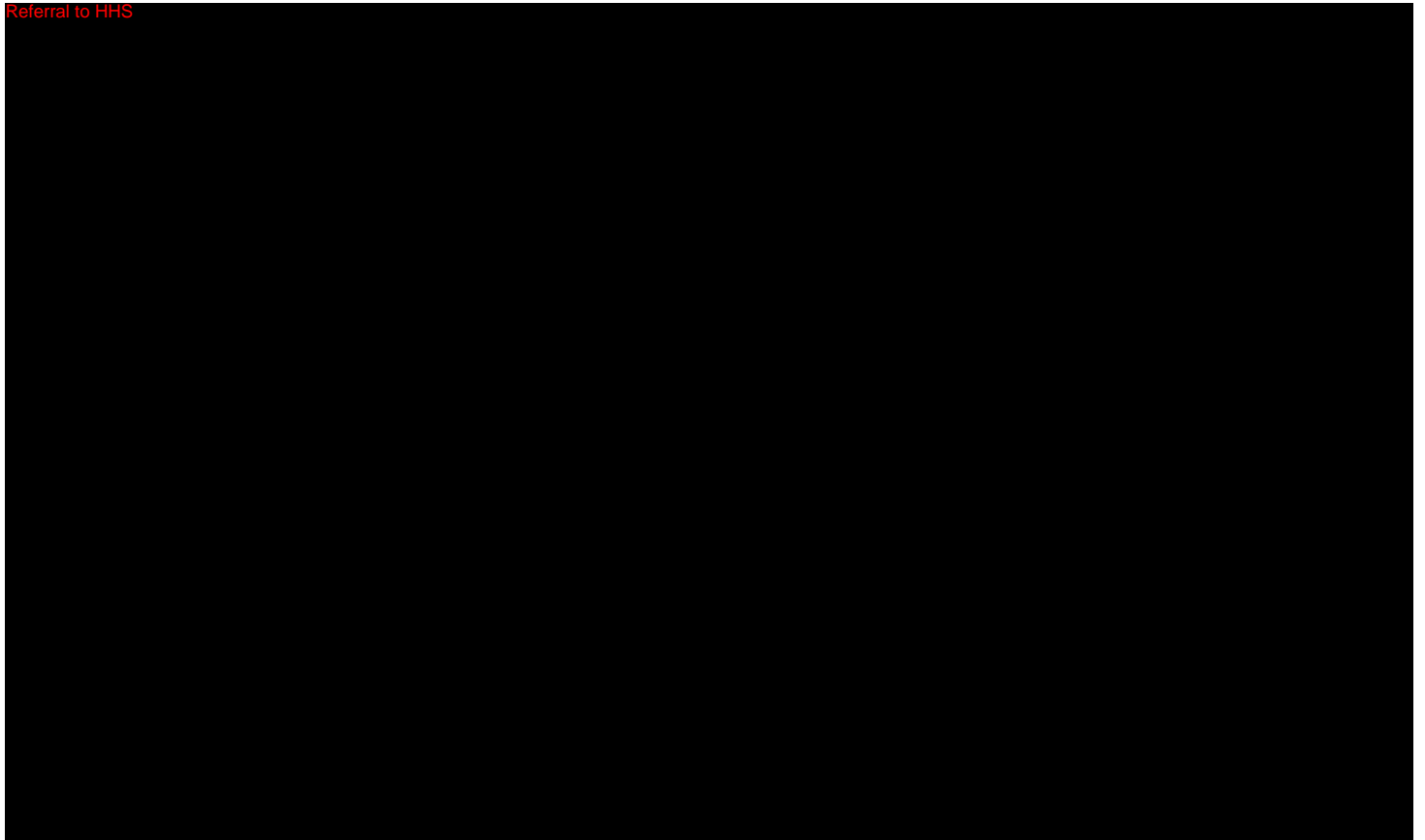


Referral to DOS



Referral to HHS





From: [Shelley K. Finlayson](#)
To: [Diana Veilleux](#); [Director of OGE](#)
Subject: Fw: Letter from Sens. Warren, Whitehouse, Carper, Leahy and Rep. Cummings
Date: Friday, June 09, 2017 10:33:34 AM

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Savage, Susannah (Warren) <(b) (6)>
Sent: Friday, June 9, 2017 10:20 AM
To: Shelley K. Finlayson
Subject: RE: Letter from Sens. Warren, Whitehouse, Carper, Leahy and Rep. Cummings

Hi Shelley,

I wanted to follow up and see when we could expect a response to this letter. Thanks!

Susannah

From: Savage, Susannah (Warren)
Sent: Tuesday, May 16, 2017 8:50 AM
To: Shelley K. Finlayson <skfinlay@oge.gov>
Cc: Cohen, Brian (Warren) (b) (6); Chabot, Erica (Leahy)
(b) (6) >; Berrios, Roberto (HSGAC)
(b) (6) Kilvington, John (HSGAC)
(b) (6); Gaeta, Joe (Whitehouse)
(b) (6) >; (b)(6) - Krista Boyd's email address
Subject: Letter from Sens. Warren, Whitehouse, Carper, Leahy and Rep. Cummings

Hi Shelley,

Attachment released below

Please see the attached letter to Director Shaub from Senators Warren, Whitehouse, Carper, Leahy and Rep. Cummings.

Thanks,

Susannah

Congress of the United States

Washington, DC 20510

May 16, 2017

Walter Shaub
Director
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, D.C. 20005

Dear Director Shaub,

We write today to request information about the ethics rules that President Trump's Deputy White House Counsel and Designated Agency Ethics Official, Stefan Passantino, is required to follow regarding current Administration officials for whom he provided paid legal services prior to joining the Administration, which now appears to result in a financial conflict of interest. We also request your assistance with understanding the role your office or other government offices will play in ensuring Mr. Passantino's compliance with these rules.

Mr. Passantino's Financial Connections to Special Advisor Carl Icahn and Other Trump Administration Officials

Billionaire investor Carl Icahn serves as a "special advisor to the president on issues related to regulatory reform."¹ The White House has treated Mr. Icahn as an informal advisor, allowing him to avoid complying with basic ethics requirements that apply to other federal employees, such as requirements to disclose conflicts of interest, recuse himself from participating in issues on which he has conflicts, or divest from financial assets that pose potential conflicts.² As a result, Mr. Icahn has been advising President Trump while simultaneously serving as the Chairman of the Board and majority shareholder of Icahn Enterprises, a "diversified holding company."³

The White House has not offered any justification for its unofficial classification of Mr. Icahn or the decision to allow him to forego basic ethics procedures for government employees. Several of us have written to both White House Counsel, Don McGahn, and Mr. Icahn seeking

¹ The Trump-Pence Transition Team, "President-Elect Donald J. Trump Names Carl Icahn Special Advisor to the President on Regulatory Reform" (December 21, 2016) (online at <https://greatagain.gov/icahn-advisor-regs-cd3c949af118>).

² See Senator Elizabeth Warren, "Senators Lodge Concerns About Icahn's Control of Renewable Fuel Standards" (February 21, 2017) (online at https://www.warren.senate.gov/?p=press_release&id=1455).

³ Icahn Enterprises L.P., "Investor Relations" (online at <http://www.ielp.com/investor.cfm>); Jennifer A. Dlouhy, Ari Natter, and Bill Allison, "'Purest Definition of a Conflict': Icahn's \$126 Million Gain on Biofuel Deal Draws Criticism," *Bloomberg Markets* (March 1, 2017) (online at <https://www.bloomberg.com/news/articles/2017-02-28/icahn-s-126-million-gain-on-biofuel-deal-prompts-criticism>).

information on Mr. Icahn's role in the White House and any financial disclosures he has been required to file, but have received no response.⁴

As you know, Mr. Passantino is the Designated Agency Ethics Official ("DAEO") for the Executive Office of the President.⁵ In his capacity as the DAEO, he is "responsible for coordinating and managing the...ethics program"⁶ by enforcing the executive branch's financial disclosure requirements included in Title I of the Ethics in Government Act of 1978 and 5 C.F.R. Part 2634.⁷ In addition, he is responsible for ensuring that the classification of Mr. Icahn is appropriate, determining which ethics rules do and do not apply to Mr. Icahn, and ensuring that Mr. Icahn is complying with these rules.

However, Mr. Passantino's public disclosures show that he previously worked as an attorney at various law firms, where he provided legal services for Mr. Icahn.⁸ Specifically, prior to his White House service, and until January 2017, Mr. Passantino was employed as a partner at the law firm Dentons US, LLP. From July 2004 to July 2015, he was a partner at McKenna, Long & Aldridge LLP, until that firm merged with Dentons. According to his financial disclosures, Mr. Passantino received "compensation exceeding \$5,000 in a year" within the past two calendar years from Icahn Capital LP, a "wholly owned subsidiary" of Icahn Enterprises, after providing the company with "legal services."⁹

Mr. Passantino's ethics disclosures also indicate that he provided "legal services" to Dr. Ben Carson, the current Secretary of Housing and Urban Development, and Tom Price for Congress, the official campaign of now-Secretary of Health and Human Services Tom Price.¹⁰

Federal Ethics Requirements

President Trump signed Executive Order 13770 on January 28, 2017, committing all political appointees in the Trump Administration to an "Ethics Pledge."¹¹ Among other

⁴ Letter to Don McGahn, White House Counsel, from Senators Whitehouse, Stabenow, Brown, Klobuchar, Franken, Baldwin, and Warren (February 13, 2017).

⁵ U.S. Office of Government Ethics, "DAEO List" (May 8, 2017) (online at <https://www.oge.gov/Web/OGE.nsf/Resources/DAEO+List>).

⁶ 5 C.F.R. § 2635.107 (online at <https://www.law.cornell.edu/cfr/text/5/2635.107>).

⁷ U.S. Office of Government Ethics, "Designated Agency Ethics Official and Alternate Designated Agency Ethics Official" (online at <https://www.oge.gov/Web/278eGuide.nsf/Content/Definitions~Designated+Agency+Ethics+Official+and+Alternate+Designated+Agency+Ethics+Official>).

⁸ OGE Form 278e for Stefan Passantino, Deputy Counsel to the President (updated on February 22, 2017).

⁹ See OGE Form 278e for Stefan Passantino, Deputy Counsel to the President (updated on February 22, 2017); Icahn Enterprises, "Icahn Enterprises L.P. Announces Hiring of Dr. Richard C. Mulligan" (March 1, 2017) (online at <http://www.ielp.com/releasedetail.cfm?ReleaseID=1015132>); New entrants to the executive branch are required to file a Form 278e, which includes their "sources of compensation exceeding \$5,000 in a year" over the "preceding two years to [the] filing date." See U.S. Office of Government Ethics, "2.01: Reporting Periods" (online at <https://www2.oge.gov/Web/278eGuide.nsf/2cf9ac792bc0654a85257ea1005f838a/5df300cba7fca98485257f450074e3a4?OpenDocument>).

¹⁰ OGE Form 278e for Stefan Passantino, Deputy Counsel to the President (updated on February 22, 2017).

¹¹ President Donald J. Trump, "Executive Order 13770," *WhiteHouse.gov* (January 28, 2017) (online at <https://www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees>).

provisions, the Ethics Pledge requires that an appointee not “participate in any particular matter involving specific parties that is directly and substantially related to” any person that the appointee “served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment.” The ban extends for two years after the date of appointment.¹²

In addition, federal ethics regulations require executive branch employees performing “official duties” to “avoid an appearance of loss of impartiality.”¹³ An employee “should not participate in a particular matter” when he or she is in a “covered relationship” with a person who “is or represents a party” in that matter.¹⁴ An executive branch employee is considered to be in a “covered relationship” with individuals “for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.”¹⁵

Given these ethics requirements, it appears that Mr. Passantino may be legally required to recuse himself from (or receive a waiver allowing him to participate in) any matters related to Mr. Icahn, Dr. Carson, or Dr. Price. But there is no record of Mr. Passantino recusing himself, and on at least one occasion, he has commented to the media on Mr. Icahn’s relationship with the Administration¹⁶ – indicating that he has not recused himself.

Questions

On April 21, 2017, we sent a letter to Mr. Passantino expressing our concerns and asking him to clarify his relationship with Mr. Icahn, Dr. Carson, and Dr. Price and whether he has recused himself on ethics matters related to these individuals.¹⁷ We have yet to receive a response. As such, we ask your office to provide us with clarity on the ethics requirements that apply to Mr. Passantino’s interactions with Mr. Icahn, Dr. Carson, and Dr. Price, and the entities responsible for enforcing them. We request that you provide us with answers to the following questions no later than June 5, 2017.

1. Please provide an overview of relevant ethics laws, executive orders, precedents, and legal opinions regarding Mr. Passantino’s role as both a Deputy White House Counsel and White House DAEO.
 - a. Given the content of Mr. Passantino’s financial disclosures, which of these laws, precedents, executive orders, and legal opinions apply to Mr. Passantino’s involvement in matters related to Mr. Icahn?

¹² *Id.*

¹³ 5 C.F.R. § 2635.501 (online at <https://www.law.cornell.edu/cfr/text/5/2635.501>).

¹⁴ *Id.*

¹⁵ 5 C.F.R. § 2635.502 (online <https://www.law.cornell.edu/cfr/text/5/2635.502>).

¹⁶ Jennifer A. Dlouhy, Ari Natter, and Bill Allison, “‘Purest Definition of a Conflict’: Icahn’s \$126 Million Gain on Biofuel Deal Draws Criticism,” *Bloomberg Markets*.


¹⁷ Letter to Stefan C. Passantino, Deputy White House Counsel and Designated Agency Ethics Official, from Senators Warren, Whitehouse, Carper, and Leahy, and Representative Cummings (April 21, 2017) (online at https://www.warren.senate.gov/files/documents/2017_04_21_%20Passantino_Letter_on_Icahn.pdf).

- b. Given the content of Mr. Passantino's financial disclosures, which of these laws, executive orders, precedents, and legal opinions apply to Mr. Passantino's involvement in matters related to Dr. Carson and Dr. Price?
2. Does Mr. Passantino's involvement in matters related to Mr. Icahn, Dr. Carson, and Dr. Price appear to be compliant with the relevant laws, executive orders, precedents, and legal opinions?
 - a. Are you aware of whether Mr. Passantino has recused himself from any matters relating to Mr. Icahn, Dr. Carson, or Dr. Price?
 - b. Alternatively, are you aware of any involvement by Mr. Passantino on issues relating to Mr. Icahn, Dr. Carson, or Dr. Price?
 - c. Are you aware of whether Mr. Passantino requested or the White House provided a waiver from Executive Order 13770, or an authorization under 5 C.F.R. § 2635.502, to allow him to work on particular matters related to Mr. Icahn, Dr. Carson, or Dr. Price?
3. If Mr. Passantino is not following relevant laws, executive orders, precedents, and legal opinions, what are the potential consequences for him? Which government officials in the White House or elsewhere are responsible for determining if Mr. Passantino is in compliance, and with enforcing these consequences if he is not?
4. Did Mr. Passantino request or did OGE provide any guidance related to Mr. Passantino's apparent conflicts of interest and recusal requirements related to any work on matters pertaining to Mr. Icahn, Dr. Carson, or Dr. Price?
 - a. If so, please describe the nature of the guidance given, and provide a copy of any such written guidance.
 - b. Did Mr. Passantino follow this guidance?
5. Have any other White House officials requested or has OGE provided guidance regarding Mr. Passantino's conflicts of interest and recusal requirements related to Mr. Icahn, Dr. Carson, and Dr. Price?

- a. If so, please describe the nature of the guidance given, and provide a copy of any such written guidance.
- b. Was this guidance followed?

Please do not hesitate to reach out to Brian Cohen of Senator Warren's staff at 202-224-2245, Joe Gaeta of Senator Whitehouse's staff at 202-224-2921, John Kilvington of Senator Carper's staff at 202-224-2241, Erica Chabot of Senator Leahy's staff at 202-224-4242, or Krista Boyd of Representative Cummings' staff at 202-225-9493 with any questions or concerns.

Sincerely,



Elizabeth Warren
United States Senator



Sheldon Whitehouse
United States Senator



Thomas R. Carper
United States Senator



Patrick J. Leahy
United States Senator



Elijah E. Cummings
Member of Congress

From: David Childers
To: [Walter M. Shaub](#)
Subject: Don't miss Pat Harned's interview on Federal News Radio
Date: Saturday, June 10, 2017 12:21:06 PM

Dear Walter,

Tomorrow ECI's CEO Pat Harned will be interviewed on Federal News Radio. Pat is a recognized authority on business ethics and the keys to leading organizations with integrity. This should prove to be an interesting discussion. If you want to hear the interview, here are the details:

- Locally on Sunday, June 11th at 9am on WFED/1500AM and is simulcast on WWFD/820AM
- Streams live at www.federalnewsradio.com at 9AM
- Federal News Radio is heard throughout the Greater Metropolitan Washington Area at 1500AM, and in Frederick, Maryland at 820AM

Hope you have a great weekend!

Best regards,

From: [Cheryl L. Kane-Piasecki](#)
To: [David J. Apol](#); [Director of OGE](#)
Subject: RE: ECI Fellows Meeting - GUEST INVITATION
Date: Saturday, June 10, 2017 2:49:50 PM

Dave—

(b) (5)



If you need to reach me on Monday my cell is (b) (6) but I cannot promise cell service will be available.

Also my gmail is (b) (6)

Cheryl

From: David J. Apol
Sent: Friday, June 09, 2017 7:42 PM
To: Director of OGE; Cheryl L. Kane-Piasecki
Subject: RE: ECI Fellows Meeting - GUEST INVITATION

Cheryl,

(b) (5)



Dave

From: Director of OGE
Sent: Friday, June 09, 2017 5:27 PM
To: David J. Apol; Cheryl L. Kane-Piasecki
Subject: FW: ECI Fellows Meeting - GUEST INVITATION
Importance: High

(b) (5)



From: Moira McGinty Klos [[mailto:\(b\) \(6\)](#)]
Sent: Friday, June 09, 2017 4:08 PM
To: Walter M. Shaub
Cc: Pat Harned
Subject: ECI Fellows Meeting - GUEST INVITATION
Importance: High

Hello Walt,

On behalf of Patricia Harned, CEO, ECI, I would like to invite you to be our guest at the upcoming **ECI Fellows Program meeting on July 12 & 13, 2017 at The Gaylord National Resort & Convention Center, National Harbor, Oxon Hill, MD, July 12 & 13, 2017**. Guests are welcome to fully participate in the sessions and innovative research working groups. All meeting fees, materials and sponsored meals are included in your invitation. The only expenses incurred would be travel and hotel accommodations. A meeting agenda is attached.

The July meeting entitled, ***Incentivizing Ethical Conduct***, will consider one of the hardest elements of an E&C program to implement. Join the ECI Fellows as they delve into the science of motivation and ways to develop “the carrots” that encourage ethical conduct, and consider “appropriate incentives” that encourage employees to uphold your values and standards?

Since 1997, the [ECI Fellows Program](#) has brought together chief ethics and compliance officers (CECOs) from Fortune 500 corporations in a collaborative format. Along with the corporate participants, the Fellows include representatives from government, non-profit and educational institutions who share an expertise and interest in business and government ethics both internally and in the public arena. The ECI Fellows is an intimate forum for meaningful discussion related to pressing and emerging ethics issues leading to timely research that addresses today’s business challenges; and ultimately practical insights that change individual and organizational behavior. The program is kept small by design, and participation limited to companies identified as global leaders in corporate ethics, like yours.

Please RSVP (b) (6) or (b) (6) by Wednesday, June 14, 2017.

I hope you will join us for this very special meeting.

Sincerely,

Moira

MOIRA MCGINTY KLOS

Chief Operating Officer

Ethics & Compliance Initiative

2345 Crystal Drive, Suite 201

Arlington, VA 22202

Phone (b) (6)

Direct (b) (6)

ABOUT ECI

The **Ethics & Compliance Initiative (ECI)** is a best practice community of organizations that are committed to creating and sustaining high quality ethics & compliance programs. www.ethics.org

July 12 – 13, 2017

ECI FELLOWS MEETING AGENDA

Incentivizing Ethical Conduct

Gaylord National Resort & Convention Center National Harbor, MD

Wednesday, July 12, 2017

8:00 am – 8:30 am	Registration & Continental Breakfast
8:30 am – 8:45 am	Welcome <ul style="list-style-type: none"> Patricia J. Harned, Ph.D., CEO, Ethics & Compliance Initiative Earnie Broughton, Senior Advisor, Ethics & Compliance Initiative
8:45 am – 9:30 am	What Incentives are We Using Today? <ul style="list-style-type: none"> Barbara (Bobby) Kipp, Advisor, ECI Fellows Program <i>This session will consist of a facilitated breakout discussion to identify current ways organizations incentivize ethical behavior.</i>
9:30 am – 10:30 am	Performance Management in the Context of Ethics and Compliance <ul style="list-style-type: none"> Gabe Shawn Vargas, Senior Partner, HCM Hostettler & Company <i>Incentivizing ethical conduct is connected to performance management, which includes compensation systems and their relationship to organizational success, governance, culture, and compliance. This session will define the broader territory with an international perspective that informs how to structure incentives that drive ethics outcomes.</i>
10:30 am – 11:00 am	Break
11:00 am – 12:00 pm	Goals Gone Wild: The Unintended Effects of Goal Setting on Employee Performance <ul style="list-style-type: none"> Lisa Ordóñez, Ph.D., McClelland Professor of Management and Organizations, University of Arizona <i>What is the relationship between goals, performance, and ethics? This session will consider practical applications of leading edge research on how goals and performance objectives drive ethical and unethical behaviors.</i>
12:00 pm – 1:15 pm	Lunch
1:15 pm – 3:00 pm	Primed to Perform: A Research-Based Clinic on Driving High Performance and Behavior <ul style="list-style-type: none"> Neel Doshi, Co-Founder, Vega Factor, Co-Author, <i>Primed to Perform</i> Facilitator: Yan Tougas, United Technologies Corporation <i>This session will include presentation and discussion of research from Neel Doshi, Co-Author of <i>Primed to Perform: How to Build the Highest Performing Cultures Through the Science of Total Motivation</i>.</i>
3:00 pm – 3:20 pm	Break
3:20 pm – 5:00 pm	Primed to Perform - continued <p><i>A facilitated dialogue and peer-to-peer discussion designed to broadly diagnose and identify opportunities to drive performance in alignment with the core values of the company.</i></p>
5:00 pm – 5:30 pm	Transition Break
5:30 pm – 8:00 pm	Reception & Dinner

July 12 – 13, 2017

ECI FELLOWS MEETING **AGENDA**

Incentivizing Ethical Conduct

Gaylord National Resort & Convention Center National Harbor, MD

Thursday, July 13, 2017

8:45 am – 9:00 am	Getting Started
9:00 am – 10:00 am	<p>A View from the Regulatory Community: 2017 Guidance from the Consumer Finance Protection Bureau</p> <p><i>The CFPB, an independent agency within the Federal Reserve, issued a new bulletin on performance incentives during February 2017. We will review the guidelines as they pertain not only to incentives, but more broadly to the administration of ethics and compliance programs.</i></p>
10:00 am – 10:15 am	Break
10:15 am – 11:45 am	<p>Innovative Incentive-Based Strategies that Drive Ethical Behavior</p> <ul style="list-style-type: none"> ■ Meghan Hart, Senior Director, Global Case Governance, Walmart ■ Laura Kennedy, Senior Vice President, Chief Ethics & Compliance Officer, Emergent BioSolutions ■ Facilitator: Barbara Kipp, Advisor, ECI Fellows Program <p><i>A panel of practitioners from companies in different industries present innovative approaches to creating incentives, rewards, recognition and performance metrics that drive ethical conduct. This session will include breakout discussions that capture insights from the panel and the meeting at large, while indentifying practical applications going forward.</i></p>
11:45 am – 12:00 pm	Conclusion



***The ECI Fellows Cordially Invite You to Attend the
July 2017 Meeting as Our Guest***

Wednesday, July 12, 8:30 am EST – Thursday, July 13, 12:00 n EST

**The Gaylord National Resort & Convention Center
201 Waterfront St, Oxon Hill, MD 20745**

INCENTIVIZING ETHICAL CONDUCT

Highlights from the agenda include:

Performance Management in the Context of Ethics & Compliance
Gabe Shawn Vargas, HCM Hostettler & Company

**Goals Gone Wild: The Unintended Consequences of Goal Setting
on Employee Performance**
Lisa Ordoñez, University of Arizona

Primed to Perform: A Research-based Clinic on Driving High Performance & Behavior
Neel Doshi, Co-Author, Primed to Perform

**A View from the Regulatory Community: 2017 Guidance from the
Consumer Finance Protection Bureau (CFPB)**

Innovative Incentive-based Strategies that Deliver Ethical Behavior
Meghan Hart, Walmart
Laura Kennedy, Emergent Biosolutions
Barbara Kipp, Facilitator

Please RSVP by Wednesday, June 14, 2017 to:
Moira McGinty Klos | (b) (6) | (b) (6)

From: [Walter M. Shaub](#)
To: ["Bykowicz, Julie"](#)
Subject: quote
Date: Monday, June 12, 2017 6:55:44 PM

“OGE is not the cause of any delays. We’re moving nominee reports faster during this transition than we did during the last transition, but we can’t review reports the White House hasn’t sent to us.”

Referral to CIA



Referral to CIA



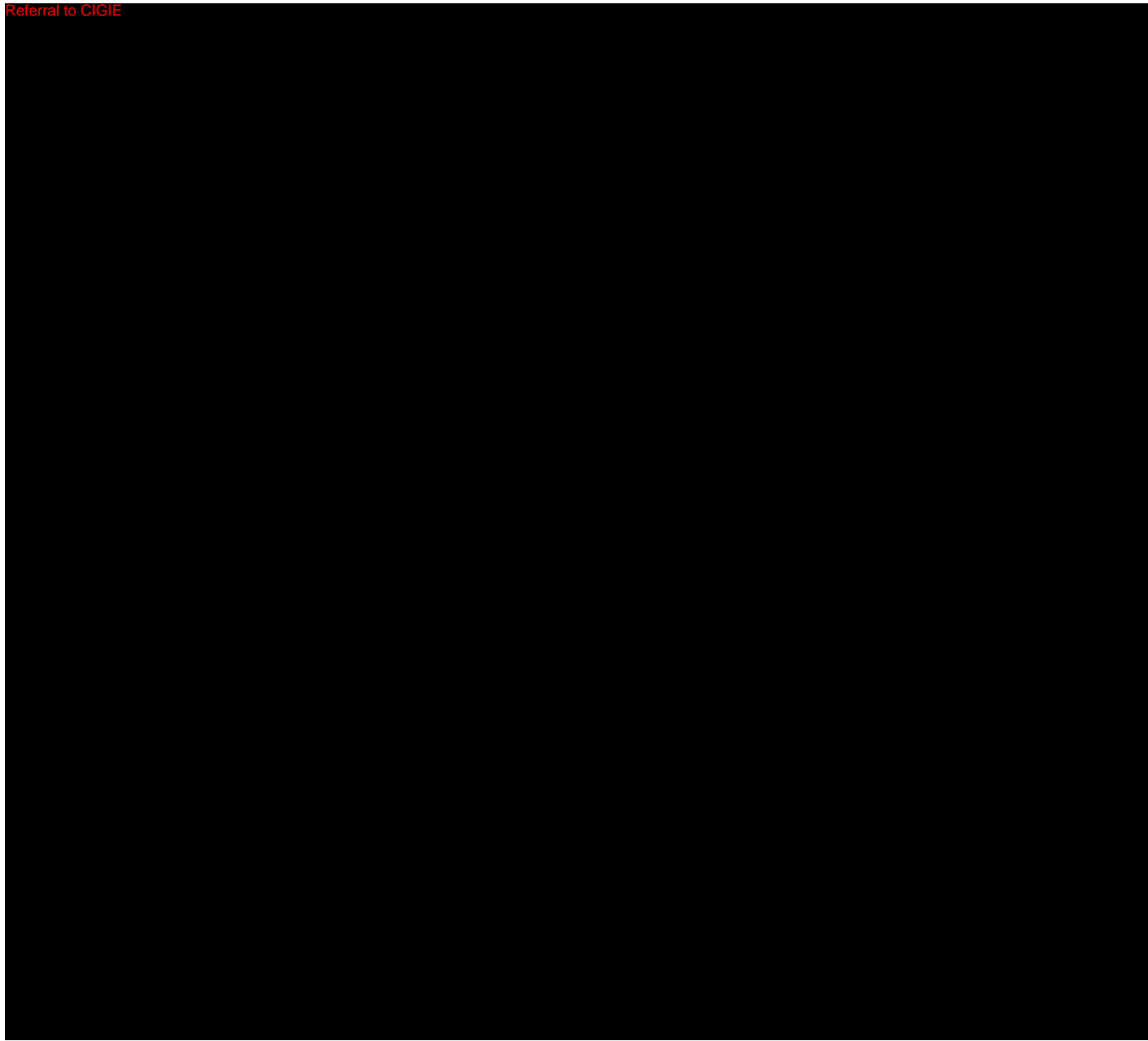
Referral to CIA



Referral to CIA



Referral to CIGIE



From: [Walter M. Shaub](#)
To: [Agency Wide](#)
Subject: news update
Date: Tuesday, June 13, 2017 3:29:37 PM

The Associated Press has fact-checked the claim that the “ethics committee” is slowing down the nominee process and reports that OGE is processing nominee reports faster during this transition than during the last transition: <https://apnews.com/f4ede76213b749eba795318c4c55c96d>

Federal News Radio has picked up the story: <https://federalnewsradio.com/people/2017/06/ap-fact-check-trump-appointees-see-quicker-ethics-process/>

The Albany Times Union has the same story: <http://www.timesunion.com/news/politics/article/AP-FACT-CHECK-Trump-appointees-see-quicker-11216372.php>

From: [Director of OGE](#)
To: (b)(6) - Marybeth Nassif's email address
Subject: OGE Carryover Request Letter, House of Representatives, 13 Jun 2017
Date: Tuesday, June 13, 2017 4:01:51 PM
Attachments: [OGE Carryover Request Letter, House of Representatives, 13 Jun 2017.pdf](#)

Attachment released below

Please find attached letter from OGE Chief of Staff and Program Counsel Shelley K. Finlayson.

Thank You,

Matthew Marinec, M.P.P.
Confidential Assistant to the Director
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9286

Visit OGE's website: www.oge.gov
Follow OGE on Twitter: @OfficeGovEthics

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



June 13, 2017

The Honorable Tom Graves
Chairman
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States House of Representatives
2000 Rayburn House Office Building
Washington, DC 20515

The Honorable Mike Quigley
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States House of Representatives
2458 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Graves and Ranking Member Quigley:

The U.S. Office of Government Ethics (OGE) writes to respectfully request authority to use a portion of 50% of the unobligated balance of OGE's fiscal year 2016 appropriation in fiscal year 2017.¹ OGE requests funds in the amount of \$58,800 of the \$60,607 available for one-time, mission critical expenses. OGE's mission is part of the very foundation of public service. By providing overall leadership and oversight of the executive branchwide ethics program designed to prevent and resolve conflicts of interest, OGE works to ensure public confidence in governmental decision making. Part of this important mission includes developing and operating *Integrity*, an executive branchwide electronic financial disclosure filing and management system for the highest level government officials as required by Congress in the STOCK Act.² Financial disclosure is used to identify conflicts of interest. *Integrity* has improved this process and has been fully adopted by the new Administration for its Presidentially appointed, Senate confirmed nominees as well as by all executive branch agencies.

¹ Section 609 of Division E of Pub. L. 114-113, 129 Stat. 2466 (Dec. 18, 2015), permits 50% of FY 2016 unobligated balances to be used by September 30, 2017.

² Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act), Pub. L. 112-105, 126 Stat. 291 (April 4, 2012). (129 Stat. 2466)



After the enactment of the fiscal year 2017 budget in early May, OGE has been in a position to assess and prioritize its critical funding needs. As a result of that assessment and feedback from the new Administration, OGE determined that *Integrity* requires the enhancements described in detail below. These critical needs can be met with 50% of the unobligated balance of OGE's fiscal year 2016 appropriation. The unobligated balance is due to prudent fiscal management³ and would be well used in fiscal year 2017.

Salaries and Expense Appropriation	
Total FY 2016 Unobligated Balance Carryover	121,214.00
50 Percent (Carryover available in FY 2017)	60,607.00

OGE would use the requested funds for expenses related to *Integrity* development activities. As anticipated, fiscal year 2017 has been the most critical period of the system's operations since its deployment. An unprecedented number of filers are registered in the system, with the result that more annual filings were processed during this annual filing season than in the previous two annual filing seasons, as well as termination reports from public filers of the outgoing Presidential administration. Also, as predicted, *Integrity* has been used to process nominee reports for the highest level appointees of the new Presidential administration. In recent months, OGE has reviewed and certified a high volume of very complex reports using the system. This heavy use has brought to light the need to make system improvements to *Integrity* in order to maintain its peak efficiency of operations. The goal of these improvements is to provide increased functionality for administrators, reviewers, and filers. Approving this request would help OGE better serve executive branch agencies and their public filers, while keeping information assets secure.

³ The amount of the unobligated funding is due to several factors. First, OGE cannot spend down to \$0 at the end of a fiscal year due to prudent accounting practices. At the recommendation of our shared services fiscal staff at the U.S. Department of Treasury's Bureau of Fiscal Service (BFS), OGE holds funding at the end of a fiscal year to avoid any potential Anti-Deficiency Act violations for procurements that unexpectedly increase beyond OGE's control, after the end of the fiscal year. Second, it is generally the case that some funds that are obligated during a fiscal year become de-obligated after the fiscal year ends. For example, contracts and shared services are procured as estimates, with the actual amount not determined until near the end of the fiscal year. The amounts can vary from several hundred to several thousand dollars and are de-obligated at or after the end of the fiscal year. Third, planned personnel actions (promotions or filling vacancies) may be delayed, causing increases to unobligated funds.

<i>Integrity</i>	
Executive Branchwide Electronic Public Financial Disclosure Filing System	
Administrator Enhancements	Cost
Increase efficiency by implementing an ability to notify multiple filers at once.	\$13,500
Add indicator when documents are attached or “Compare” feature has information to expedite review.	
Add necessary watermarks, including those required by new National Archives and Record Administration directives.	
Reviewer Enhancements	
Enhance options to more efficiently delete unnecessary information.	\$45,300
Add automatic, recurring reminders to filers to complete report.	
Add automatic date display when filer submits report to improve reviewer workload management.	
Improve compliance tracking by collecting and reporting information about the filer’s ethics agreement.	
TOTAL:	\$58,800

If you or your staff need additional information or have any questions about this request, please contact me at (202) 482-9314 or Diana Veilleux, Chief, Legal, External Affairs and Performance Branch at (202) 482-9203. An identical request is being sent to the Honorable Shelley Moore Capito, Chairwoman, Senate Subcommittee on Financial Services and General Government, and Ranking Member Chris Coons.

Sincerely,

 Shelley K. Finlayson
 Chief of Staff and Program Counsel

The Honorable Tom Graves and Mike Quigley
Page 4 of 4

Cc: Rodney Frelinghuysen
Chair
Committee on Appropriations
United States House of Representatives

Nita Lowey
Ranking Member
Committee on Appropriations
United States House of Representatives

From: Horan, Jeremy (Hirono)
To: [Director of OGE](#)
Subject: RE: Letter from OGE Director W Shaub 6-13-17
Date: Tuesday, June 13, 2017 5:11:03 PM

Thanks Matthew.

From: Director of OGE [mailto:director@oge.gov]
Sent: Tuesday, June 13, 2017 4:22 PM
To: Horan, Jeremy (Hirono) (b) (6)
Subject: Letter from OGE Director W Shaub 6-13-17

Attachment released below

Please find attached letter from OGE Director Walter M. Shaub, Jr.

Thank You,

Matthew Marinec, M.P.P.
Confidential Assistant to the Director
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9286

Visit OGE's website: www.oge.gov
Follow OGE on Twitter: @OfficeGovEthics

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June 13, 2017

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sheldon Whitehouse
United States Senate
530 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mazie K. Hirono
United States Senate
730 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Warren, Whitehouse, Markey, and Hirono:

I am in receipt of your letter dated May 17, 2017, regarding Stephen K. Bannon, Assistant to the President and White House Chief Strategist. You requested information about the ethics requirements that apply to Mr. Bannon as a Presidential appointee.

Executive branch employees are subject to a variety of ethics laws and rules designed to ensure the impartiality of the government's decision making. These authorities include the anti-bribery and criminal conflict of interest statutes;¹ the Ethics in Government Act;² the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct);³ certain restrictions established in President Bush's 1989 Executive Order on ethics;⁴ the Stop Trading on Congressional Knowledge Act;⁵ and other legal provisions. Certain political appointees are also subject to additional restrictions established in Executive Order 13770 (Jan. 28, 2017).⁶ Presidential appointees in the White House are subject to these authorities to the same extent as other executive branch employees.⁷

As you stated in your letter, Executive Order 13770 requires every "appointee" in each executive agency appointed on or after January 20, 2017, to sign an ethics pledge.⁸ The pledge states in part that the appointee will not, for a period of two years from the date of appointment,

¹ 18 U.S.C. §§ 201-209.

² 5 U.S.C. app. §§ 101 *et seq.*

³ 5 C.F.R. part 2635.

⁴ Exec. Order 12674 (Apr. 12, 1989), as amended by Exec. Order 12731 (Oct. 17, 1990).

⁵ Pub. L. No. 112-105, 126 Stat. 291 (2012), as amended.

⁶ Exec. Order 13770 (Jan. 28, 2017).

⁷ Note, however, the Department of Justice (DOJ) recently opined that the anti-nepotism statute does not apply to the White House Office. See *Application of the Anti-Nepotism Statute to a Presidential Appointment in the White House Office*, OFFICE OF LEGAL COUNSEL, U.S. DEP'T JUSTICE, 41 Op. O.L.C. 1 (Jan. 20, 2017).

⁸ See section 1 of Exec. Order 13770 (Jan. 28, 2017).



participate in any particular matter involving specific parties that is directly and substantially related to a former employer or client.⁹ Section 2 of the order defines the term “directly and substantially related to my former employer or former clients” to mean particular matters in which the appointee’s former employer or a former client “is a party or represents a party.”¹⁰ Additionally, section 2 of the order defines the term “particular matter involving specific parties” to have the same meaning as set forth in OGE’s regulations but also to 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.”¹¹

Section 3 of Executive Order 13770 provides that the President or his designee may grant a waiver of restrictions contained in the ethics pledge. That section of the executive order lacks a legal standard with which to evaluate the appropriateness of issuing a waiver.¹² As a practical matter, the waiver must also be issued in writing, given that the waiver must be “signed” and given that the executive order requires a “copy” of the waiver to be “furnished” to both the appointee covered by the waiver and the head of the appointee’s agency.¹³ In addition, the executive order provides that a waiver “shall take effect” after it is signed,” which precludes the possibility of a waiver having retroactive effect.¹⁴

The Standards of Conduct establish an additional recusal obligation with respect to former employers and clients. Specifically, an appointee may not participate in any particular matter involving specific parties in which a person with whom he has a covered relationship is a party or represents a party, if the appointee determines that a reasonable person with knowledge of the relevant facts would question the appointee’s impartiality in the matter. Covered relationships include a former employer or a client the appointee served in the past year.¹⁵ Notwithstanding this recusal obligation, the White House may authorize an appointee to participate in such a matter when the agency designee makes a determination, after considering certain relevant factors, that the interest of the government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the agency’s programs and operations.¹⁶

The White House is responsible for monitoring compliance with ethics requirements, including those established under Executive Order 13770, and investigating potential ethics violations with respect to appointees serving in the White House.¹⁷ For its part, OGE cannot impose disciplinary action on an executive branch employee other than an OGE employee.¹⁸

⁹ See section 1(6) of Exec. Order 13770 (Jan. 28, 2017).

¹⁰ See section 2(d) of Exec. Order 13770 (Jan. 28, 2017).

¹¹ See section 2(s) of Exec. Order 13770 (Jan. 28, 2017).

¹² See section 3 of Exec. Order 13770 (Jan. 28, 2017).

¹³ See section 3(b), (c) of Exec. Order 13770 (Jan. 28, 2017).

¹⁴ See section 3(b) of Exec. Order 13770 (Jan. 28, 2017) (“A waiver shall take effect when the certification is signed by the President or his designee.”).

¹⁵ 5 C.F.R. § 2635.502.

¹⁶ 5 C.F.R. § 2635.502(d).

¹⁷ See section 4(a) of Exec. Order 13770 (Jan. 28, 2017); 5 C.F.R. § 2635.106.

¹⁸ See 5 U.S.C. app. § 402.

When OGE has reason to believe that an employee may have violated the Standards of Conduct, the law authorizes OGE to make only a recommendation that the employing agency investigate the matter and consider taking disciplinary action against the employee.¹⁹ When an agency declines to take disciplinary action against an employee in connection with an ethics violation, OGE's only recourse is to notify the President.²⁰

Separate from these recusal obligations under Executive Order 13770 and the Standards of Conduct, appointees serving in the White House are covered by criminal conflict of interest laws.²¹ With regard to potential violations of the criminal conflict of interest laws, agency officials are obligated to expeditiously report any information on potential violations of federal criminal law to the Attorney General.²² Once such a referral is made, the agency is required to notify OGE.²³ However, OGE is specifically prohibited from making a finding that any criminal law is being or has been violated.²⁴

Like other appointees, Mr. Bannon is also subject to financial disclosure requirements. These requirements include a requirement to file a new entrant public financial disclosure report within 30 days of appointment to the government.²⁵ New entrant reports include information about the financial interests of the filers, their spouses, and their dependent children, as well as certain positions outside the government.²⁶ The White House is authorized to grant a filing extension, upon a showing of good cause, of up to 45 days and, upon a written showing of good cause, a second extension of up to 45 additional days.²⁷ The approval of a second extension must be in writing.²⁸ After appointees file their reports, the White House's ethics officials review the reports for compliance with financial disclosure requirements and substantive ethics requirements.²⁹ White House ethics officials are expected to work with an appointee to resolve any potential conflicts of interest that they identify through their review of the financial disclosure reports.³⁰

In addition to filing a new entrant report, Mr. Bannon must satisfy other financial disclosure requirements. He will have to file periodic transaction reports within 30 days of receiving notice of any covered transaction.³¹ He will have to file an annual financial disclosure report by May 15 each year.³² In addition, he will have to file a termination financial disclosure report within 30 days of terminating his federal service.³³ The process for resolving conflicts of

¹⁹ 5 U.S.C. app. § 402(f)(2)(A)(ii)(I); 5 C.F.R. § 2638.503.

²⁰ See 5 U.S.C. § 402(f)(2)(A)(iv)(II).

²¹ See, e.g., 18 U.S.C. §§ 201, 203-209.

²² See 28 U.S.C. § 535(b).

²³ See 5 U.S.C. § 402(e)(2).

²⁴ See 5 U.S.C. § 402(f)(5).

²⁵ 5 U.S.C. app. § 101(a).

²⁶ 5 U.S.C. app. § 102.

²⁷ 5 C.F.R. § 2634.201(f).

²⁸ *Id.*

²⁹ 5 U.S.C. app. § 106; 5 C.F.R. § 2634.605.

³⁰ 5 U.S.C. app. § 106; 5 C.F.R. § 2634.605.

³¹ 5 U.S.C. app. § 103(l).

³² 5 U.S.C. app. § 101(d).

³³ 5 U.S.C. app. § 101(e).

interest identified during the review of these subsequently filed financial disclosure reports is the same as that associated with new entrant financial disclosure reports.

With regard to your question about conflicts of interest recusals, the primary criminal conflict of interest statute prohibits senior White House appointees and other executive branch employees from participating personally and substantially in particular matters directly and predictably affecting their financial interests.³⁴ Among other things, this prohibition extends to the financial interests of companies in which they have ownership interests.³⁵ It is important to note, however, that the criminal conflict of interest statute is not a prohibited holdings statute. Instead, it requires an appointee to refrain from participating in the particular matter affecting the appointee's financial interests or the financial interests of persons whose interests are imputed to the appointee.³⁶ Thus, the most common mechanism for resolving conflicts of interest is to recuse from particular matters that would affect the appointee's personal and imputed financial interests.

Recusal is not the only means for resolving conflicts of interest. Other remedies for resolving conflicts of interest can include reassignment, divestiture, waiver, or the establishment of a qualified blind or diversified trust.³⁷ In some cases, an employee can rely on an exemption to the criminal conflict of interest statute.³⁸ OGE and the Department of Justice have established regulatory exemptions for certain types of financial interests because the conflicts of interest they pose are too remote or inconsequential to be likely to affect the integrity of an employee's service to the government.³⁹

The White House can direct an appointee to sell, or otherwise divest, an asset in order to avoid a conflict of interest.⁴⁰ If selling the asset will result in a capital gain, the appointee may be eligible for a Certificate of Divestiture to offset the tax burden of complying with the government's conflict of interest requirements.⁴¹ Pending the divestiture, the appointee must recuse from particular matters in which the asset poses a conflict of interest. Recusal is achieved by not participating in a particular matter.⁴² A White House appointee is not normally required to file a disqualification statement or other document regarding the recusal.⁴³ Thus, the important requirement is only that the appointee not participate. The White House ethics office is also responsible for providing an appointee with training, giving him guidance regarding the specific

³⁴ See 18 U.S.C. § 208(a).

³⁵ See, e.g., OGE Informal Advisory Opinion 92 x 2 (1992).

³⁶ See 18 U.S.C. § 208(a).

³⁷ See, e.g., Memo from Amy L. Comstock, Director, U.S. Office of Gov't Ethics, to Designated Agency Ethics Officials, *Nominee Ethics Agreements*, DO-01-013 (2001) (discussing remedies for conflicts of interest in the analogous case of Presidential nominees); 5 C.F.R. part 2634, subpart D.

³⁸ 18 U.S.C. § 208(b)(2).

³⁹ See 5 C.F.R. part 2640, subpart B.

⁴⁰ See 5 C.F.R. §§ 2635.402(e)(2), 2635.403(b); see also 5 U.S.C. §§ 106(b)(3), 402(f)(2)(A)(iii)(I),

⁴¹ 26 U.S.C. § 1043; 5 C.F.R. pt. 2634, subpart J.

⁴² 5 C.F.R. § 2640.103(d).

⁴³ 5 C.F.R. § 2640.103(d)(2). *But see* Stop Trading on Congressional Knowledge Act of 2012, Pub. L. No. 112-105, § 17, 126 Stat. 291, 303-04 (requiring notice of recusal in the limited case of an appointee negotiating for post-government employment).

requirements applicable to him, monitoring his compliance with applicable requirements, and taking appropriate action in the event of a violation of applicable requirements.⁴⁴

Only after the White House has certified the appointee's financial disclosure report does the White House transmit the report to OGE.⁴⁵ OGE then conducts a second-level review.⁴⁶ As part of this review process, OGE advises White House ethics officials of any deficiencies in an appointee's compliance with financial disclosure requirements. In turn, the White House ethics officials work with the appointee who filed the report in order to resolve them. It is normal for an appointee to make changes to a financial disclosure report and to add information during this review process. After the report is revised, OGE asks the White House whether it has addressed any potential conflicts of interest identified during the review process. OGE then makes a determination regarding apparent compliance with financial disclosure and conflict of interest rules and either certifies or declines to certify the financial disclosure report.⁴⁷

As discussed above, two legal authorities require Mr. Bannon to recuse from certain matters involving his former employer, Breitbart News Network. Paragraph 6 of the ethics pledge under Executive Order 13770 requires him to recuse from particular matters involving specific parties in which this former employer is a party or represents a party.⁴⁸ The order also requires him to recuse from any meeting or other communication with his former employer relating to the performance of his official duties, 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.⁴⁹ Mr. Bannon can be excused from these requirements under paragraph 6 if he receives a written waiver, which will become effective when it is signed and not on an earlier date.⁵⁰ The Standards of Conduct also require him to recuse from any such matter whenever a reasonable person with knowledge of the relevant facts would question his impartiality with regard to his former employer, unless he first receives an authorization pursuant to 5 C.F.R. § 2635.502(d).⁵¹

On May 31, 2017, the White House posted a waiver on its website that pertains to some, but not all, of these recusal obligations under paragraph 6 of the ethics pledge.⁵² The waiver states that it covers "all appointees in the Executive Office of the President," where Mr. Bannon is an appointee. The document appears to be a partial waiver of the ethics pledge restriction as to

⁴⁴ See 5 C.F.R. §§ 2635.106, 2638.104, 2638.304, 2638.308, 2638.504(a).

⁴⁵ 5 U.S.C. app. § 103(c).

⁴⁶ 5 U.S.C. app. § 106(a).

⁴⁷ 5 U.S.C. app. § 106(b); 5 C.F.R. § 2634.605.

⁴⁸ See sections 1(6), 3(d) of Exec. Order 13770 (Jan. 28, 2017).

⁴⁹ See sections 1(6), 3(s) of Exec. Order 13770 (Jan. 28, 2017); see also OGE DO-09-011, 2 (2009) (explaining that, to satisfy the requirement of "all interested parties," the meeting must include at least five parties and further explaining that, "The purpose of this expansion of the traditional definition is to address concerns that former employers and clients may appear to have privileged access, which they may exploit to influence an appointee out of the public view. . . . Although the exception refers to particular matters of general applicability, it also is intended to cover communications and meetings regarding policies that do not constitute particular matters.").

⁵⁰ See section 3(b) of Exec. Order 13770 (Jan. 28, 2017).

⁵¹ 5 C.F.R. § 2635.502(a).

⁵² See Mem. from the Counsel to the President to Appointees in the Exec. Office of the President, *Waiver Certification Under Section 3 of Executive Order 13770 for Communications and Meetings with News Organizations* (undated and unsigned), available at <https://goo.gl/3MEJWr>.

certain types of communications with all “news organizations,” an undefined class of organizations that would be construed to include Mr. Bannon’s former employer, Breitbart.

Significantly, the waiver is only a partial waiver. As to Mr. Bannon, it authorizes him to communicate with Breitbart and to participate in meetings with his former employer, but only if the subjects of discussion are limited to “matters of broad policy and particular matters of general applicability.”⁵³ Given the limited scope of this waiver, Mr. Bannon remains barred, under both Executive Order 13770 and the Standards of Conduct,⁵⁴ from participating in any “particular matter involving specific parties” in which Breitbart is a party or represents a party. He also remains barred, under Executive Order 13770, from participating in any meeting, event, or other communication with Breitbart when the subject of discussion is a particular matter involving specific parties, whether or not Breitbart is a party or represents a party.

The waiver is problematic because it is unsigned and undated, and it purports to have “retroactive” effect.⁵⁵ These deficiencies are inconsistent with the language of Executive Order 13770. As discussed earlier, the order expressly provides that a waiver is effective only after it has been signed: “A waiver shall take effect when the certification is signed by the President or his designee.”⁵⁶ More importantly, the putative retroactivity is inconsistent with the very concept of a waiver, which is to take decisions regarding the appropriateness of an employee’s participation in covered matters out of the employee’s hands. By engaging in a prohibited matter at a time when the appointee does not possess a waiver, the appointee violates the rule. Although the White House may later decide that such a violation does not warrant disciplinary action, the subsequent issuance of a waiver would not change the fact that a violation occurred.⁵⁷

It is important to emphasize that, as with other White House appointees, OGE is not in a position to have direct knowledge of Mr. Bannon’s daily assignments and activities. OGE does not know whether Mr. Bannon participated in any prohibited matter or whether he confined his activities to matters in which he was permitted to participate. OGE is aware of media reports regarding his activities,⁵⁸ but OGE has neither independently validated these reports nor received

⁵³ *Id.*

⁵⁴ See 5 C.F.R. § 2635.502(a), (d). Note that there is no indication that he has received a separate authorization under 5 C.F.R. § 2635.502(d). See Mem. from the Counsel to the President to Appointees in the Exec. Office of the President, *Waiver Certification Under Section 3 of Executive Order 13770 for Communications and Meetings with News Organizations* (undated) (“This limited waiver does not affect the application of any other provision of law, including . . . the Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. part 2635). . . .”), available at <https://goo.gl/3MEJWr>.

⁵⁵ See White House Press Office, “*Ethics Pledge Waivers Released by the White House[:]* List of Ethics Waivers Issued as of May 31st, 2017,” THE WHITE HOUSE (May 31, 2017).

⁵⁶ See section 3(b) of Exec. Order 13770 (Jan. 28, 2017).

⁵⁷ See, e.g., OGE DO-10-005 (Apr. 22, 2010).

⁵⁸ See Letter from Noah Bookbinder, Executive Director, Citizens for Responsibility and Ethics in Washington to Donald F. McGahn, Counsel to the President (Mar. 30, 2017), available at <https://goo.gl/mTh9eY>; David Folkenflik, *Ex-Breitbart Executive Brings Alt-Right Ties to the White House*, NATIONAL PUBLIC RADIO (Nov. 15, 2016), available at <https://goo.gl/GFaHIF>; Hadas Gold, *Breitbart’s bid for congressional pass put off*, POLITICO (Mar. 27, 2017), available at <https://goo.gl/k91gJC>; Jonathan Swan, *Steve Bannon privately unloaded on Breitbart reporter*, AXIOS (Feb. 15, 2017), available at <https://www.axios.com/steve-bannon-privately-unloads-on-breitbart-2263308411.html>; Lloyd Grove, *Steve Bannon: I Didn’t Order Breitbart Hit on Reince Priebus*, THE DAILY BEAST (Feb. 15, 2017), available at <https://goo.gl/50dIHs>; Oliver Darcy, *‘There are no sacred cows’: Breitbart’s*

the information necessary to draw any conclusion with respect to his compliance with the ethics pledge.

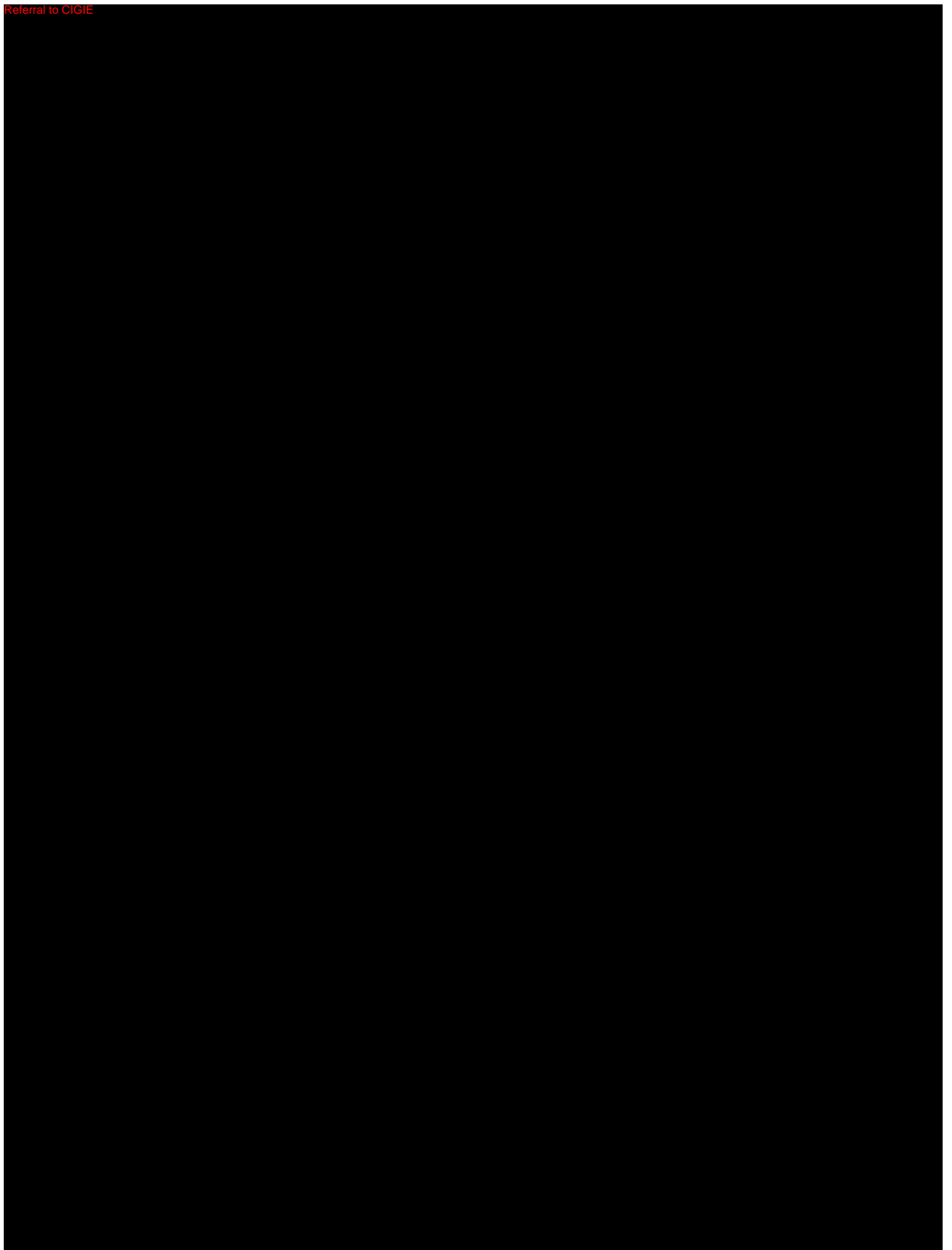
The White House's decision to post the waiver online was preceded by a data call that OGE issued on April 28, 2017, for certain executive branch waivers and authorizations.⁵⁹ As with similar oversight activities conducted by OGE, OGE will prepare a report regarding the waivers and authorizations it has obtained in connection with this data call and publish a copy of the completed report on its website. As part of preparing that report, OGE will follow up with the White House and other agencies to request additional information, including whether they are aware of any violations of the ethics pledge. The information OGE obtains will be incorporated into its report.

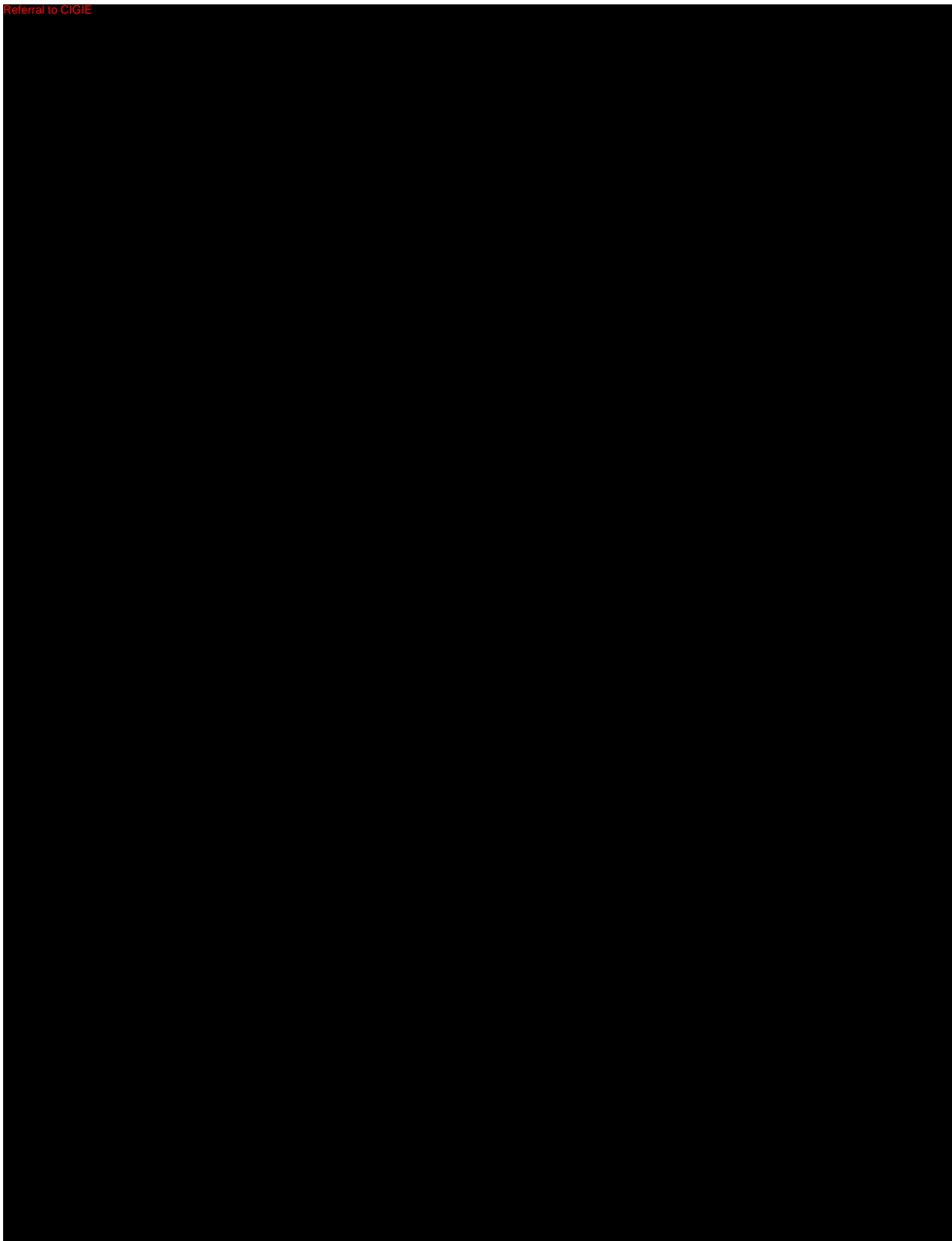
I hope this information addresses the issues your letter raises. If members of your staff have questions, OGE's Chief of Staff, Shelley K. Finlayson, is available to assist them. She can be reached at 202-482-9314.

Sincerely,

Walter M. Shaub, Jr.
Director

honeymoon with establishment win of Trump White House may be over, BUSINESS INSIDER (Mar. 8, 2017), available at <https://goo.gl/1ThazQ>; Lachlan Markay, *Bannon May Have Violated Ethics Pledge by Communicating With Breitbart*, DAILY BEAST (Mar. 30, 2017), available at <https://goo.gl/ZB09o6>; Breitbart TV, *Watch: Breitbart Editor-in-Chief Alex Marlow Interviewed by NBC's 'Today,'* BREITBART (Mar. 17, 2017), available at <https://goo.gl/j4s07H>.
⁵⁹ See OGE PA-17-02 (Apr. 28, 2017).







From: Rush, Carly (HELP Committee)
To: [Shelley K. Finlayson](#); [Director of OGE](#)
Subject: RE: Following up on Director Schaub's response
Date: Thursday, June 15, 2017 11:31:41 AM

Sorry for the delayed response! It would be great if we could discuss Trump's conflicts-of-interests related to his domestic businesses and what OGE's role is in enforcing those statutes. Also, slightly off topic from the letter, but if possible we'd love to be able to ask questions about whether you intend to do repeated asks on the waiver data and how we can be helpful on that if at all, appointee paperwork (particularly to clarify which disclosures are automatically made public, which are made public on request, and those that remain private), and how we should think about whether there could be potential conflicts-of-interest for a nominee or appointee working on a particular matter even when they have a recusal.

Thanks again!

Carly

From: Shelley K. Finlayson [<mailto:skfinlay@oge.gov>]
Sent: Monday, June 12, 2017 8:29 AM
To: Rush, Carly (HELP Committee) (b) (6) [REDACTED] Director of OGE
<director@oge.gov>
Subject: RE: Following up on Director Schaub's response

Good morning, Carly –

Please let us know the issues/topics that you would like covered in the briefing so that we can determine how best to staff it. Once we have your feedback, we can offer you some dates.

Thanks,
Shelley

From: Rush, Carly (HELP Committee) [<mailto:>(b) (6) [REDACTED]
Sent: Saturday, June 10, 2017 7:34 PM
To: Director of OGE; Shelley K. Finlayson
Subject: Following up on Director Schaub's response

Attachment released below

Matthew and Shelley,

I'm emailing to follow up on the letter attached that Senator Murray received from Director Schaub. Please thank the Director for his quick response! In his letter, Director Schaub offered a briefing for staff and asked us to contact Shelley if we are interested. We are very appreciative of that offer and would be very interested – let me know what works best for your schedule.

Thanks again!

Carly

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



June 5, 2017

The Honorable Patty Murray
Ranking Member
Committee on Health, Education,
Labor and Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, DC 20510-6300

Dear Ranking Member Murray:

This responds to your letter dated May 22, 2017, requesting that the U.S. Office of Government Ethics (OGE) assess issues related to Article II, Section 1, Clause 7 of the United States Constitution (*i.e.*, the domestic emoluments clause) and certain business arrangements of President Trump. As OGE has previously noted in correspondence with various members of Congress,¹ the emoluments issues are presently under judicial review,² and, within the executive branch, are under the sole purview of the Department of Justice.³ OGE has no authority to investigate or order corrective action on the part of the President. Ultimately, under the Constitution, the authority to oversee the Presidency rests with Congress.

OGE has recently given briefings on the authority of OGE as it relates to the President. If such a briefing would be of interest to members of your staff, please have them contact Shelley K. Finlayson, Chief of Staff and Program Counsel, at (202) 483-9314.

Sincerely,

Walter M. Shaub, Jr.
Director

cc: The Honorable Lamar Alexander
Chairman
Committee on Health, Education,
Labor and Pensions
United States Senate

¹ See *e.g.*, Letter from Walter M. Shaub, Jr. to The Honorable Robert P. Casey, Jr. (Mar. 16, 2017), available at <http://bit.ly/2qgqMtT>.

² See *e.g.*, Jeremy Venook, *Donald Trump's Conflicts of Interest: a Crib Sheet*, The Atlantic (May 22, 2017), available at <http://theatlantic.com/2qefrZQ>.

³ For reference, the Department of Justice's Office of Legal Counsel maintains a repository of its opinions addressing the emoluments clause online at <http://bit.ly/2qk5TKk>.



Carly Rush

Deputy General Counsel, Minority Staff

U.S. Senate Committee on Health, Education, Labor, and Pensions

Phone: 202-224-0166

Email: carly_rush@help.senate.gov

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From: Cabaniss, Dale (Appropriations)
To: [Director of OGE](#)
Subject: RE: OGE Carryover Request Letter, Senate, 13 Jun 2017.pdf
Date: Thursday, June 15, 2017 2:26:00 PM

Please provide specific information as to how these funds will be used.

Thank you.

From: Director of OGE [mailto:director@oge.gov]
Sent: Tuesday, June 13, 2017 4:07 PM
To: Cabaniss, Dale (Appropriations) <(b) (6)>
Subject: OGE Carryover Request Letter, Senate, 13 Jun 2017.pdf

Attachment released below

Please find attached letter from OGE Chief of Staff and Program Counsel Shelley K. Finlayson.

Thank You,

Matthew Marinec, M.P.P.
Confidential Assistant to the Director
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9286

Visit OGE's website: www.oge.gov
Follow OGE on Twitter: @OfficeGovEthics

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June 13, 2017

The Honorable Shelley Moore Capito
Chairwoman
Subcommittee on Financial Services and General Government
Committee on Appropriation
United States Senate
172 Russell Senate Office Building
Washington, DC 20510

The Honorable Chris Coons
Ranking Member
Subcommittee on Financial Services and General Government
Committee on Appropriations
United States Senate
127A Russell Senate Office Building
Washington, DC 20510

Dear Chairwoman Capito and Ranking Member Coons:

The U.S. Office of Government Ethics (OGE) writes to respectfully request authority to use a portion of 50% of the unobligated balance of OGE's fiscal year 2016 appropriation in fiscal year 2017.¹ OGE requests funds in the amount of \$58,800 of the \$60,607 available for one-time, mission critical expenses. OGE's mission is part of the very foundation of public service. By providing overall leadership and oversight of the executive branchwide ethics program designed to prevent and resolve conflicts of interest, OGE works to ensure public confidence in governmental decision making. Part of this important mission includes developing and operating *Integrity*, an executive branchwide electronic financial disclosure filing and management system for the highest level government officials as required by Congress in the STOCK Act.² Financial disclosure is used to identify conflicts of interest. *Integrity* has improved this process and has been fully adopted by the new Administration for its Presidentially appointed, Senate confirmed nominees as well as by all executive branch agencies.

¹ Section 609 of Division E of Pub. L. 114-113, 129 Stat. 2466 (Dec. 18, 2015), permits 50% of FY2016 unobligated balances to be used by September 30, 2017.

² Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act), Pub. L. 112-105, 126 Stat. 291 (April 4, 2012). (129 Stat. 2466)



After the enactment of the fiscal year 2017 budget in early May, OGE has been in a position to assess and prioritize its critical funding needs. As a result of that assessment and feedback from the new Administration, OGE determined that *Integrity* requires the enhancements described in detail below. These critical needs can be met with 50% of the unobligated balance of OGE's fiscal year 2016 appropriation. The unobligated balance is due to prudent fiscal management³ and would be well used in fiscal year 2017.

Salaries and Expense Appropriation	
Total FY 2016 Unobligated Balance Carryover	121,214.00
50 Percent (Carryover available in FY 2017)	60,607.00

OGE would use the requested funds for expenses related to *Integrity* development activities. As anticipated, fiscal year 2017 has been the most critical period of the system's operations since its deployment. An unprecedented number of filers are registered in the system, with the result that more annual filings were processed during this annual filing season than in the previous two annual filing seasons, as well as termination reports from public filers of the outgoing Presidential administration. Also, as predicted, *Integrity* has been used to process nominee reports for the highest level appointees of the new Presidential administration. In recent months, OGE has reviewed and certified a high volume of very complex reports using the system. This heavy use has brought to light the need to make system improvements to *Integrity* in order to maintain its peak efficiency of operations. The goal of these improvements is to provide increased functionality for administrators, reviewers, and filers. Approving this request would help OGE better serve executive branch agencies and their public filers, while keeping information assets secure.

³ The amount of the unobligated funding is due to several factors. First, OGE cannot spend down to \$0 at the end of a fiscal year due to prudent accounting practices. At the recommendation of our shared services fiscal staff at the U.S. Department of Treasury's Bureau of Fiscal Service (BFS), OGE holds funding at the end of a fiscal year to avoid any potential Anti-Deficiency Act violations for procurements that unexpectedly increase beyond OGE's control, after the end of the fiscal year. Second, it is generally the case that some funds that are obligated during a fiscal year become de-obligated after the fiscal year ends. For example, contracts and shared services are procured as estimates, with the actual amount not determined until near the end of the fiscal year. The amounts can vary from several hundred to several thousand dollars and are de-obligated at or after the end of the fiscal year. Third, planned personnel actions (promotions or filling vacancies) may be delayed, causing increases to unobligated funds.

<i>Integrity</i>	
Executive Branchwide Electronic Public Financial Disclosure Filing System	
Administrator Enhancements	Cost
Increase efficiency by implementing an ability to notify multiple filers at once.	\$13,500
Add indicator when documents are attached or “Compare” feature has information to expedite review.	
Add necessary watermarks, including those required by new National Archives and Record Administration directives.	
Reviewer Enhancements	
Enhance options to more efficiently delete unnecessary information.	\$45,300
Add automatic, recurring reminders to filers to complete report.	
Add automatic date display when filer submits report to improve reviewer workload management.	
Improve compliance tracking by collecting and reporting information about the filer’s ethics agreement.	
TOTAL:	\$58,800

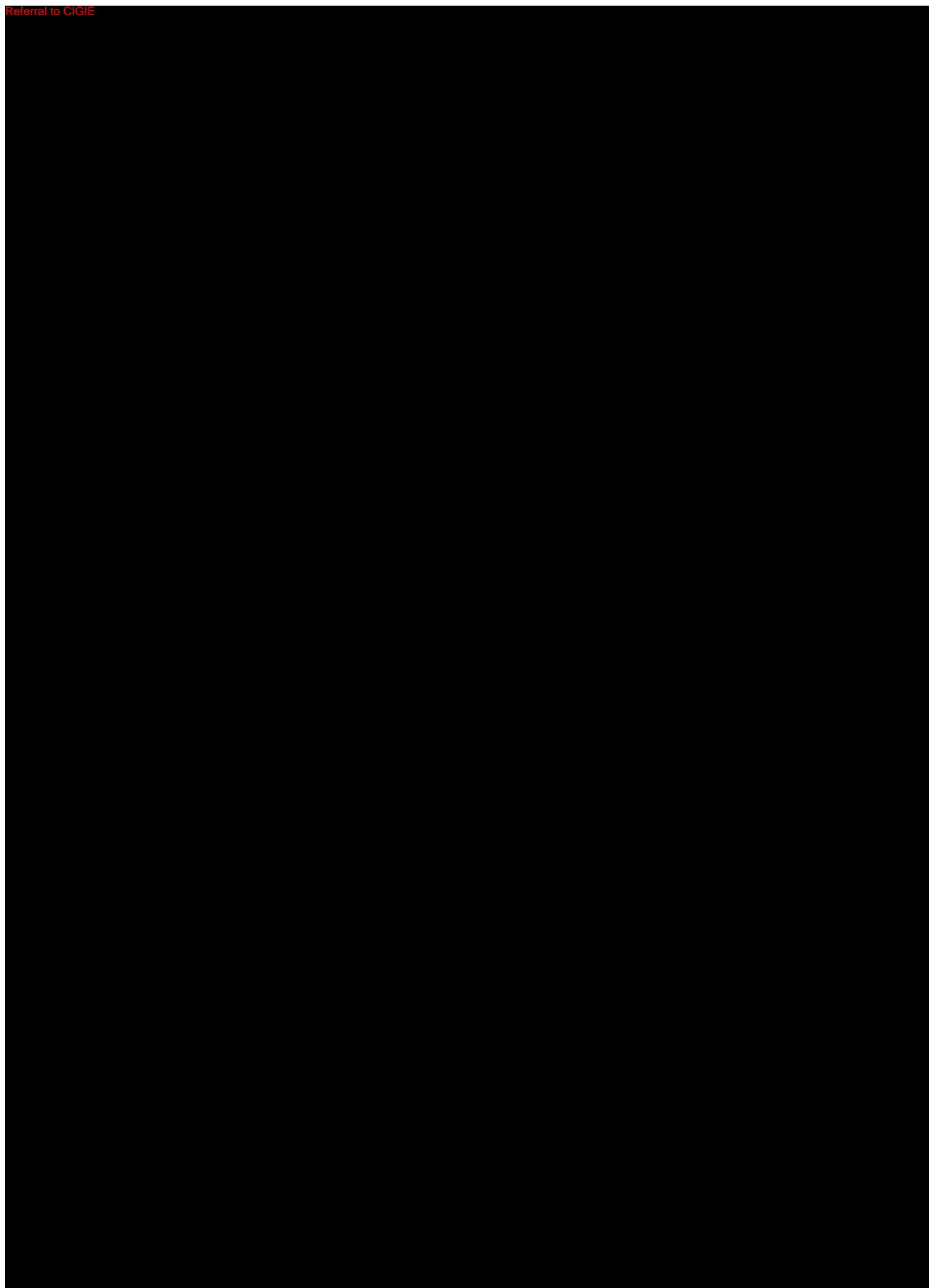
If you or your staff need additional information or have any questions about this request, please contact me at (202) 482-9314 or Diana Veilleux, Chief, Legal, External Affairs and Performance Branch at (202) 482-9203. An identical request is being sent to the Honorable Shelley Moore Capito, Chairwoman, Senate Subcommittee on Financial Services and General Government, and Ranking Member Chris Coons.

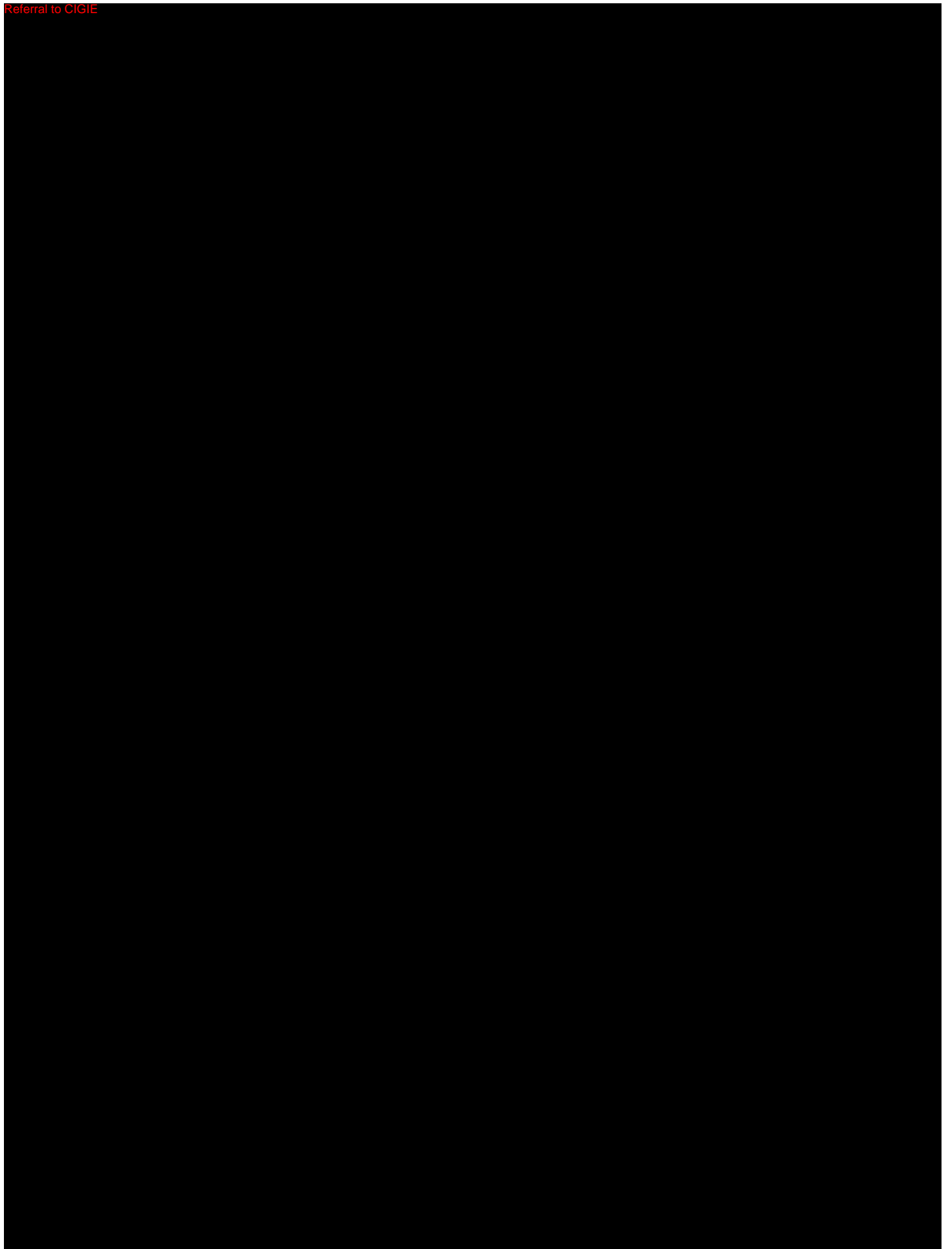
Sincerely,

 Shelley K. Finlayson
 Chief of Staff and Program Counsel

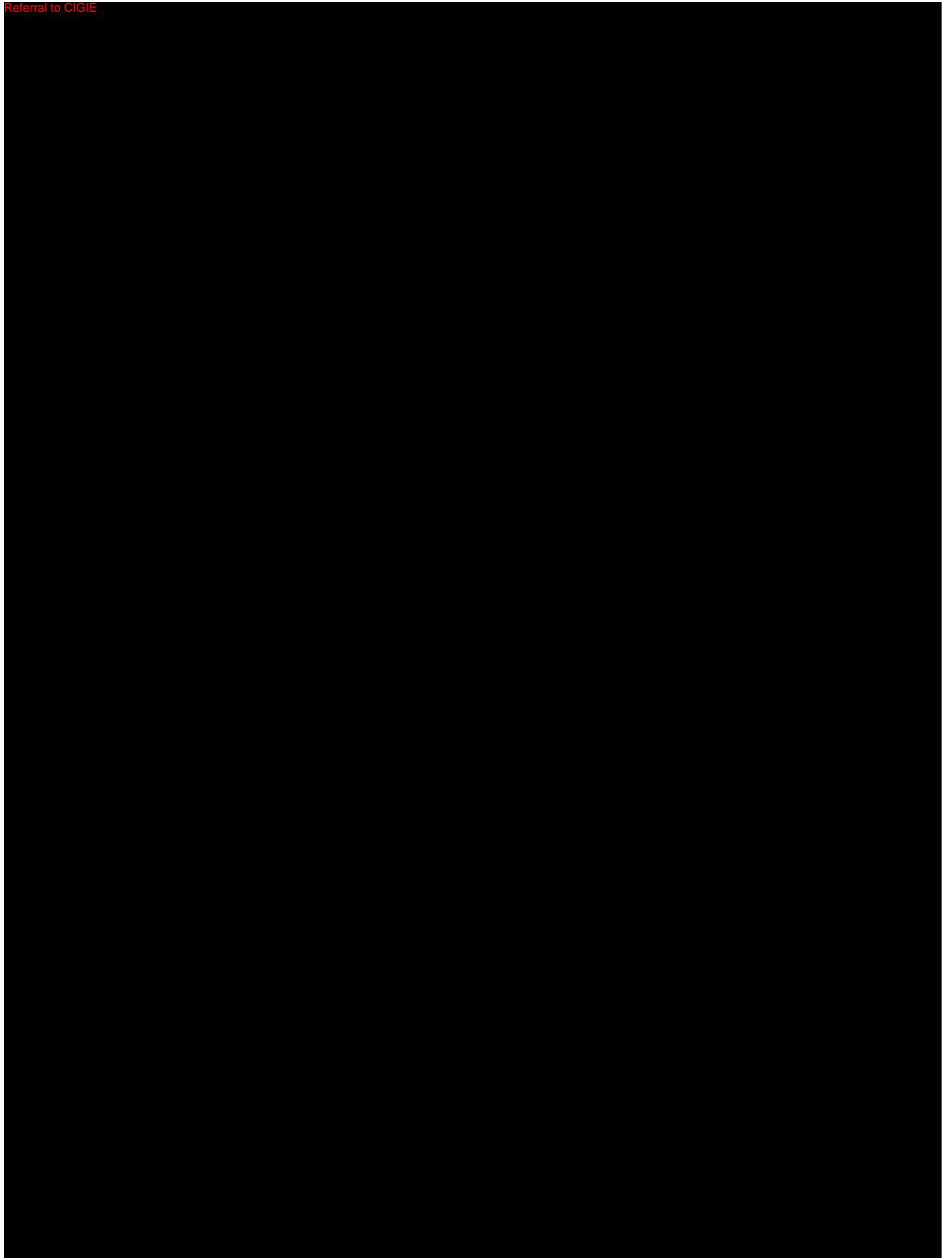
Cc: Thad Cochran
Chair
Committee on Appropriations
United States Senate

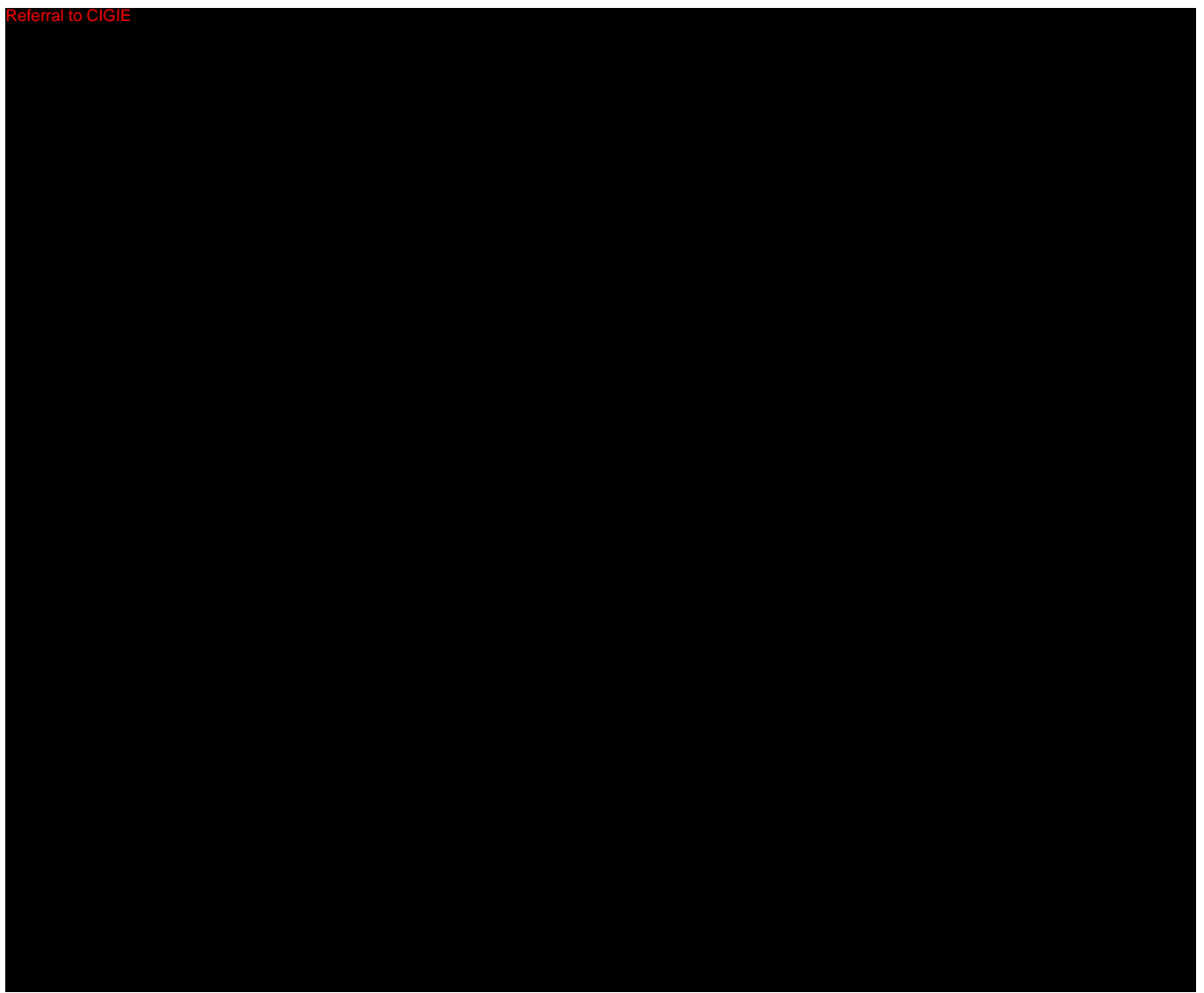
Patrick Leahy
Vice Chair
Committee on Appropriations
United States Senate

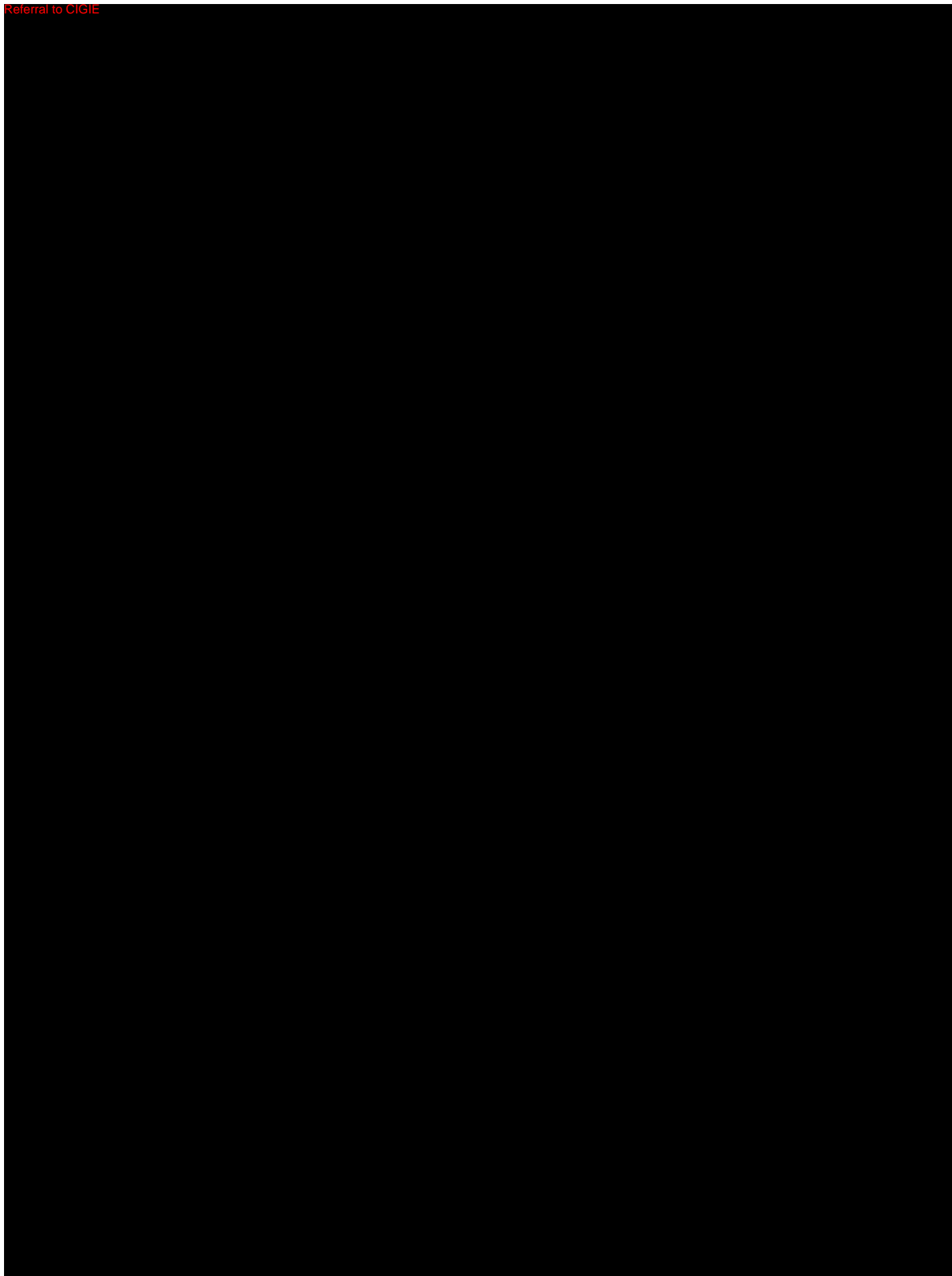












Referral to CIGIE



From: [Walter M. Shaub](#)
To: [Shelley K. Finlayson](#); [Diana Veilleux](#); [Nicole Stein](#); [Wendy G. Pond](#)
Subject: FW: Embassy of Brazil - Letter to OGE Director - Cooperation with CEP
Date: Monday, June 19, 2017 2:11:22 PM
Attachments: [EmbassyBrazil_LetterDirectorOGE_CEP.pdf](#)

Attachment released below

Resending with Wendy looped in

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Director of OGE
Sent: Monday, June 19, 2017 2:08 PM
To: Shelley K. Finlayson; Diana Veilleux; Nicole Stein
Subject: FW: Embassy of Brazil - Letter to OGE Director - Cooperation with CEP

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: William Silva dos Santos [[mailto:\(b\) \(6\)](#)]
Sent: Thursday, June 15, 2017 1:02 PM
To: Director of OGE
Cc: International Team
Subject: Embassy of Brazil - Letter to OGE Director - Cooperation with CEP

Attachment released below

Please find attached the copy of a letter from the Embassy of Brazil to the USOGE's Director, Mr. Walter Shaub.

The original should be arriving briefly.

I remain at your disposal should any need arise.

Kind regards,

William Santos
Political Section
Embassy of Brazil

3006 Massachusetts Avenue NW
Washington, D.C.

From: Wendy G. Pond [<mailto:wgpond@oge.gov>]
Sent: Thursday, June 15, 2017 9:12 AM
To: William Silva dos Santos (b) (6) >
Subject: FW: how to address correspondence to OGE

Good morning, Mr. Santos:

I just left you a voice message. I am writing in response to your message to Shelley Finlayson, our Chief of Staff.

You may address your correspondence to our Director, Mr. Walter M. Shaub, Jr. The best way to send it is via email to director@oge.gov. I kindly request that you copy me on the correspondence, via InternationalTeam@oge.gov.

Please feel free to call me directly if you have any questions or would like to discuss further.

Kind regards,

Wendy

Wendy Pond
Senior Desk Officer &
International Assistance and Outreach Team Lead
U.S. Office of Government Ethics (OGE)
202-482-9285
wgpond@oge.gov

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EMBASSY OF BRAZIL
WASHINGTON, D.C.

WALTER M. SHAUB, JR.
Director
United States Office of Government Ethics

Washington, D.C., June 15, 2017

Dear Mr. **SHAUB**,

The President of the Brazilian Executive Branch's Public Ethics Committee (CEP), Mr. Mauro de Azevedo Menezes, has indicated his interest in developing cooperation with the United States Office of Government Ethics, in order to share experiences and promote best practices between the two offices.

Mr. Menezes inquires whether the USOGE would be interested in developing such cooperation with CEP, in which case further contact can be made.

Please feel free to contact me or the Political Section of the Embassy of Brazil in Washington, D.C., as needed. Secretary William Santos is at your disposal in this matter and can be reached by e-mail (b) (6) or telephone (b) (6)

Sincerely,


CHRISTIAN VARGAS

Deputy Chief of Mission
Embassy of Brazil



From: [Director of OGE](#)
To: (b)(6) - Joshua Bowen's email address
Subject: Letter from OGE Director W Shaub 6-20-17
Date: Wednesday, June 21, 2017 9:41:29 AM
Attachments: [Letter From OGE Director W Shaub 6-20-17.pdf](#)

Attachment released below

Please find attached letter from OGE Director Walter M. Shaub, Jr. Please confirm receipt. Please contact Kelsey Phipps at 202-482-9318 with any questions.

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

Remaining of chain partially released above





June 20, 2017

The Honorable Walter B. Jones
Member
U.S. House of Representatives
2333 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Jones:

I write in response to your May 18, 2017, letter requesting that the U.S. Office of Government Ethics (OGE) evaluate whether the reported activities of family members of a senior Presidential appointee place the appointee in violation of the primary criminal conflict of interest statute, 18 U.S.C. § 208.

As an initial matter, Congress has not granted OGE the authority to provide such an evaluation. The Ethics in Government Act explicitly states that OGE is not authorized “to make any finding that a provision of title 18, United States Code, or any criminal law of the United States outside of such title, has been or is being violated.”¹ Instead, the Department of Justice has the power to address violations of criminal law.

Consistent with this limitation, however, I am able to offer the following analysis of the statutory and regulatory prohibitions relevant to the subject of your letter. To begin the analysis, it is important to understand the nature of the prohibition established under the criminal conflict of interest statute, 18 U.S.C. § 208. This statute prohibits an executive branch employee from participating personally and substantially in particular matters in an official capacity as a government official.² It does not prohibit the family members of an executive branch employee from participating in non-governmental activities in their individual capacities as private citizens. The prohibition applies only to the government employee.

With respect to these official activities, the financial interests of an executive branch employee’s family are not generally within the scope of the criminal conflict of interest statute.³ The statute imputes the financial interests of a spouse or minor child to an executive branch employee, but it does not impute the financial interests of other relatives.⁴ Your letter does not

¹ 5 U.S.C. app. § 402(f)(5).

² See 18 U.S.C. § 208(a).

³ *Id.*

⁴ Among other persons, the statute also imputes to an executive branch employee the financial interests of a general partner of any partnership in which the employee is a general or limited partner. If a sibling, parent or other relative were a general partner of the executive branch employee, the statute would prohibit the employee from participating personally and substantially in any particular matter that directly and predictably affects the financial interests of that relative.



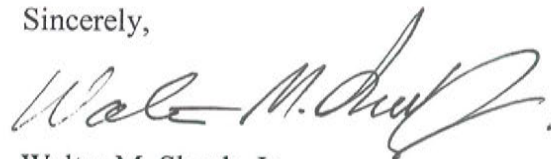
appear to suggest that the individual appointee identified in your letter participated personally and substantially in a particular matter directly and predictably affecting the financial interests of his spouse or minor child.

In addition to the criminal conflict of interest statute, the regulations comprising the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) establish relevant restrictions. Specifically, the Standards of Conduct restrict an employee from taking certain actions with respect to other family members beyond only a spouse or a minor child. One restriction prohibits an employee from participating in certain matters involving a relative with whom the employee has a close personal relationship, if the employee (or the employee's agency) determines that a reasonable person with knowledge of the relevant facts would question the employee's impartiality in the matter.⁵ Another restriction prohibits an employee from misusing his or her official position to benefit a relative.⁶ Like the criminal conflict of interest statute, however, these restrictions address the activities of the executive branch employee, not the activities of the employee's relatives.

OGE does not have direct knowledge of the circumstances your letter describes and has not independently verified the media reports you cite. As a general principle, however, I agree that it would be disappointing for the family members of any government official to seek to profit from their relationships with that official. Consistent with the executive branch's tradition of public service, it might be expected that high-level officials would take reasonable measures to discourage relatives from profiting from family ties to the government.⁷ Nevertheless, the applicable laws provide OGE with no mechanism for compelling such measures. OGE possesses only the limited statutory authorities Congress has granted it.⁸

I hope this information addresses the issues your letter raises. If members of your staff have questions, OGE's Chief of Staff, Shelley K. Finlayson, is available to assist them. She can be reached at 202-482-9314.

Sincerely,



Walter M. Shaub, Jr.
Director

⁵ See 5 C.F.R. § 2635.502(a), (b)(1)(ii).

⁶ See 5 C.F.R. § 2635.702.

⁷ See, e.g., *George Bush's Letter Cautions Family on Conflicts of Interest*, THE NEW YORK TIMES (Apr. 17, 2015), available at <https://goo.gl/AbPHUh>.

⁸ See 5 U.S.C. app. §§ 402-403; see also Eliza Newlin Carney, *Ethics Watchdog Can Only Do So Much*, THE AMERICAN PROSPECT (May 25, 2017) available at <http://prospect.org/article/ethics-watchdog-can-only-do-so-much>.



From: Gorelick, Jamie
To: [Walter M. Shaub](#)
Subject: quick call?
Date: Thursday, June 22, 2017 10:35:10 AM

Do you have a minute for a quick call? I am in the UK (5 hours ahead of you). My cell is (b) (6).

j

Referral to CIGIE



From: [Dale A. Christopher](#)
To: [Seth Jaffe](#)
Cc: [Director of OGE](#)
Subject: RE: ELPB assignments.docx
Date: Thursday, June 22, 2017 5:24:47 PM

Perfect. Thanks again, Seth.

Chip

From: Seth Jaffe
Sent: Thursday, June 22, 2017 5:23 PM
To: Dale A. Christopher
Cc: Director of OGE
Subject: RE: ELPB assignments.docx

Chip,

As we discussed, all ELPB drafts are complete and have been left in the appropriate folder on the computer. Of course, I am available to discuss if you have any questions or comments.

Thanks,
Seth

From: Walter M. Shaub
Sent: Monday, June 12, 2017 4:37 PM
To: Seth Jaffe; Dale A. Christopher
Subject: ELPB assignments.docx

Seth, I left you a voicemail about this. Chip says you can come talk to him if you want to discuss this.

From: [Walter M. Shaub](#)
To: [Heather A. Jones](#)
Subject: FW: On behalf of Jamie Gorelick
Date: Friday, June 23, 2017 12:29:12 PM

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Barnes-Sarraille, Rebecca [mailto:(b) (6)]
Sent: Friday, June 23, 2017 12:01 PM
To: Walter M. Shaub
Subject: On behalf of Jamie Gorelick

Dear Mr. Shaub,

Jamie would like to speak with you on Monday or Tuesday if possible, later in the day Eastern time as she is in Europe. We have a tentative time scheduled for Monday at 1:00 p.m., but we are hoping to move this call to sometime between 2:00 and 5:00 p.m. Heather from your office was kind enough to give me a call previously, although I do not have her direct line.

With kind regards,
Rebecca

Rebecca M Barnes-Sarraille | WilmerHale

1875 Pennsylvania Avenue NW
Washington, DC 20006 USA

+1 (b) (6) (t)

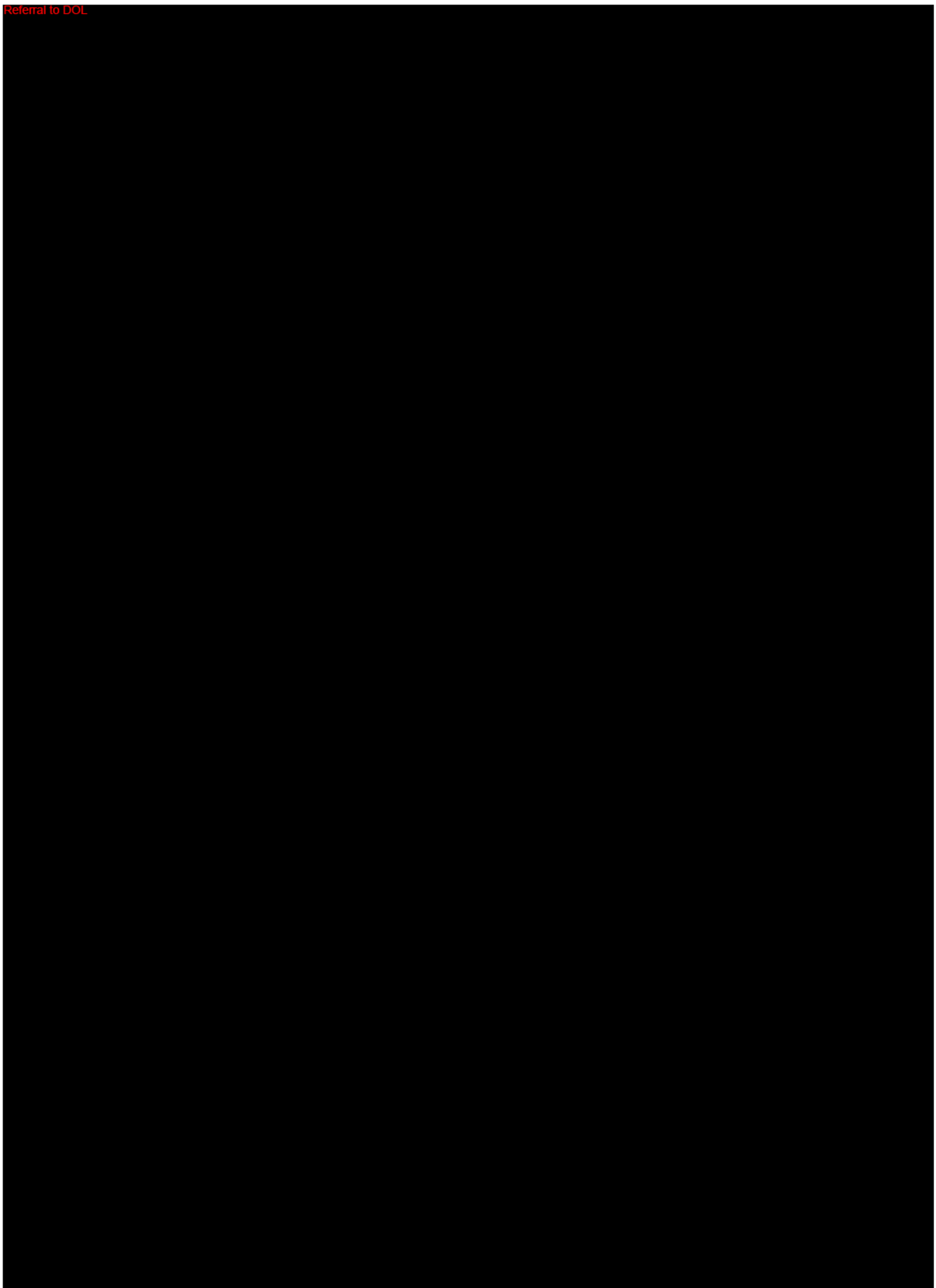
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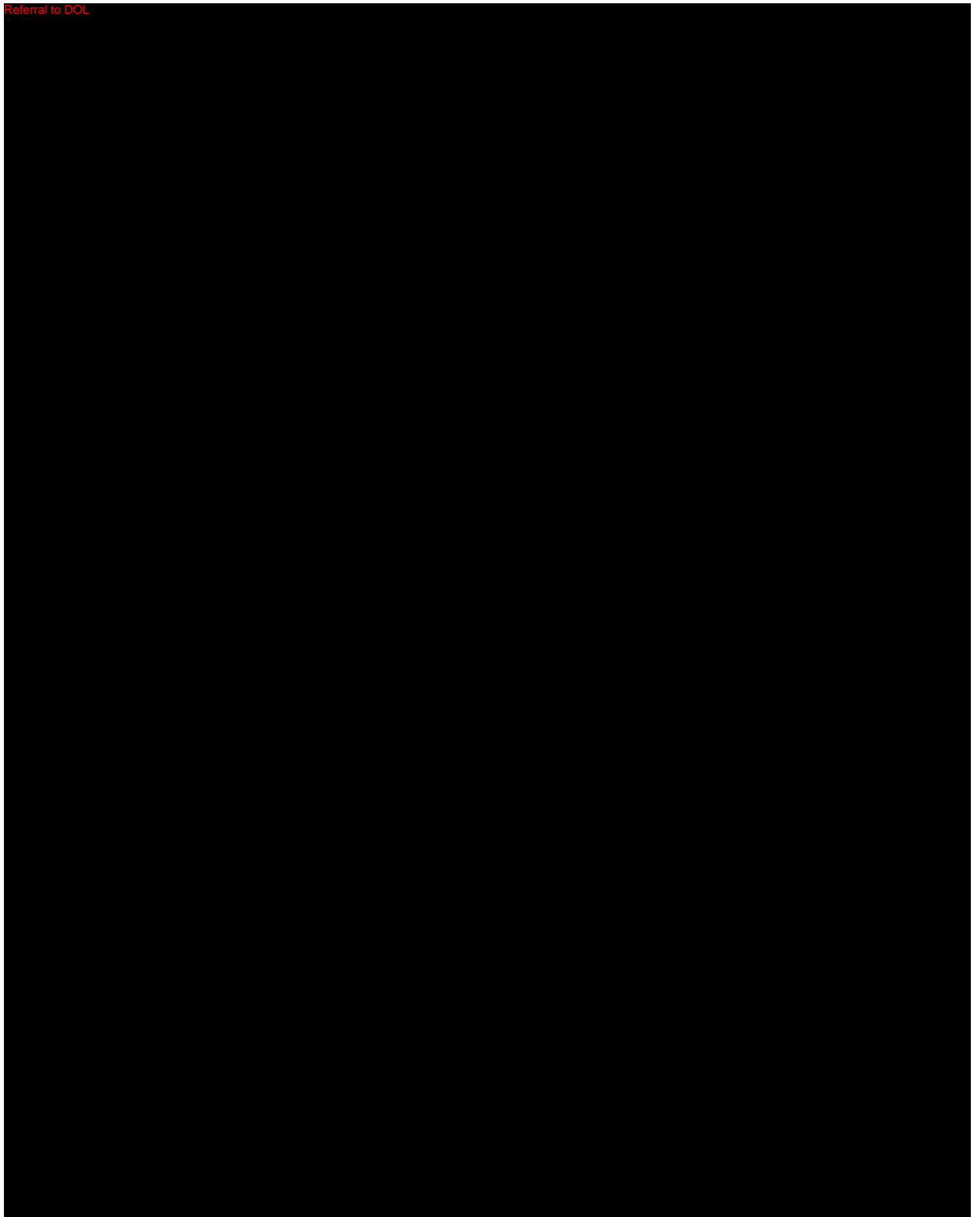
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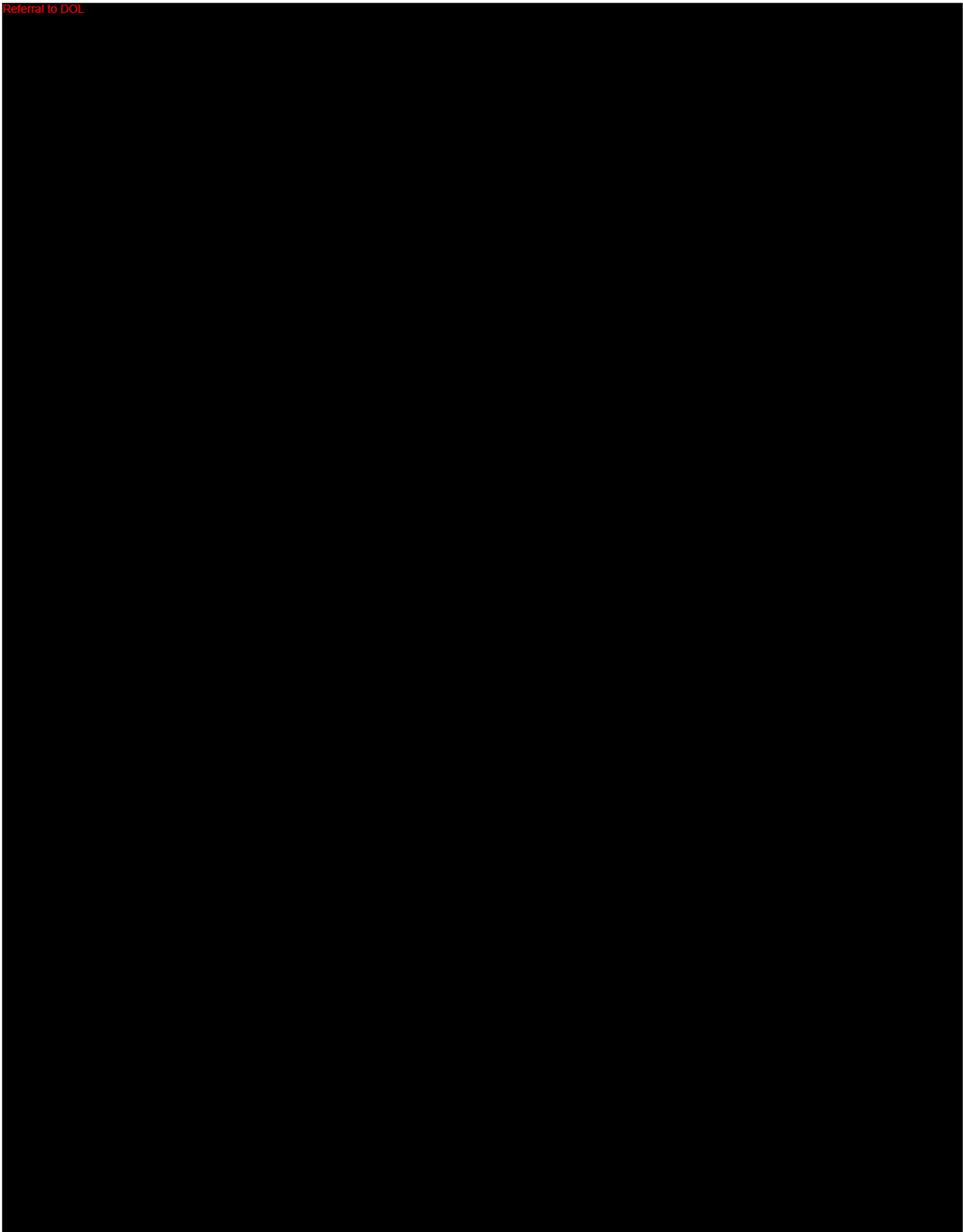
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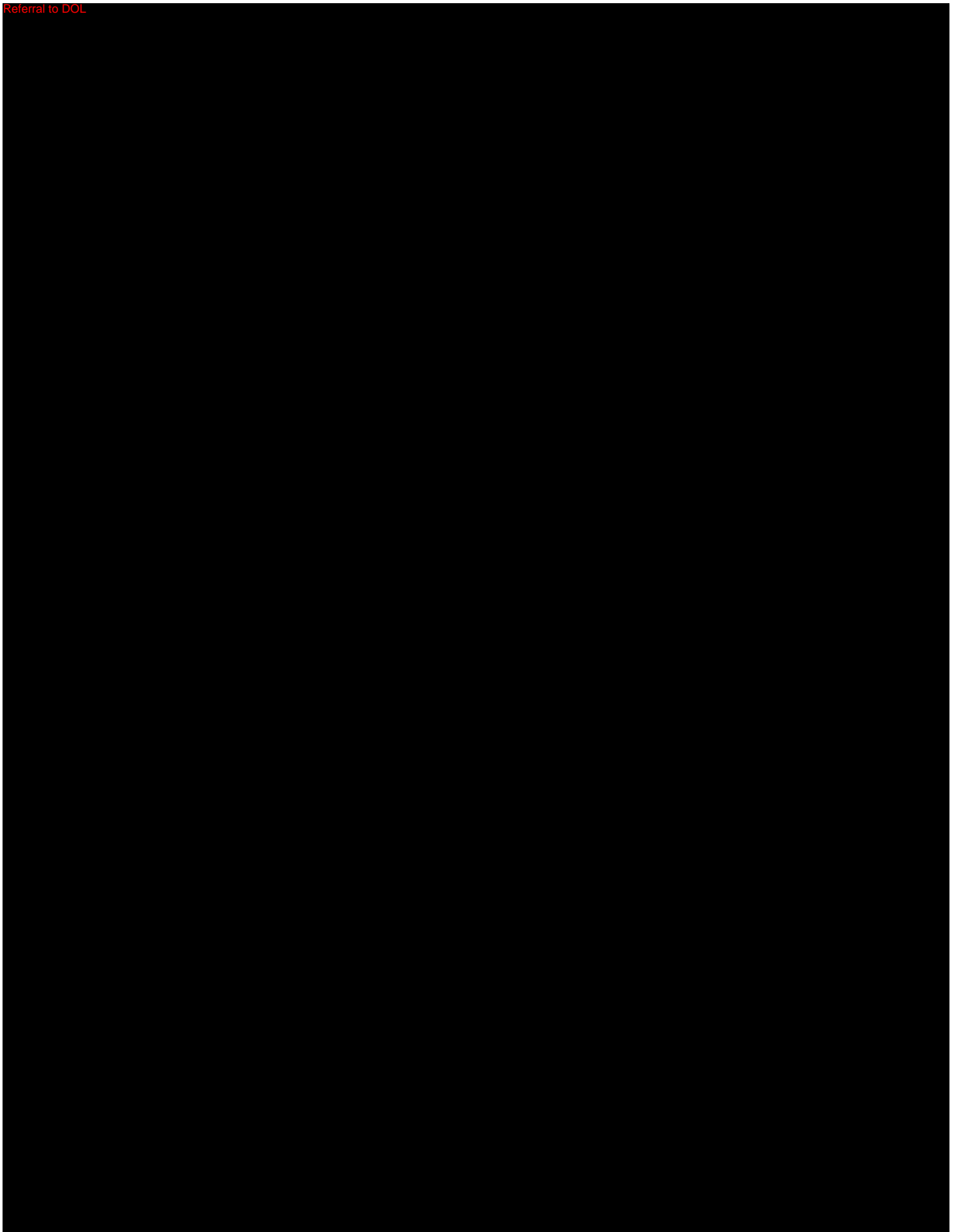
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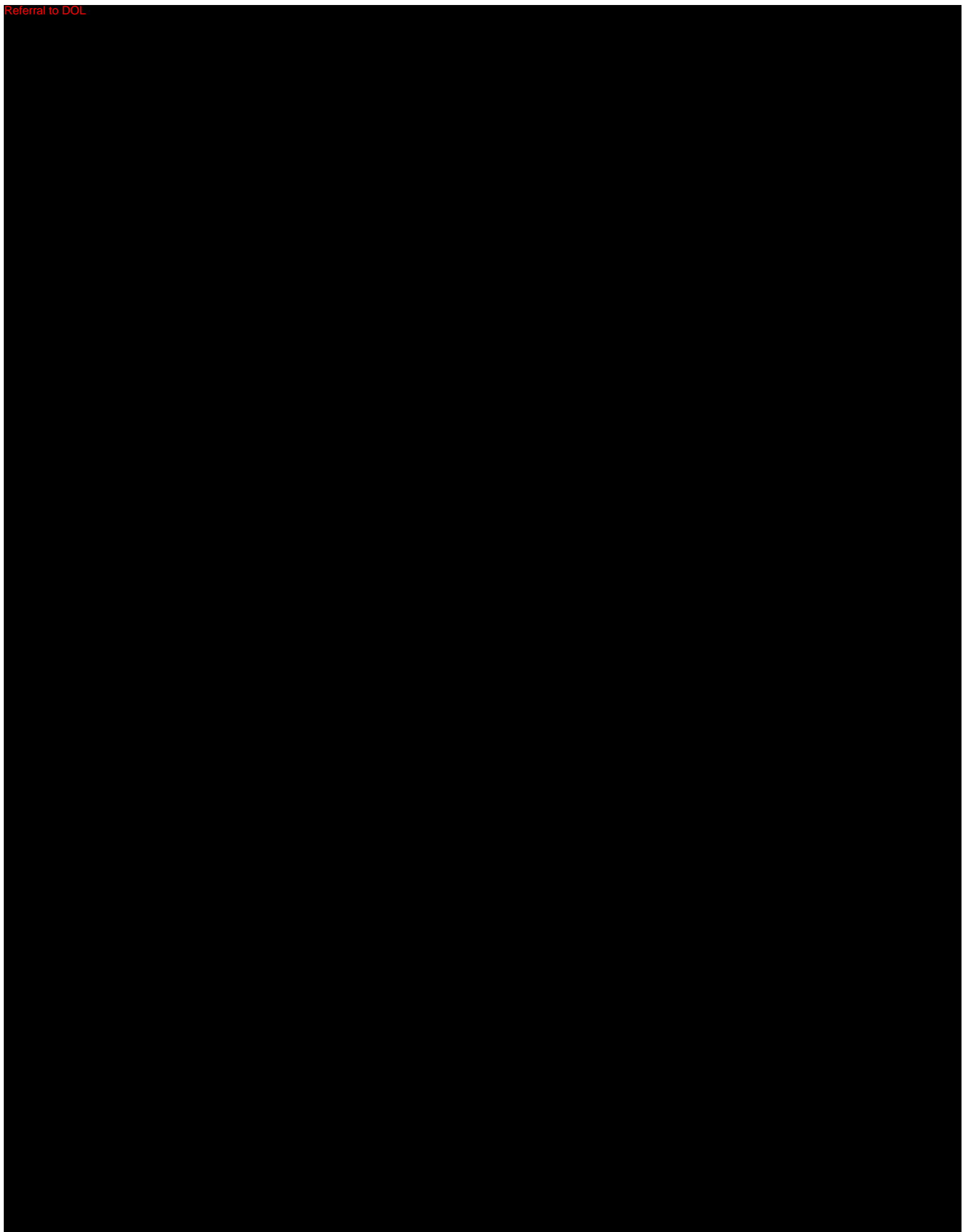


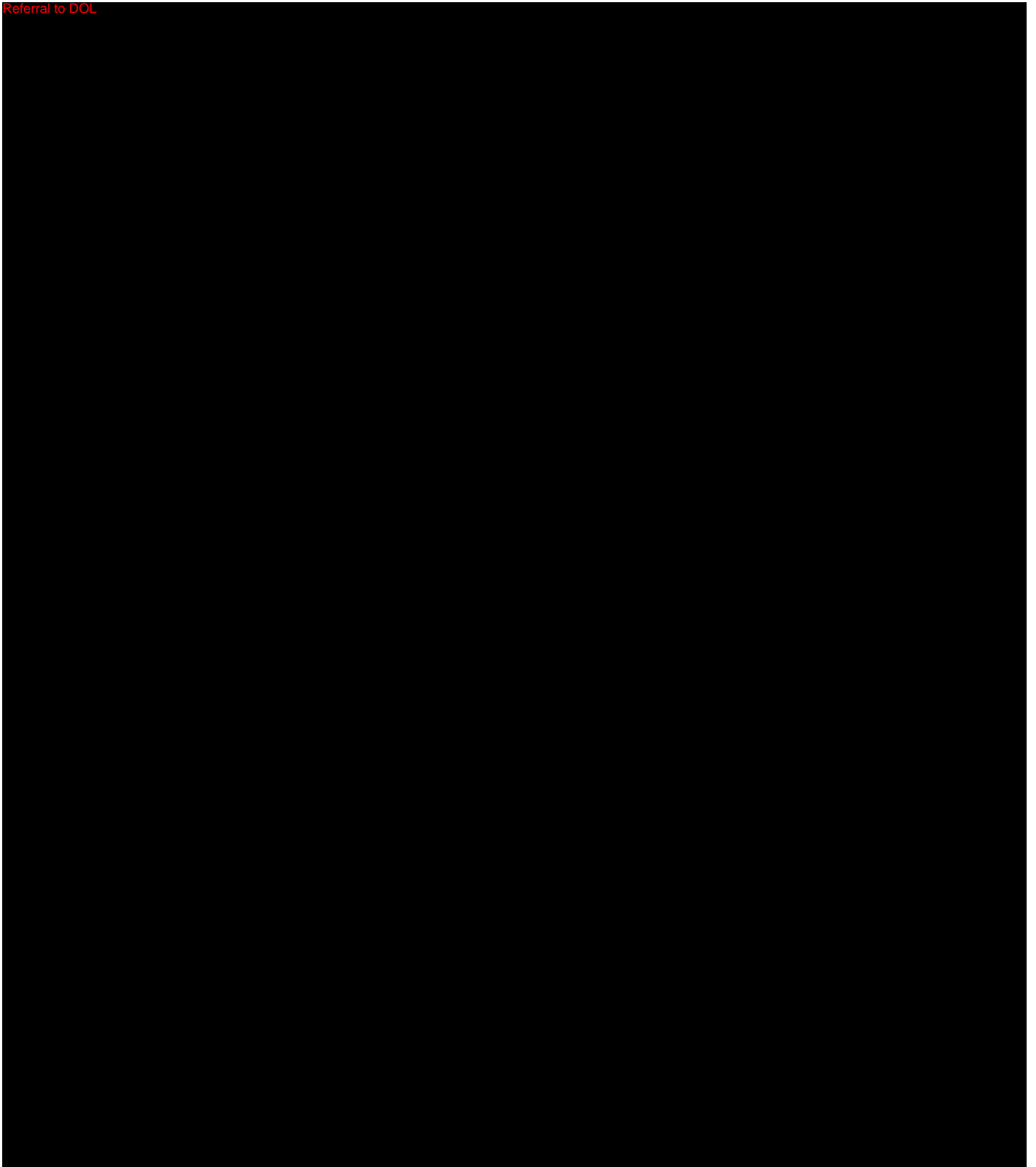












Referral to CIGIE



From: [Walter M. Shaub](#)
To: ["Craig Holman"](#)
Subject: RE: 4 Questions on Trump's financial disclosure report
Date: Friday, June 23, 2017 4:40:52 PM

Thanks for sharing this, Craig. I'll forward it to my folks.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Craig Holman [mailto:[\(b\) \(6\)](#)]
Sent: Tuesday, June 20, 2017 10:56 AM
To: Walter M. Shaub
Subject: 4 Questions on Trump's financial disclosure report

Good Morning, Walter:

My research staff has been pouring over the latest personal financial disclosure report for Trump. They have four questions that I could not answer. If it wouldn't take much time, could you or someone at OGE help with an answer? Your assistance and your staff's assistance is always greatly appreciated.

1 – There are 8 organizations in which Trump indicated he held a position in on his 2016 filing with no end date but were then excluded entirely from the 2017 filing again with no indication of an end date. Is there a reason these would be excluded from the 2017 filing without indicating an end date for Trump's position? [See list below]

278e #	Organization Name
99	Hudson Waterfront Associates I, L.P.
100	Hudson Waterfront Associates II, L.P.
101	Hudson Waterfront Associates III, L.P.
102	Hudson Waterfront Associates IV, L.P.
103	Hudson Waterfront Associates V, L.P.
104	Hudson Waterfront Associates L.P.
141	Shore Haven Management Corp
161	THC China Development Management Corp

2 – Trump's January 19th resignation letter listed 4 entities that did not appear on the 2016 filing: Storage 106 LLC, Lamington Farm Club LLC, Trust U/W/O Fred C. Trump - F/B/O Tiffany Ariana Trump, and the William M Trump Medical Fund LLC. Trump's January 19th letter indicated he resigned "each

and every office and position” he held in the entities listed in the exhibit attached to the letter - which included the 4 entities referenced above. On the 2017 filing, only Lamington Farm Club LLC was added to part 1 (278e # 565). Is there a reason the other entities would be excluded from part 1 even though Trump indicated he held a position until January 19th (based on his letter)? Further, Trump indicated he held the Lamington position since 2000, as such, should it have appeared on the 2015 and 2016 filings? Trump made income from Storage 106 LLC – which was incorporated on January 5, 2017 – in 2017 which is listed in part 2.

3 – In 2015 and 2016, Wilshire Hall LLC’s ownership only added up to 75 percent. A 75 percent stake was held by “Trump Family Members.” In 2017, DJT Holdings LLC indicated ownership of the remaining 25 percent. Would Trump be required to disclose who owned the 25 percent in 2015 and 2016?

4 – There appears to be at least 2 duplicate entries listed in part 1 of the 2017 disclosure form: Trump Marks White Plains Corp (listed as both 409 and 482), and Trump Vineyard Estates Manager Corp (listed as both 468 and 470). These entities were also listed twice on the 2016 and 2015 filings. There was a similar situation in the 2015 filing, which listed Trump RHF Corp twice, an entity Trump resigned from in 2013 (which was listed as both numbers 448 and 483). Are these separate entities, or are they duplicate entries?

Craig Holman, Ph.D.
Government affairs lobbyist
Public Citizen
215 Pennsylvania Avenue SE
Washington, D.C. 20003
TEL: (b) (6)
CEL: (b) (6)

From: Walter M. Shaub [mailto:wmschaub@oge.gov]
Sent: Friday, June 23, 2017 4:46 PM
To: Miles, Adam; Marrone, Ana
Subject: news report

Adam and Ana,

I'm just passing this news report on to you in case you haven't seen it:

<https://m.mic.com/articles/amp/180573/weeks-after-being-warned-about-hatch-act-trump-social-media-guru-may-have-crossed-the-line-again>

I hope you are doing well over there. I am missing Carolyn already!

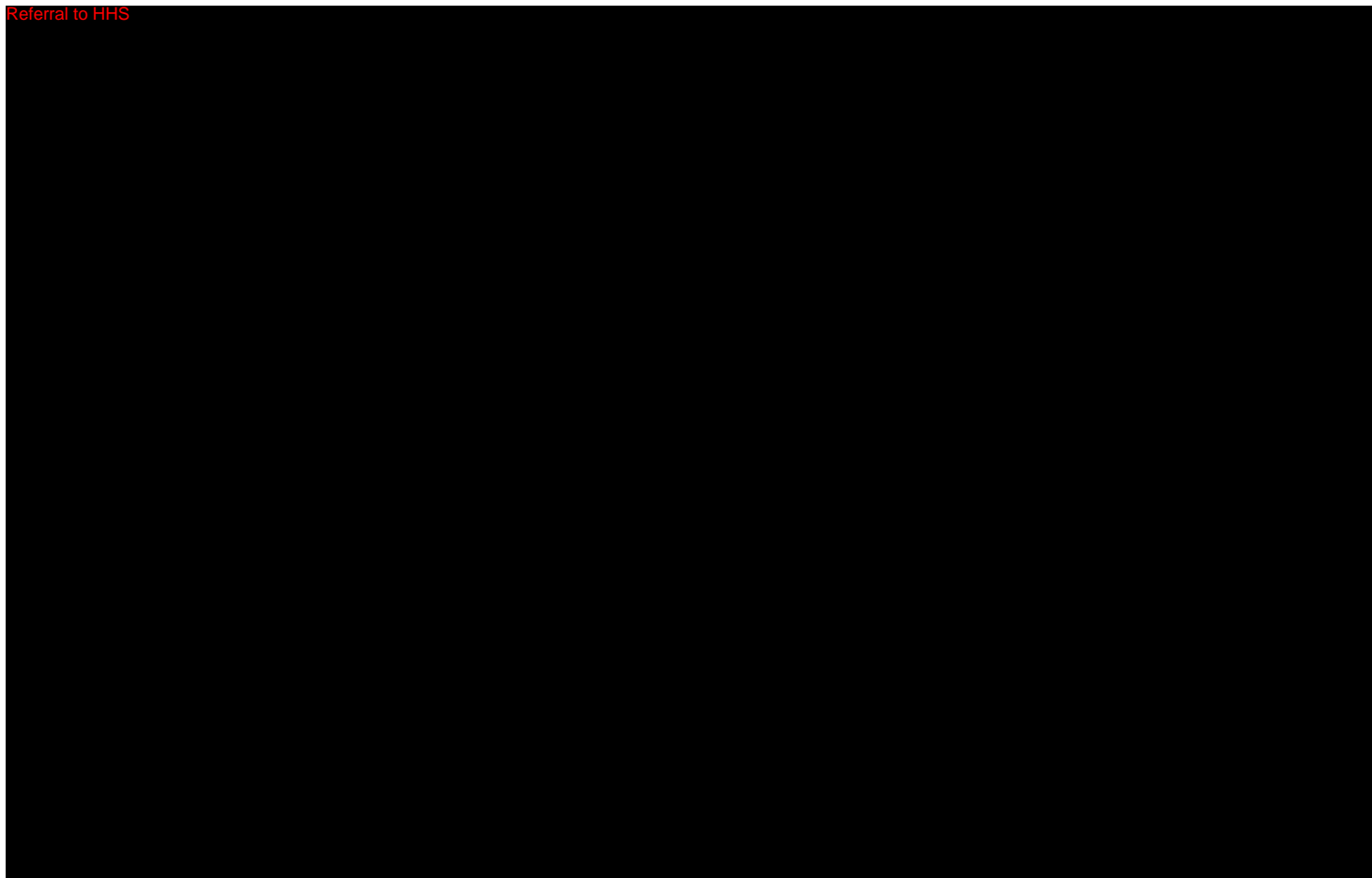
Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.schaub@oge.gov

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From: Barnes-Sarraille, Rebecca
To: [Walter M. Shaub](mailto:Walter.M.Shaub)
Subject: RE: On behalf of Jamie Gorelick - Call Today
Date: Tuesday, June 27, 2017 2:55:50 PM

HA! Will do! Thank you.

From: Walter M. Shaub [mailto:wmschaub@oge.gov]
Sent: Tuesday, June 27, 2017 2:52 PM
To: Barnes-Sarraille, Rebecca (b) (6); Heather A. Jones <hajones@oge.gov>; Deborah J. Bortot <djbortot@oge.gov>
Subject: RE: On behalf of Jamie Gorelick - Call Today

Sure. Let's do 10:00 a.m. Tell Jamie to say hi to the Cliffs of Moher for me.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.schaub@oge.gov

From: Barnes-Sarraille, Rebecca [mailto:(b) (6)]
Sent: Tuesday, June 27, 2017 1:31 PM
To: Walter M. Shaub; Heather A. Jones; Deborah J. Bortot
Subject: On behalf of Jamie Gorelick - Call Today

Dear All, good afternoon.

I apologize, as I am not sure whom to forward this to. Jamie is in Ireland this week and indicated that her dinner meeting will run long. May we try and reschedule this call to tomorrow morning – 9:00 or 10:00 a.m. ET?

Kind regards,
Rebecca

Rebecca M Barnes-Sarraille | WilmerHale

1875 Pennsylvania Avenue NW
Washington, DC 20006 USA

+1 (b) (6) (t)

+1 (b) (6) (f)

(b) (6)

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From: [Walter M. Shaub](#)
To: ["Lisa Richmond - WPRA"](#)
Cc: [Nelson Cabrera Jr.](#); [Shelley K. Finlayson](#)
Subject: RE: OGE Draft Amendment
Date: Wednesday, June 28, 2017 11:55:29 AM

Lisa,

Could you do a call tomorrow afternoon? Sorry for the short notice, but it's the only day we can get everyone here together.

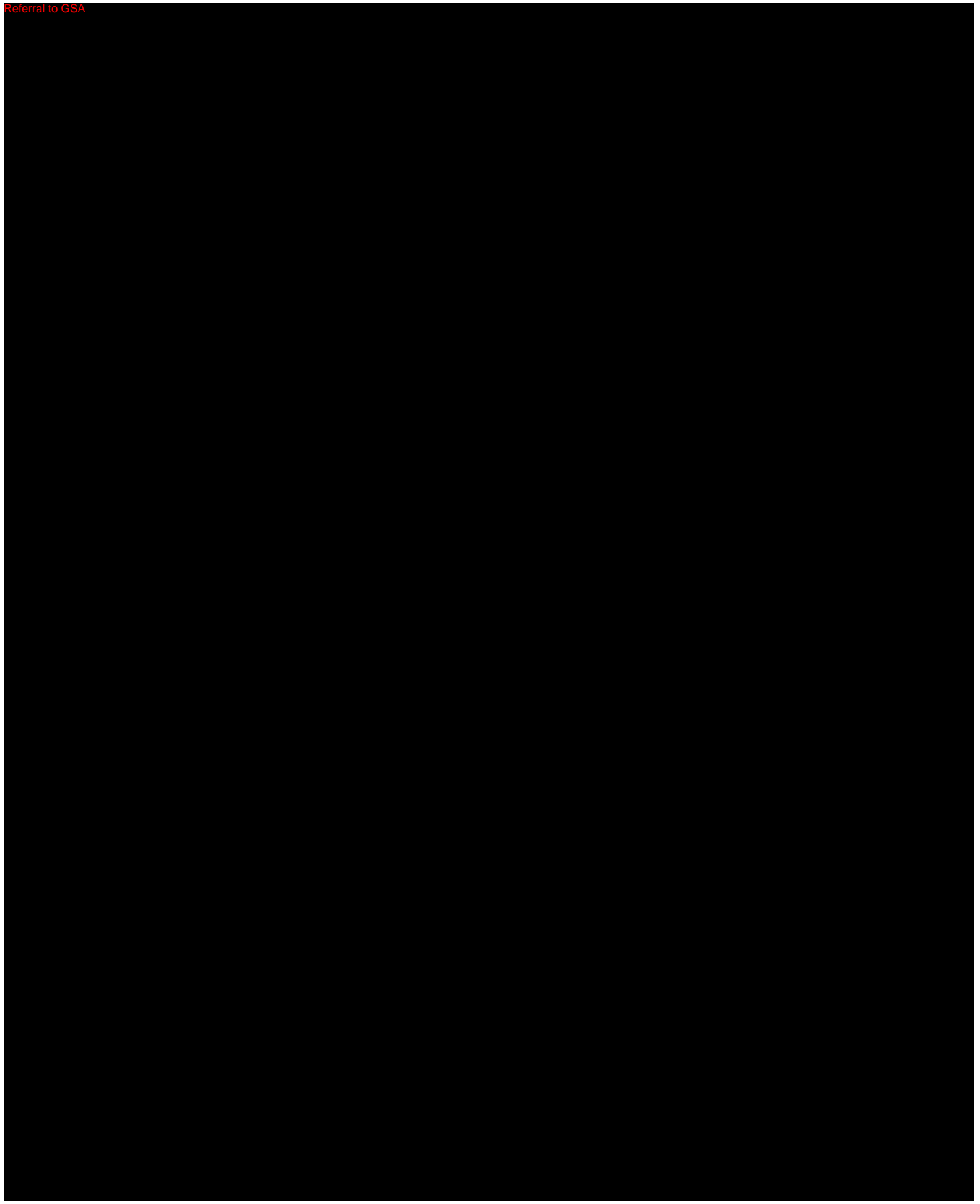
Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

Referral to GSA



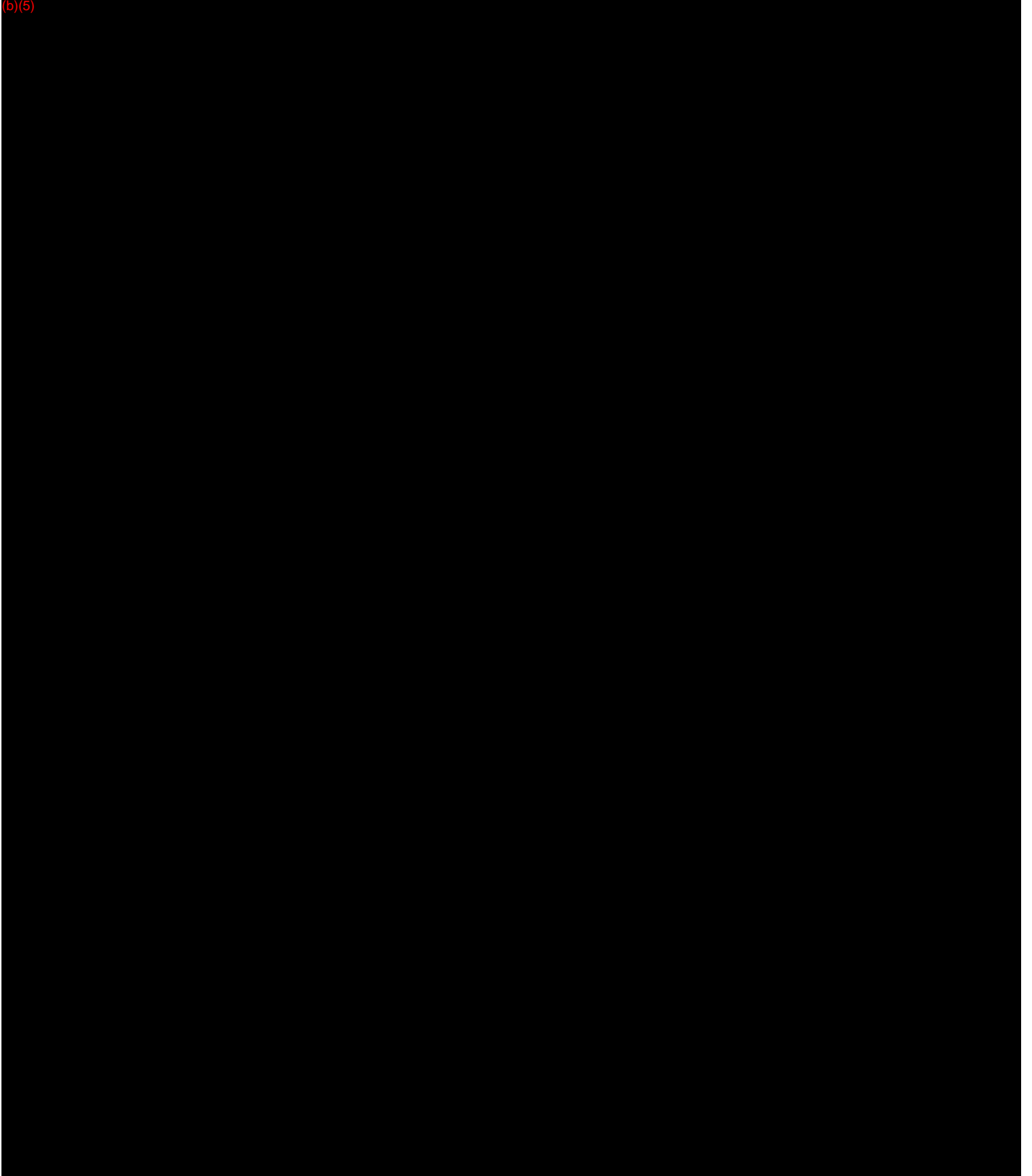


Referral to GSA



From: [Nelson Cabrera Jr.](#)
To: [Walter M. Shaub](#); [Shelley K. Finlayson](#)
Subject: GSA Lease Amendment
Date: Wednesday, June 28, 2017 2:00:05 PM

The following are points that can be raised with GSA.



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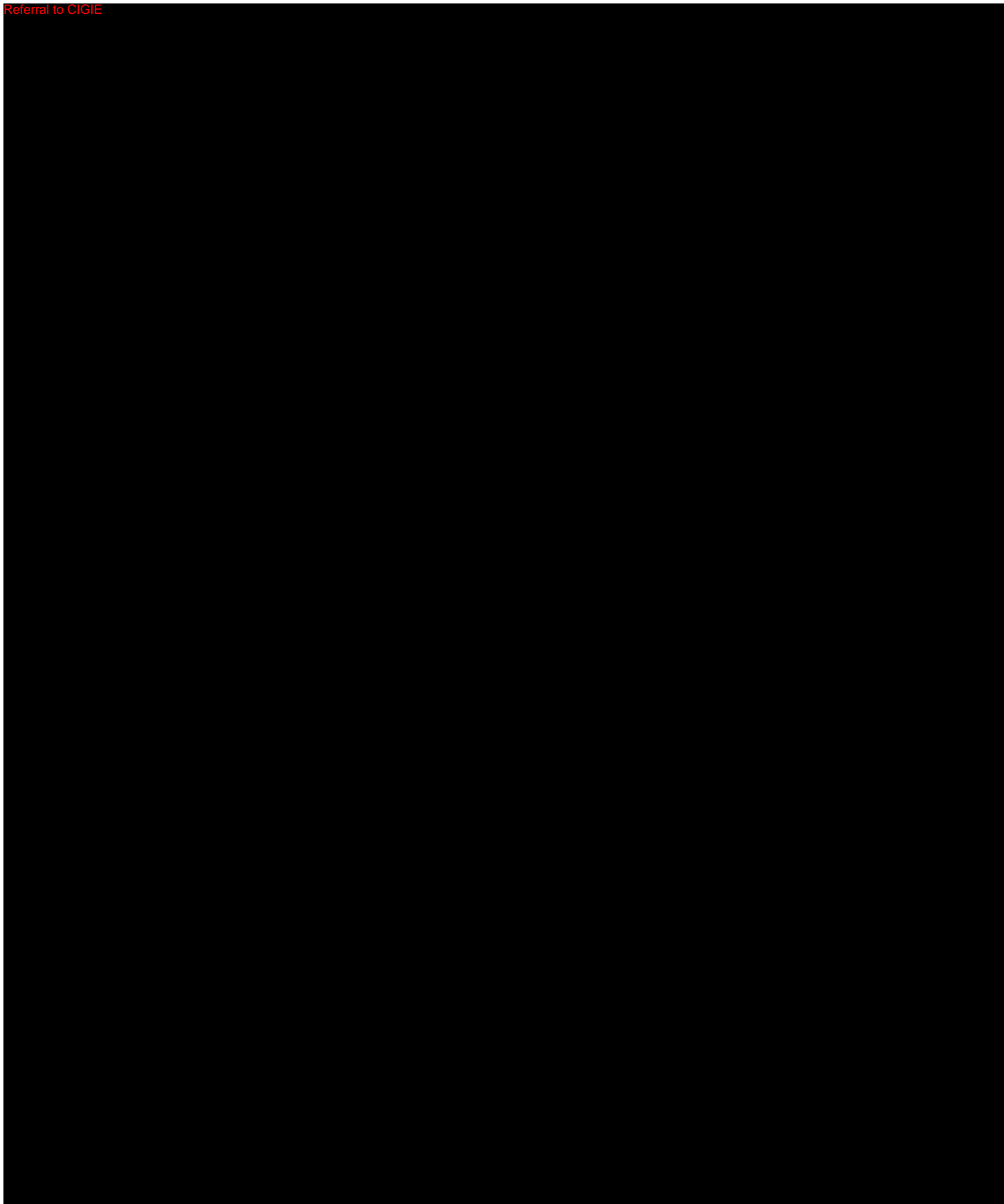
Thank you,

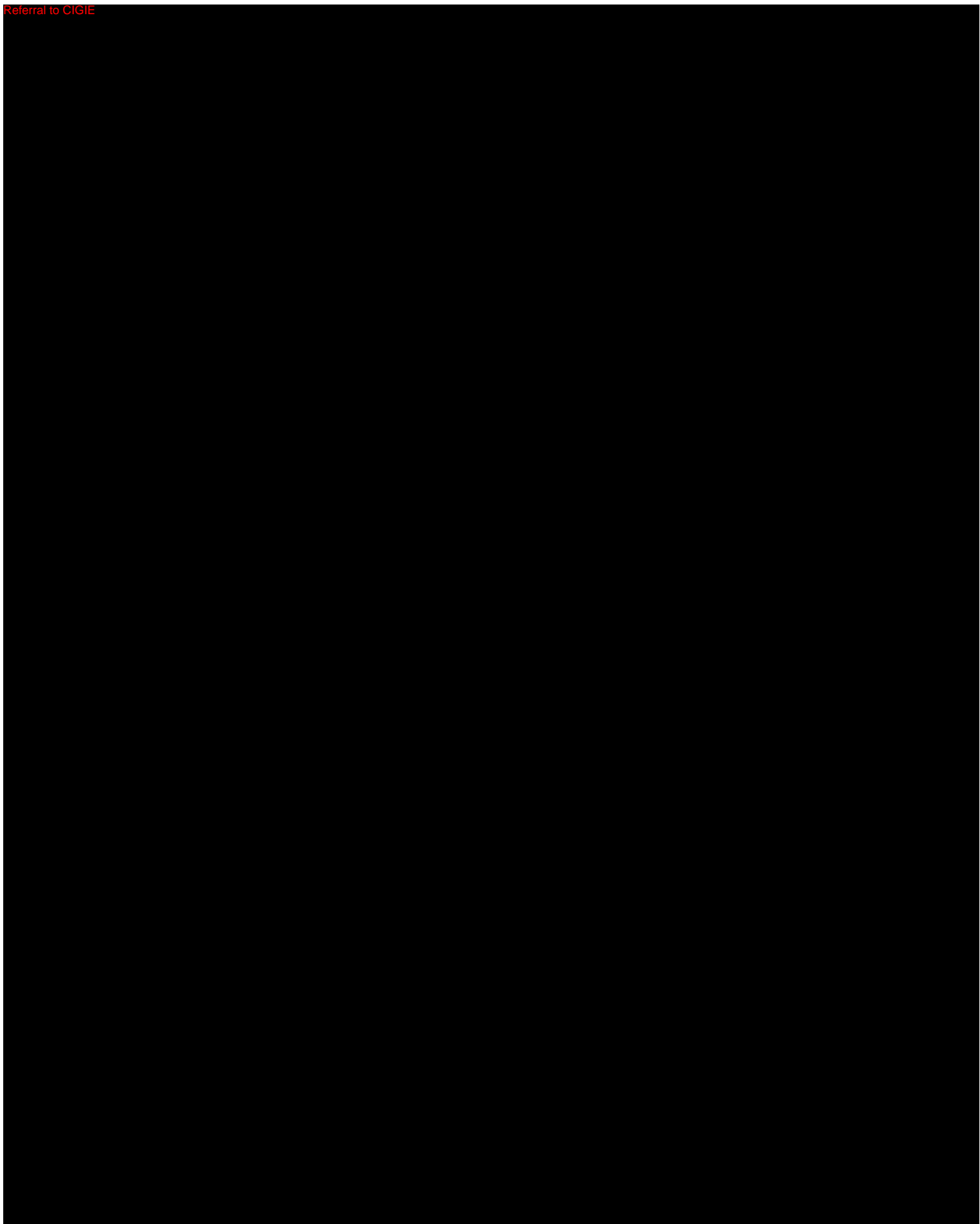
Nelson Cabrera
Assistant Director for Internal Operations
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9233
NCabrera@oge.gov

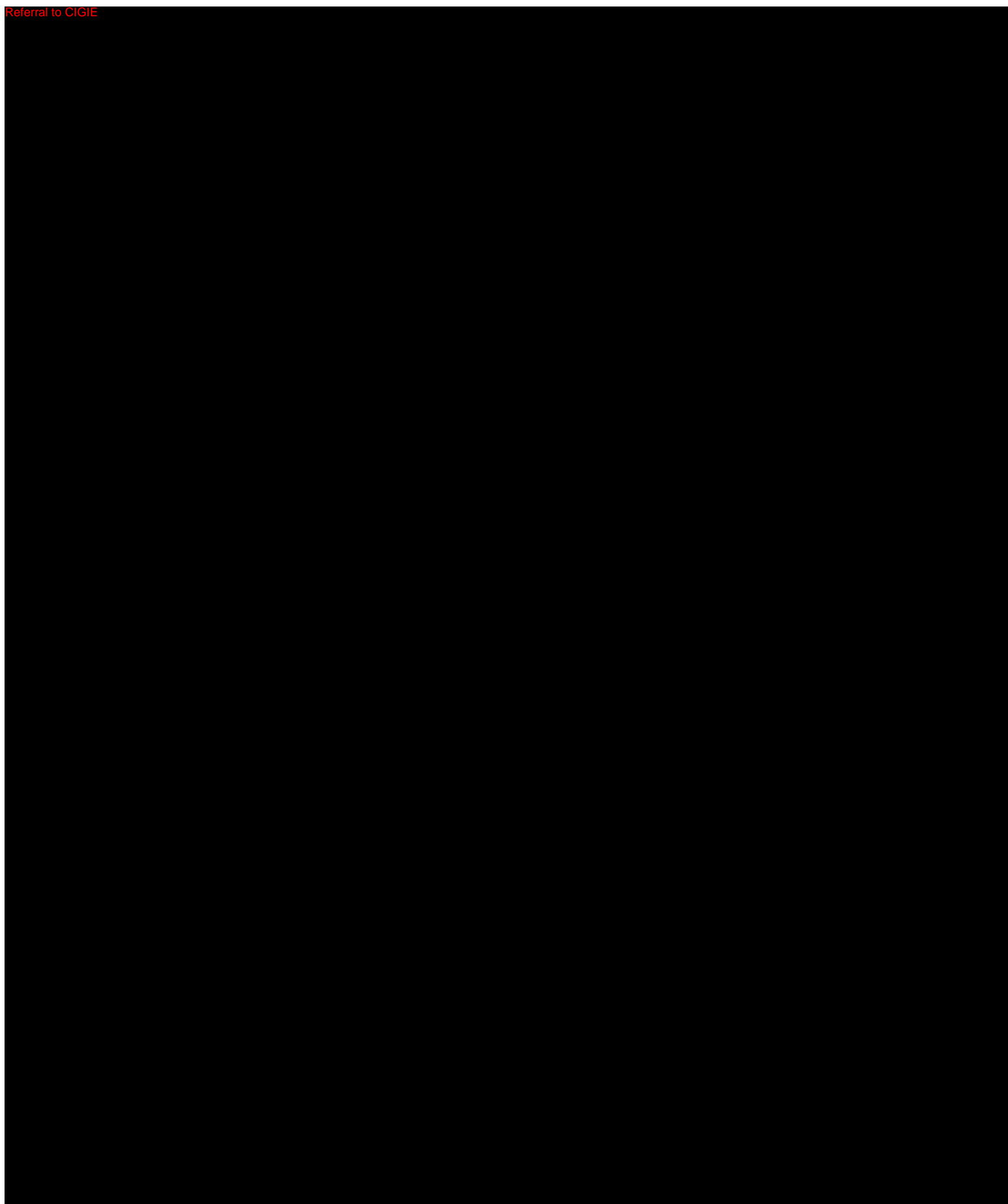
Visit OGE's Website: www.oge.gov

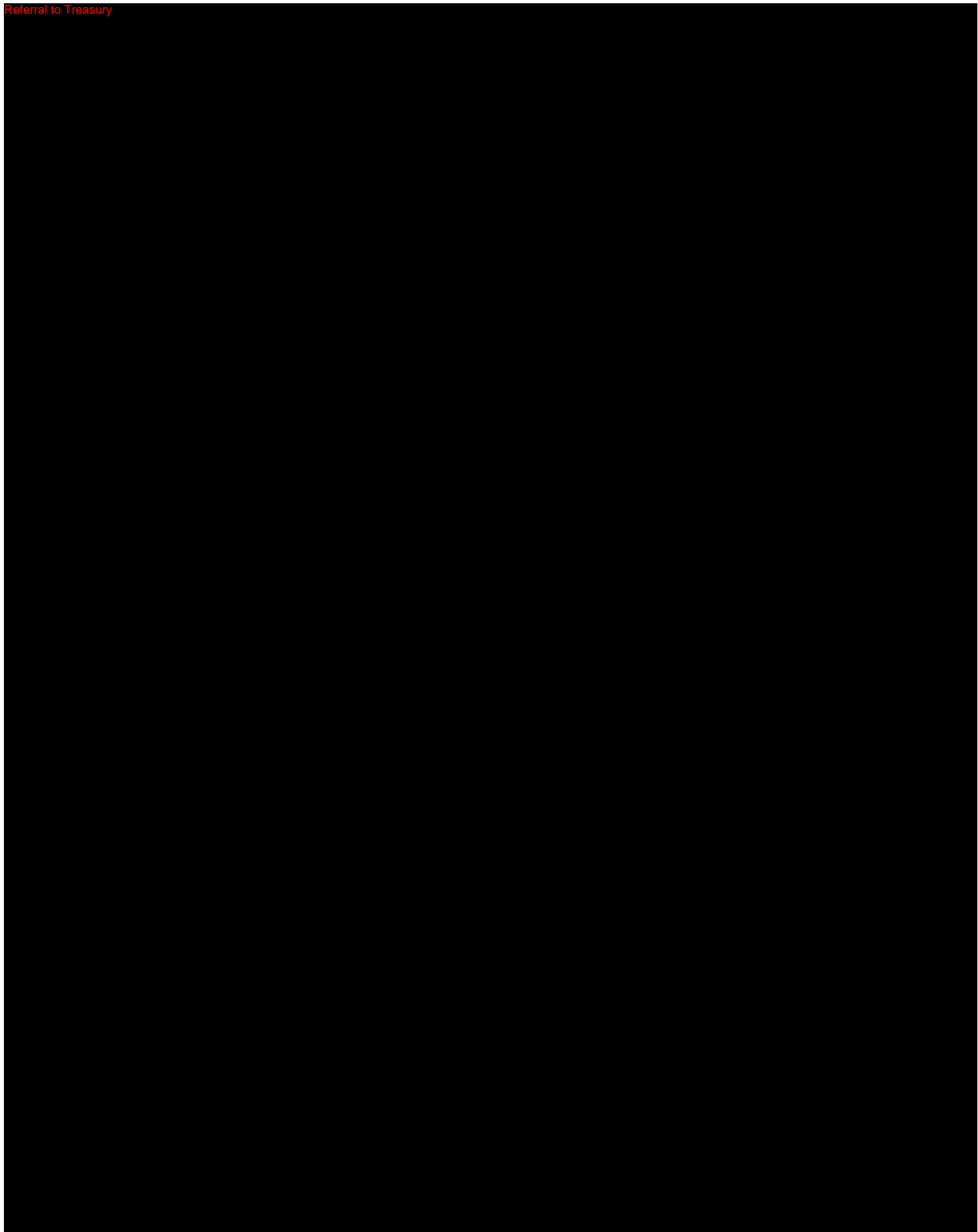
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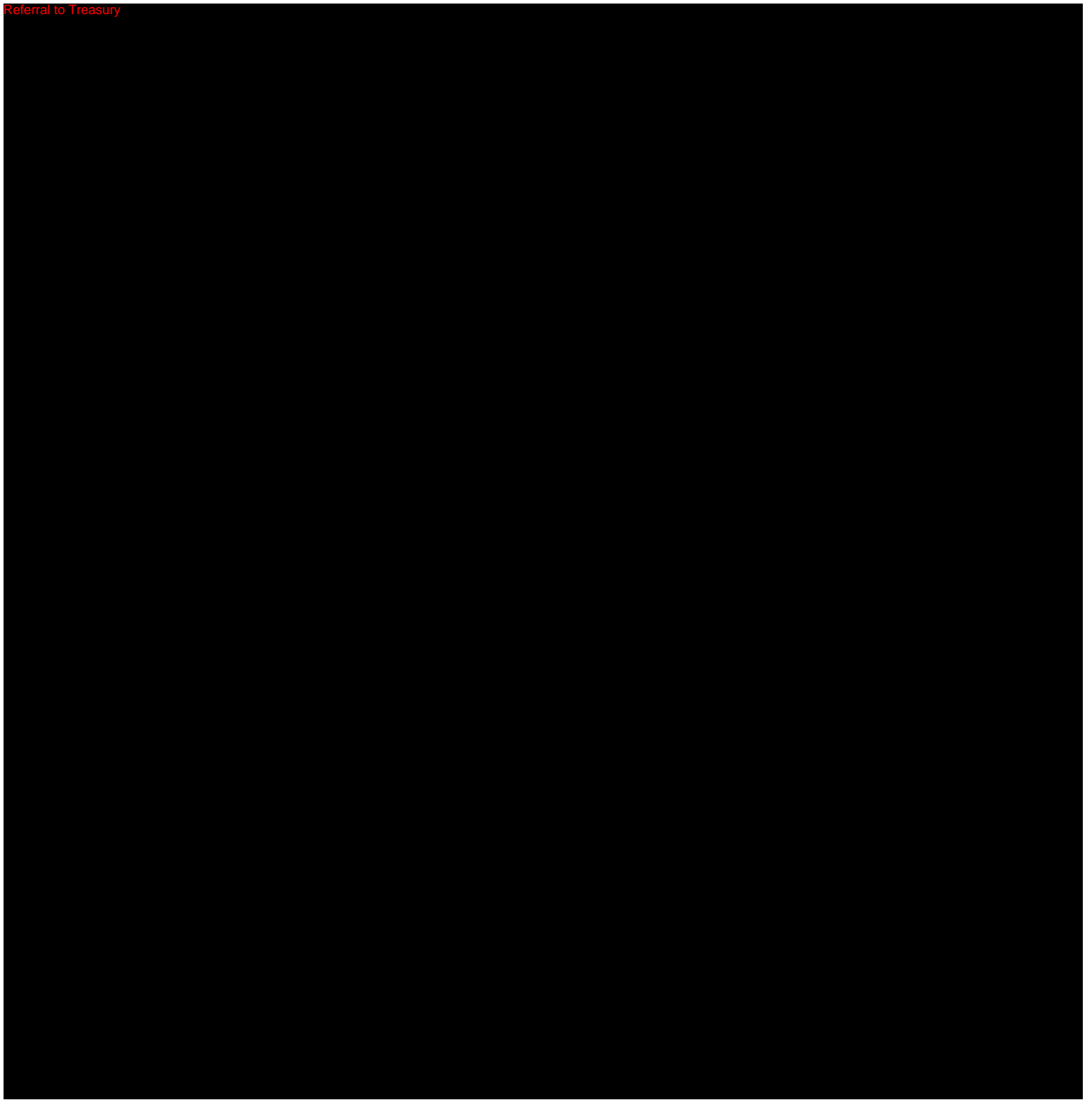
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From: [Director of OGE](#)
To: [Shelley K. Finlayson](#)
Subject: RE: Letter from OGE Director W Shaub 6-28-17
Date: Friday, June 30, 2017 5:17:13 PM

Ugh. She used my signature line. It makes it look like I sent this and referred to myself in the third person.

From: Director of OGE
Sent: Wednesday, June 28, 2017 3:48 PM
To: Shelley K. Finlayson
Subject: FW: Letter from OGE Director W Shaub 6-28-17

FYI, the letter has gone out.

From: Director of OGE
Sent: Wednesday, June 28, 2017 3:30 PM
To: (b)(6) - Susannah Savage's email address; (b)(6) - Brian Cohen's email address
(b)(6) - Erica Chabot's email address; (b)(6) - Roberto Berrios's email address
(b)(6) - John Kilvigton's email address; (b)(6) - Joe Gaeta's email address; (b)(6) - Krista Boyd's email address
Subject: Letter from OGE Director W Shaub 6-28-17

Attachment released below

Please find attached letter from OGE Director Walter M. Shaub, Jr. Please confirm receipt. Please direct questions to Kelsey Phipps at 202-482-9318.

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



June 28, 2017

The Honorable Elizabeth Warren
United States Senator
317 Hart Senate Office Bldg.
Washington, DC 20510

The Honorable Sheldon Whitehouse
United States Senator
530 Hart Senate Office Bldg.
Washington, DC 20510

The Honorable Thomas R. Carper
United States Senator
513 Hart Senate Office Bldg.
Washington, DC 20510

The Honorable Patrick Leahy
United States Senator
437 Russell Senate Office Bldg.
Washington, DC 20510

The Honorable Elijah E. Cummings
Member of Congress
2163 Rayburn House Office Bldg.
Washington, DC 20510

Dear Members of Congress:

I write in response to your May 16, 2017, letter regarding the White House's Designated Agency Ethics Official and Deputy Counsel to the President, Stefan C. Passantino.

As noted in your letter, executive branch employees are subject to a variety of ethics laws and rules designed to ensure the impartiality of the government's decision making. These authorities include the anti-bribery and criminal conflict of interest statutes;¹ the Ethics in Government Act;² the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct);³ certain restrictions established in President Bush's 1989 Executive Order on ethics;⁴ the Stop Trading on Congressional Knowledge Act;⁵ and other legal provisions. Certain political appointees are also subject to additional restrictions established in Executive Order 13770.⁶ Presidential appointees in the White House, including its Designated Agency Ethics official, are subject to these authorities to the same extent as other employees.

Of relevance to your inquiry, Mr. Passantino is subject to restrictions with respect to former clients under the Standards of Conduct and Executive Order 13770.⁷ Under the Standards of Conduct, he may not participate in any "particular matter involving specific parties" in which

¹ 18 U.S.C. §§ 201-209.

² 5 U.S.C. app. §§ 101 *et seq.*

³ 5 C.F.R. part 2635.

⁴ Exec. Order 12674 (Apr. 12, 1989), as amended by Exec. Order 12731 (Oct. 17, 1990).

⁵ Pub. L. No. 112-105, 126 Stat. 291 (2012), as amended.

⁶ See section 1 of Exec. Order 13770 (Jan. 28, 2017).

⁷ See section 1(6) of Exec. Order 13770 (Jan. 28, 2017); 5 C.F.R. § 2635.502(a), (b)(iv).



a client he served in the past year is a party or represents a party, whenever he or his agency determines that a “reasonable person” with knowledge of the relevant facts would question his impartiality in the matter.⁸ This Standards of Conduct restriction is narrower than the separate restriction under the Executive Order. The Executive Order restriction covers any “particular matter involving specific parties” in which a client he served in the two-year period prior to his appointment is a party or represents a party; it also covers most communications and meetings involving such a client.⁹ Unlike the Standards of Conduct restriction, the Executive Order restriction is not subject to the “reasonable person” test.

Neither restriction applies if the former client is an executive agency or, when acting in an official capacity, an employee of one.¹⁰ As OGE advised Mr. Passantino, he may participate in a matter in which the former client is involved in an official capacity as an executive branch employee. However, as OGE also advised Mr. Passantino, he may not participate if the former client is acting in a personal capacity, whether or not the former client is an executive branch employee. Accordingly, Mr. Passantino advised OGE that he would recuse from personnel matters involving individuals who had been his clients during the relevant time periods.

As to your inquiry regarding Secretary Carson and Secretary Price, Mr. Passantino was required to recuse from their nominations. These former clients were acting in their personal capacities in connection with their consideration for cabinet posts in the new Administration, from the time of their initial consideration through the time of their appointments. As with all White House appointees, OGE lacks direct knowledge of most of Mr. Passantino’s official activities, but OGE does regularly interact with him in connection with Presidential nominations. OGE’s staff reports that he did not participate in communications between OGE and the White House in connection with the nominations of Secretary Carson and Secretary Price.

As to your inquiry regarding Mr. Passantino’s other former client, Carl Icahn, the analysis is more complex. The White House has taken the legal position that Mr. Icahn does not meet the applicable standard to be regarded as an executive branch employee.¹¹ Based on this legal position,¹² Mr. Icahn’s involvement in a matter before the White House would occur solely in his personal capacity.¹³ As such, Mr. Passantino is subject to the former client restrictions with respect to Mr. Icahn. For that reason, it is concerning that your letter cites a news report that

⁸ See 5 C.F.R. § 2635.502(a), (c).

⁹ See section 2(s) of Exec. Order 13770 (Jan. 28, 2017).

¹⁰ See 5 C.F.R. § 2635.502 (recusal from certain matters involving a “covered person”); see also 5 C.F.R. § 2635.102(k) (“person” does not include an executive agency or any officer or employee thereof).

¹¹ See Eric Lipton, *Icahn Raises Ethics Flags With Dual Roles as Investor and Trump Adviser*, THE NEW YORK TIMES (Mar. 26, 2017) (noting that the applicability of government ethics laws to Mr. Icahn turns on whether he is an executive branch employee), available at <https://goo.gl/NOiM18>; see also Eric Wolff, *Icahn’s ethanol push fuels ethics storm*, POLITICO (Mar. 10, 2017), available at <https://goo.gl/xr5JSW> (citing a 1977 opinion of the Office of Legal Counsel and explaining that the question as to whether Mr. Icahn qualifies as an employee is a legal one).

¹² See *Status of an Informal Presidential Advisor as a “Special Government Employee,”* 1 Op. O.L.C. 20 (1977) (holding that an individual who performs certain roles for the White House should be regarded as an employee, even absent an identifiable act of appointment), available at <https://goo.gl/POj4pa>. OGE lacks access to sufficient information about the roles Mr. Icahn performs for the White House to present the question to the U.S. Department of Justice for its determination.

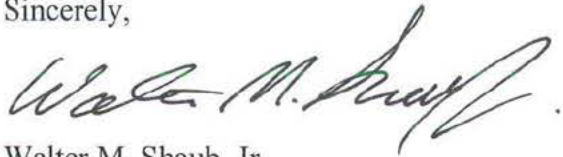
¹³ See section 1(6) of Exec. Order 13770 (Jan. 28, 2017); see also 5 C.F.R. §§ 2635.102(k), 2635.502(a), (b)(iv).

Mr. Passantino delivered the White House's legal position on Mr. Icahn's employment status to the media.¹⁴

OGE lacks the information needed to assess this news report. Specifically, OGE does not know whether Mr. Passantino participated in the formulation of the White House's legal position, which was a "particular matter involving specific parties" in which Mr. Icahn was a party. OGE also does not know the factual circumstances surrounding Mr. Passantino's reported delivery of that legal position to the media, which could also have been a "particular matter involving specific parties" in which Mr. Icahn was a party.¹⁵ However, the White House is in a position to ascertain the relevant facts and is responsible for monitoring its appointees' compliance with ethics requirements, including those established under Executive Order 13770 and the Standards of Conduct.¹⁶ Therefore, by copy of this letter, I am bringing the matter to the attention of the Counsel to the President for his review and a determination as to whether action is warranted.¹⁷

I hope this information addresses the issues your letter raises. If members of your staff have questions, OGE's Chief of Staff, Shelley K. Finlayson, is available to assist them. She can be reached at 202-482-9314.

Sincerely,



Walter M. Shaub, Jr.
Director

cc. The Honorable Donald F. McGahn II
Counsel to the President

¹⁴ Jennifer A. Dlouhy, Ari Natter, and Bill Allison, 'Purest Definition of a Conflict': Icahn's \$126 Million Gain on Biofuel Deal Draws Criticism, BLOOMBERG MARKETS (Feb. 27, 2017; updated Mar 1, 2017) ("Bloomberg") ("He is simply a private citizen whose opinion the president respects and whom the president speaks with from time to time," said Stefan Passantino, deputy counsel to the president for compliance and ethics. "Mr. Icahn does not have a position with the administration nor a policymaking role."), available at <https://goo.gl/9tphTH>.

¹⁵ See 5 C.F.R. § 2641.201(h).

¹⁶ When questions arise as to an appointee's compliance, the law authorizes OGE only to make a recommendation that the employing agency look into the matter and consider taking appropriate action. See 5 U.S.C. app. § 402(f)(2)(A)(ii)(I). If an agency were to decline the recommendation, OGE's only recourse would be to notify the President. See 5 U.S.C. app. § 402(f)(2)(A)(iv)(II).

¹⁷ I note that, based on a review of documents recently released by the White House, Mr. Passantino does not appear to have received a waiver or authorization to deliver the White House's legal position to the media. See *Ethics Pledge Waivers Released by the White House*, WHITE HOUSE PRESS OFFICE (May 31, 2017), available at <https://goo.gl/MYKr2I>. The most nearly applicable document is an Executive Order waiver addressed to all appointees in the Executive Office of the President (EOP) that covers certain communications with news organizations. See Mem. from the Counsel to the President to Appointees in the Exec. Office of the President, *Waiver Certification Under Section 3 of Executive Order 13770 for Communications and Meetings with News Organizations* (undated), available at <https://goo.gl/3MEJWr>. However, that waiver does not cover the restriction under Executive Order 13770 regarding participation in a "particular matter involving specific parties," nor does it cover the separate Standards of Conduct restriction. (There are also questions as to the waiver's validity, inasmuch as it is unsigned, undated, expressly retroactive, and issued by a member of the class of persons it purports to cover.)

From: [Walter M. Shaub](#)
To: [Shelley K. Finlayson](#)
Subject: FW: Draft Discretionary Trust Advisory
Date: Saturday, July 01, 2017 11:48:39 AM
Attachments: [Draft Discretionary Trust Advisory.docx](#)

6 page attachment withheld in full - (b)(5)

FYI

From: Walter M. Shaub
Sent: Saturday, July 01, 2017 11:48 AM
To: Dan Koffsky (b) (6)
Subject: Draft Discretionary Trust Advisory

6 page attachment withheld in full - (b)(5)

Dan,

Attached is a draft advisory on discretionary trusts. Before we polish it up and consider publishing it, I thought I'd run it by you for your informal reaction. I'd like to know whether (b)(5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b)(5)



The attached draft reflects this approach.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: LNAPPS1.USOGE@oge.gov
To: [Walter M. Shaub](#)
Subject: ACTION: Purchase Request needs your action
Date: Monday, July 03, 2017 12:13:50 PM

Hello,
Gilbert Carlson has entered a purchase request.

Action Required: Please make an approval decision

Here's a link

(b)(5) - internal agency website

A large black rectangular redaction box covers the link text. The text "(b)(5) - internal agency website" is visible at the top left of the redaction.

Thank you, have a nice day

From: [Walter M. Shaub](#)
To: (b)(6) - EOP staff email address; ["McGahn, Donald F. EOP/WHO"](#)
Cc: ["Passantino, Stefan C. EOP/WHO"](#)
Subject: letter from OGE Director W. Shaub
Date: Thursday, July 06, 2017 12:58:41 PM
Attachments: [Letter from W Shaub.pdf](#)

Attachment released below

Please see the attached letter.

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



July 6, 2017

The President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington DC 20500

Dear Mr. President:

I am resigning from my position as Director of the U.S. Office of Government Ethics effective Wednesday, July 19, 2017.

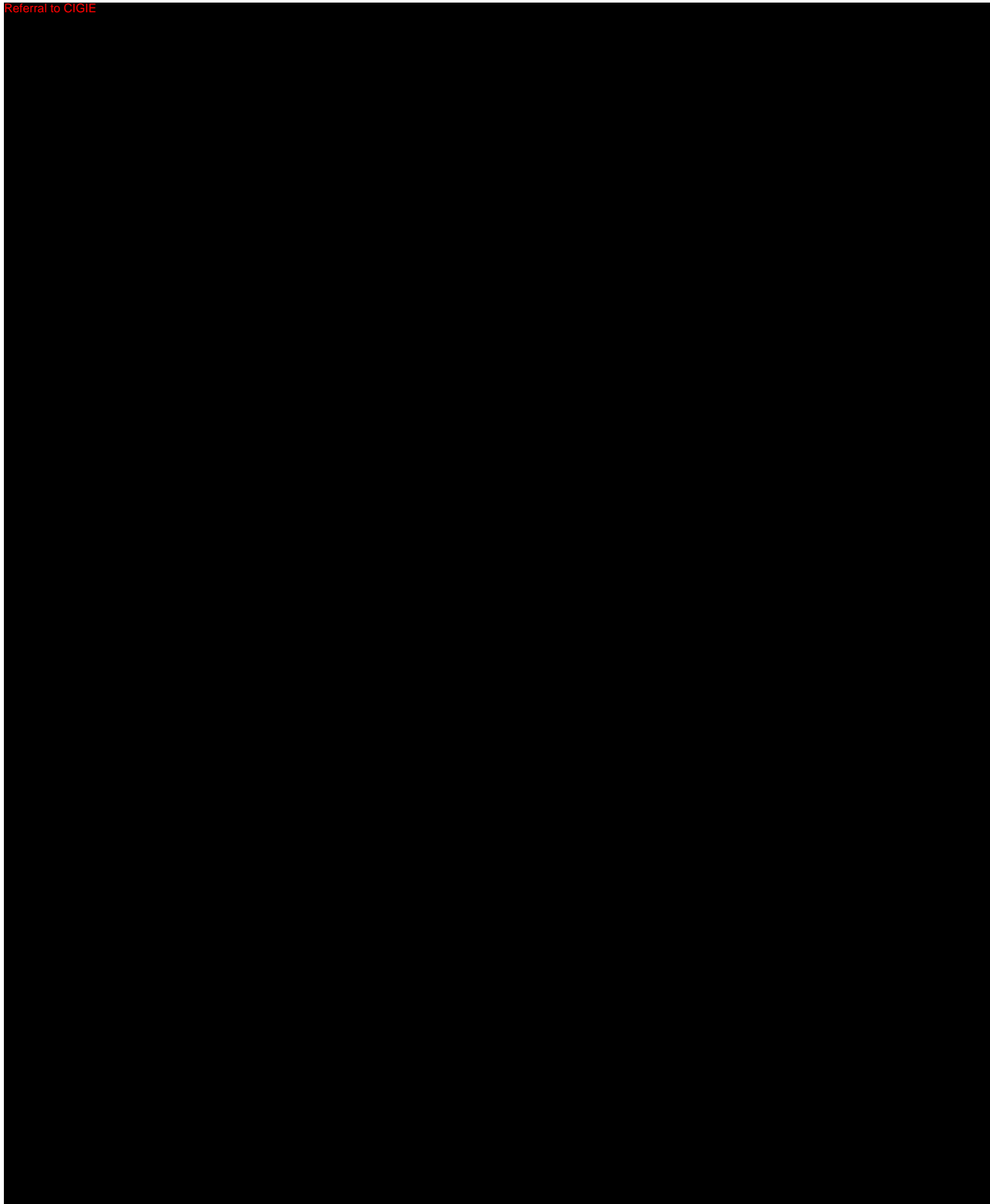
The great privilege and honor of my career has been to lead OGE's staff and the community of ethics officials in the federal executive branch. They are committed to protecting the principle that *public service is a public trust*, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain. I am grateful for the efforts of this dedicated and patriotic assembly of public servants, and I am proud to have served with them.

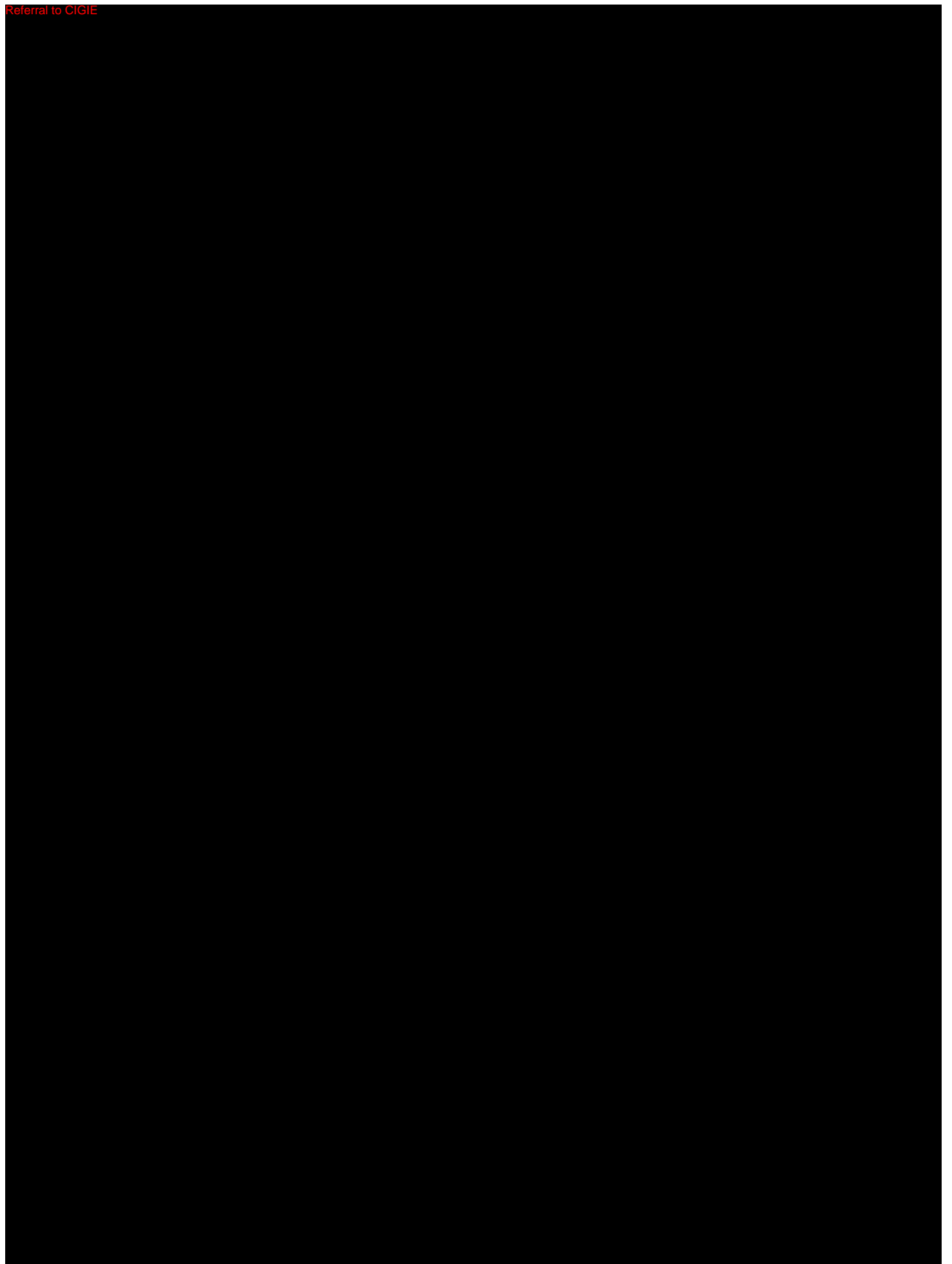
Respectfully,

A handwritten signature in blue ink that reads "Walter M. Shaub, Jr." with a stylized flourish at the end.

Walter M. Shaub, Jr.
Director









From: Passantino, Stefan C. EOP/WHO
To: [Director of OGE](#)
Cc: [David J. Apol](#)
Subject: RE: Your Call
Date: Friday, March 17, 2017 10:56:23 AM

I received your message. I will call at 11:30.

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

-----Original Message-----

From: Passantino, Stefan C. EOP/WHO
Sent: Thursday, March 16, 2017 9:37 PM
To: Director of OGE <director@oge.gov>
Cc: Apol, David (djapol@oge.gov) <djapol@oge.gov>
Subject: Your Call

I saw you called today. It has been a very busy day. I will call in the morning. Stefan.

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

From: [Director of OGE](#)
To: ["Passantino, Stefan C. EOP/WHO"; David J. Apol](#)
Cc: [Director of OGE](#)
Subject: RE: Legal Advisory on EO
Date: Friday, March 17, 2017 7:02:25 PM

Thanks, Stefan. Have a nice weekend

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Passantino, Stefan C. EOP/WHO (b) (6)
Sent: Friday, March 17, 2017 5:14 PM
To: David J. Apol
Cc: Director of OGE
Subject: RE: Legal Advisory on EO

No attachment found in search

Thank you. I have reviewed the attached and can confirm it reflects our conversation and has been cleared by the Chief of Staff to the President and Counsel to the President.

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

From: David J. Apol [<mailto:djapol@oge.gov>]
Sent: Monday, March 13, 2017 5:30 PM
To: Passantino, Stefan C. EOP/WHO (b) (6) >
Cc: Director of OGE <director@oge.gov>
Subject: Legal Advisory on EO

Stefan,

No attachment found in search

Attached is the legal advisory that we discussed and that you have reviewed. Please confirm that, as you indicated in our conversation, you have received confirmation that this has been cleared by all appropriate levels of the White House Office and accurately reflect the Administration's official position. Once we have your confirmation, you can start using this Legal Advisory as definitive advice.

David J. Apol
General Counsel

U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
(202) 482-9292

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From: Passantino, Stefan C. EOP/WHO
To: [David J. Apol](#)
Cc: [Director of OGE](#)
Subject: (b)(5), (6)
Date: Tuesday, March 21, 2017 6:14:37 PM

1 page attachment withheld
in full - (b)(5)

I am just returning to the office and will try to call shortly. I am attaching todays nominations in case the press shop doesn't have them out yet. I am hearing that (b)(5), (b)(6) nomination paperwork has been submitted and filed with the Senate; however, I am told there may be some form of OGE clearance required to allow (b)(5), (b)(6) to log onto his account so he can submit his report. Is that accurate?

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

From: Passantino, Stefan C. EOP/WHO
To: [David J. Apol](#); [Walter M. Shaub](#)
Subject: Financial Disclosures
Date: Wednesday, March 22, 2017 4:15:50 PM

Please let me know if you would like for me to brief you on the plan here so we are on the same page:
<https://www.whitehouse.gov/the-press-office/2017/03/22/white-house-make-financial-disclosures-public>

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

From: [Walter M. Shaub](#)
To: "[Passantino, Stefan C. EOP/WHO](#)"; "[Schultz, James D. EOP/WHO](#)"
Subject: RE: quick question
Date: Friday, March 31, 2017 12:32:31 PM

Thanks!

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Passantino, Stefan C. EOP/WHO (b) (6)
Sent: Friday, March 31, 2017 12:29 PM
To: Walter M. Shaub; Schultz, James D. EOP/WHO
Subject: RE: quick question

It doesn't appear to be up yet. We will advise and send the link as soon as it is.

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

From: Walter M. Shaub [<mailto:wmschaub@oge.gov>]
Sent: Friday, March 31, 2017 12:12 PM
To: Passantino, Stefan C. EOP/WHO (b) (6); Schultz, James D.
EOP/WHO (b) (6)
Subject: quick question

Could one of you gentlemen send me a hyperlink to the 278 portal? We're getting questions about where to find it. Thanks!

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

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From: [Walter M. Shaub](#)
To: "Schultz, James D. EOP/WHO"
Subject: RE: Pie charts
Date: Friday, March 31, 2017 3:47:53 PM
Attachments: [Complexity Comparison with Key.pdf](#)

Attachment released below

Here's the second one. Please confirm receipt so I know it got through this time.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

-----Original Message-----

From: Walter M. Shaub
Sent: Friday, March 31, 2017 3:47 PM
To: 'Schultz, James D. EOP/WHO'
Subject: RE: Pie charts

I'll send them separately this time, in case sending two at once is what overwhelmed the system.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

-----Original Message-----

From: Walter M. Shaub
Sent: Friday, March 31, 2017 3:46 PM
To: 'Schultz, James D. EOP/WHO'
Subject: RE: Pie charts

Did my message yesterday not get through? I'll send them again, but if they didn't get through it means their too large for your system's filters.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500

Washington, DC 20005-3917

Telephone: 202.482.9292

Email: walter.shaub@oge.gov

-----Original Message-----

From: Schultz, James D. EOP/WHO (b) (6)

Sent: Friday, March 31, 2017 3:42 PM

To: Walter M. Shaub

Subject: Pie charts

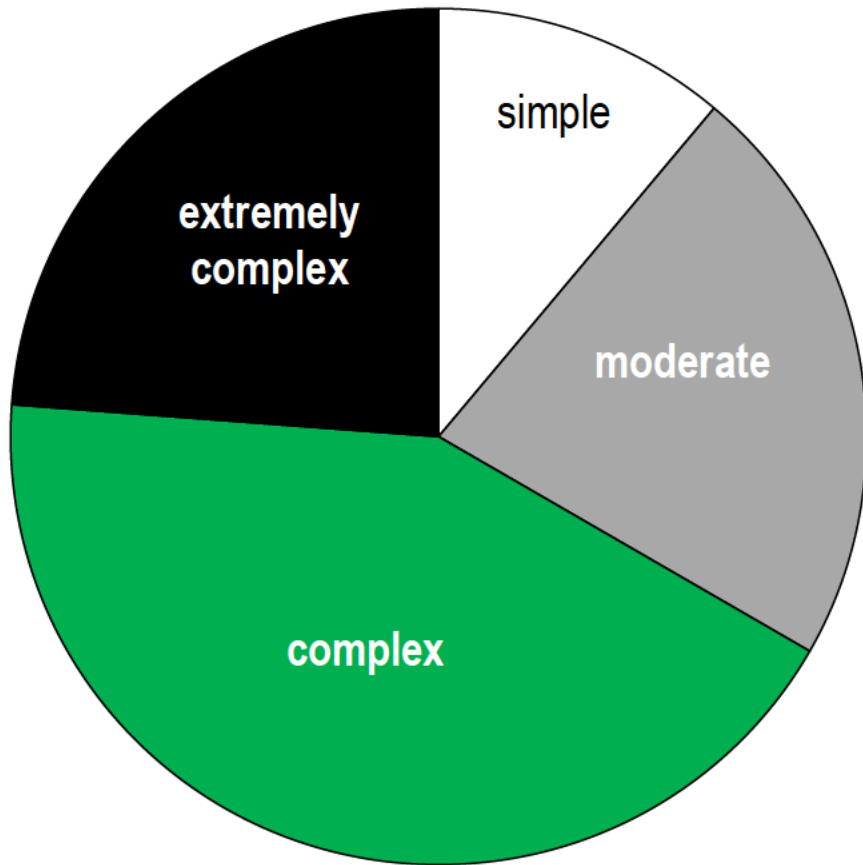
Can you send me an electronic version of the pie charts?

James D. Schultz

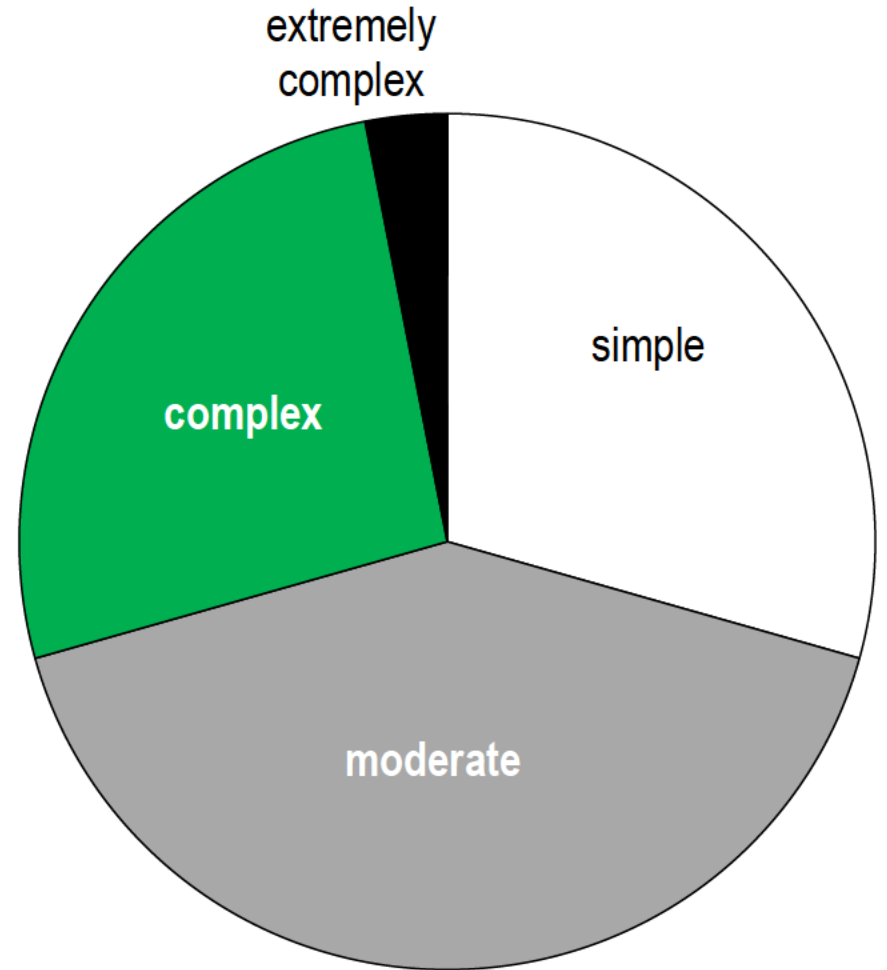
Senior Associate Counsel and Special Assistant to the President Office of White House Counsel

(b) (6) (m)

Distribution of Nominee Reports by Complexity Level as of March 7



11/9/2016 – 3/7/2017

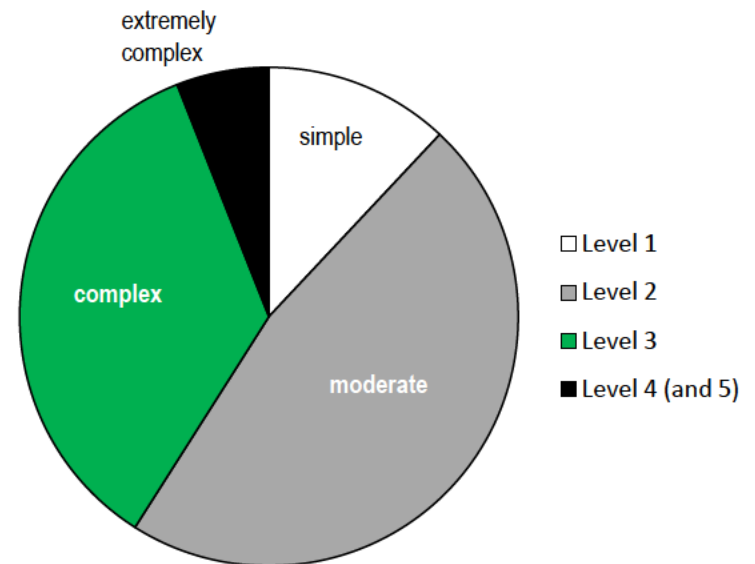


11/5/2008 – 3/7/2009

Definition of Complexity Levels

- **Simple (Level 1):** Filer has few assets. The filer's assets are common and uncomplicated (e.g., mutual funds, cash accounts, municipal bonds, stocks, etc.).
- **Moderate (Level 2):** Filer is moderately wealthy and has a variety of assets of different types.
- **Complex (Level 3):** Filer is wealthy and has complicated financial interests. Filer has a wide range of financial interests (e.g., stock options, restricted stock, stock appreciation rights, unusual business arrangements, book deals, patents, private equity funds, capital commitments, trusts for extended family, etc.). The typical filer often has complex arrangements related to employment or private equity funds. The typical filer may be a high-level corporate executive, business owner, or senior law firm partner, etc.
- **Extremely Complex (Level 4):** Only the most experienced financial disclosure reviewers can handle reports at this level, and the ethics review usually requires a team of OGE employees. The filer is extremely wealthy and has complex business arrangements (e.g., multi-tiered investment vehicles or business with complex sub-holdings, complex trust arrangements, ongoing business deals or investments that need to be unwound, etc.). These reports usually present unusual or novel legal issues related to conflicts of interest. The ethics review cannot be completed without the direct involvement of OGE's managers or leadership. *[Note: In very rare cases, a Level 4 report will be identified as a "Level 5" report—meaning that the report rates among the most complex Level 4 reports. In any such case, the resolution of ethics issues necessitates the direct involvement of the General Counsel, the Director and/or DOJ's Office of Legal Counsel. The filers are usually represented by teams of attorneys and other representatives. In addition, sometimes attorneys for outside organizations (e.g., an employer) are involved as interested third parties. In addition, these reports are typically between 50 and 500 pages in length.]*

Distribution of reports by complexity level 2009-2014:



From: [Walter M. Shaub](#)
To: ["Passantino, Stefan C. EOP/WHO"](#)
Subject: FW: Letter to Shaub
Date: Friday, March 31, 2017 3:59:18 PM
Attachments: [Letter to R. Wyden.pdf](#)

Attachment released below

Stefan,

As discussed, attached is a copy of the response OGE sent Senator Wyden today.

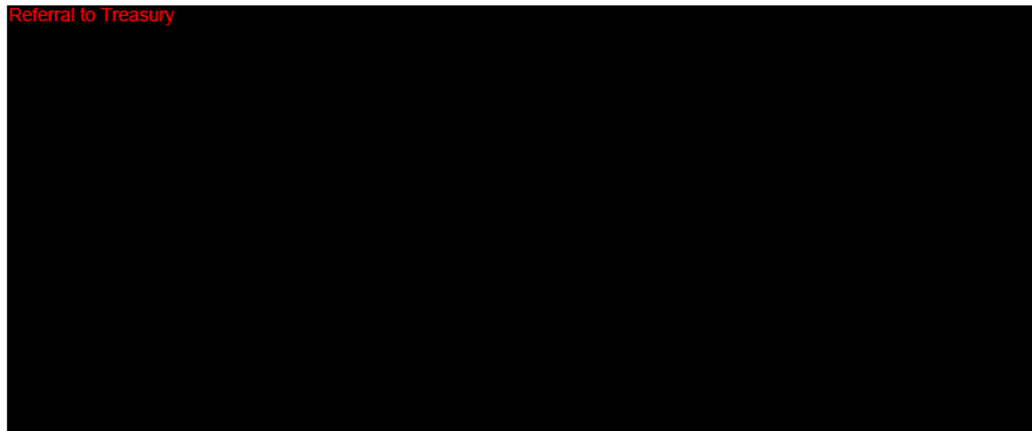
Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

Referral to Treasury





UNITED STATES OFFICE OF
GOVERNMENT ETHICS



March 31, 2017

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Wyden:

I am in receipt of your March 27, 2017, letter concerning remarks made by Treasury Secretary Steven Mnuchin about his film during an interview last week. I share your concern about those remarks.

In a March 9, 2017, letter to the White House, which I shared with the Chairman and the Ranking Member of the House Committee on Oversight and Government Reform, I recommended that the White House revisit its decision to not take disciplinary action against another senior Presidential appointee for endorsing the product line of the President's daughter.¹ In my letter, I emphasized that, "When an employee's conduct violates 5 C.F.R. § 2635.702, disciplinary action serves to deter future misconduct." I also cautioned that, "Not taking disciplinary action against a senior official under such circumstances risks undermining the ethics program." This latest incident seems to prove my point.

Nevertheless, in this case, there is a meaningful distinction in the way Secretary Mnuchin has publicly acknowledged responsibility. This morning, he signed the enclosed letter conceding that he should not have made the remarks about his film. In addition, he pledges to exercise greater caution with respect to the Standards of Conduct in the future. He also indicates that, although he previously completed an ethics briefing with the Department's Designated Agency Ethics Official (DAEO), he will now complete another ethics briefing.

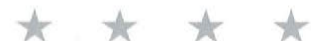
The primary purpose of disciplinary action is to deter future misconduct, both on the part of an individual employee and on the part of others. Secretary Mnuchin's enclosed letter appears to achieve that purpose. As Secretary Mnuchin notes in his letter, subsequent to making his remarks, he declined to answer a similar question in another interview. This change is a step in the right direction. I have asked the DAEO to notify me promptly when Secretary Mnuchin completes his remedial ethics briefing.

OGE intends to give Secretary Mnuchin the opportunity to make good on the pledge he makes in the enclosed letter. If he fails to keep his pledge, OGE will seek further action.

Sincerely,

Walter M. Shaub, Jr.
Director

¹ See Letter from Walter M. Shaub, Jr., Director, U.S. Office of Government Ethics, to Stefan C. Passantino, Deputy Counsel to the President and Designated Agency Ethics Official (Mar. 9, 2017), available at <https://www.oge.gov/web/OGE.nsf/Resources/Letter+to+HOCR+Chairman+and+Ranking+Member+9+Mar+2017>.



The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
Page 2

Enclosure

cc. The Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jason E. Chaffetz
Chairman
Committee on Oversight and Government Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
United States House of Representatives
2471 Rayburn House Office Building
Washington, DC 20515



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

March 31, 2017

The Honorable Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW
Washington, DC 20005

Dear Mr. Shaub:

I am writing concerning the press reports related to the response I provided to a question posed to me at the end of a wide-ranging interview with Axios on Friday, March 24, 2017.

As a final question, the interviewer asked me specifically if I had any movie recommendations. Although I included a disclaimer indicating that it was not my intention to promote any product, I ended my response to that light-hearted question with words that could reasonably have been interpreted to encourage the questioner to see a film with which I was associated. I should not have made that statement. I want to assure you that I was aware of the rule against using public office to promote a particular product, as I specifically acknowledged in the interview, and in responding to the question posed by the interviewer, it was not my intention to make a product endorsement. When asked a similar question in a subsequent interview the next day, I refrained from providing a response and will act similarly in the future.

I take very seriously my ethical responsibilities as a Presidential appointee and the head of the Department of the Treasury. Indeed, in advance of my confirmation, I sought and received an initial ethics briefing from Treasury's Designated Agency Ethics Official (DAEO) and have met with her frequently since then, including shortly after my interview on Friday. I intend to schedule a follow-up briefing with the DAEO on the rules of conduct. I fully appreciate the core ethics principle that public office is a public trust and that no employee may use his office for his own or others' private gain.

I want to reassure you that I will exercise greater caution to avoid any suggestion that I do not take these important rules seriously. I will continue to work with the DAEO and her team to support the ethics program and promote an ethical culture within the Department of the Treasury.

Sincerely,

Steven T. Mnuchin

From: [Walter M. Shaub](#)
To: ["Passantino, Stefan C. EOP/WHO"](#)
Cc: [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#); [Shelley K. Finlayson](#)
Subject: Reince Priebus
Date: Wednesday, April 26, 2017 7:11:38 PM
Attachments: [April 25 Status.pdf](#)

2 page attachment withheld in full - (b)(5)

Stefan,

Reince Priebus went on Fox News this afternoon and stated incorrectly that there are "hundreds" of nominees "sitting around waiting for OGE." As you know, that's not the case.

At the end of the day yesterday there were 92 pending nominee reports, and 75% of them were sent to OGE in the last 30 days. In addition, we've been clearing nominees faster than we did in the last Administration, which has been quite an accomplishment given how much more complex these nominee reports are than the last Administration's nominee reports.

Also, as I'm sure you know, the primary factor that determines how fast a nominee is cleared is the nominee's level of responsiveness. Some of these nominees have been very responsive. Some of the others have been pushing back against the government's ethics requirements with a ferocity we've not previously seen.

We've appreciated the help you've personally given us in pushing a few of the nominees who have been the slowest to respond to questions about their disclosures. However, the last thing we need for the morale of our nominee reviewers is to have the Chief of Staff to the President smearing them with false information.

I'd appreciate it if you could have a talk with Reince. You can tell him that I'd be happy to speak with him too, if that would help. You can also show him the attached document on the chance that he is just misinformed.

Thanks.

Walt

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: [Walter M. Shaub](#)
To: ["Passantino, Stefan C. EOP/WHO"](#)
Cc: [David J. Apol](#); [Shelley K. Finlayson](#)
Subject: waivers and authorizations
Date: Tuesday, May 30, 2017 12:17:15 PM

Stefan,

I'm writing as a follow up to your conversation with Dave Apol. As Dave explained, the Program Advisory (PA-17-02) requires the production of the actual documents (i.e., the waivers and authorizations themselves).

The requirement is to produce a copy of each waiver or authorization. Copies should be submitted to OGE as a PDF attachment to an email. If the White House posts them publicly instead, OGE will accept that posting as fully consistent with the Program Advisory.

There is a separate requirement to produce information about each waiver or authorization that applies **only** when a written document does not exist. The Program Advisory does not allow agencies to choose between providing either a copy of the document or a description of the document. In every case, the document must be produced. The requirement to provide a description of the waiver or authorization is a catchall intended to cover situations in which the waiver or authorization was not issued in writing or has been misplaced.

Please be aware that the Program Advisory covers not only waivers under EO 13770, but also waivers under 18 U.S.C. § 208(b)(1) and 5 C.F.R. § 2635.503(c) and authorizations under 5 C.F.R. § 2635.502(d).

Feel free to call me this afternoon if you have any questions.

Walt

Walter M. Shaub, Jr.

Director

U.S. Office of Government Ethics

1201 New York Avenue, NW, Suite 500

Washington, DC 20005-3917

Telephone: 202.482.9292

Email: walter.shaub@oge.gov

From:

Wylie, Maureen

To:

[Andreasen, Jessica A. EOP/OMB](#); [Muessle, Mary](#); [Cohen, Miriam](#); [Golder, Jennifer](#); [Kinneen, Kelly A. EOP/OMB](#);
[\(b\)\(6\) - Government officials email addresses](#)

[Redacted]

[Shelley K. Finlayson](#); [\(b\)\(6\) - Government officials email addresses](#) [David J. Apol](#); [Walter M. Shaub](#);

[Redacted]

(b)(6) - Government officials email addresses



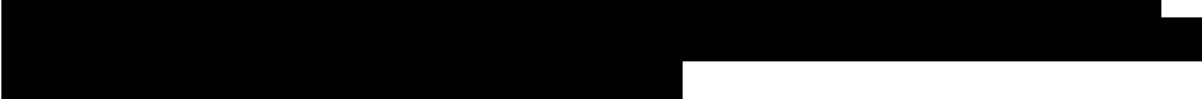
Subject: RE: [External_Sender] Small Agency Call with OMB Senior Staff
Date: Friday, April 21, 2017 11:24:10 AM

I will be on at least one of these calls today. No worries, its covered.

-----Original Appointment-----

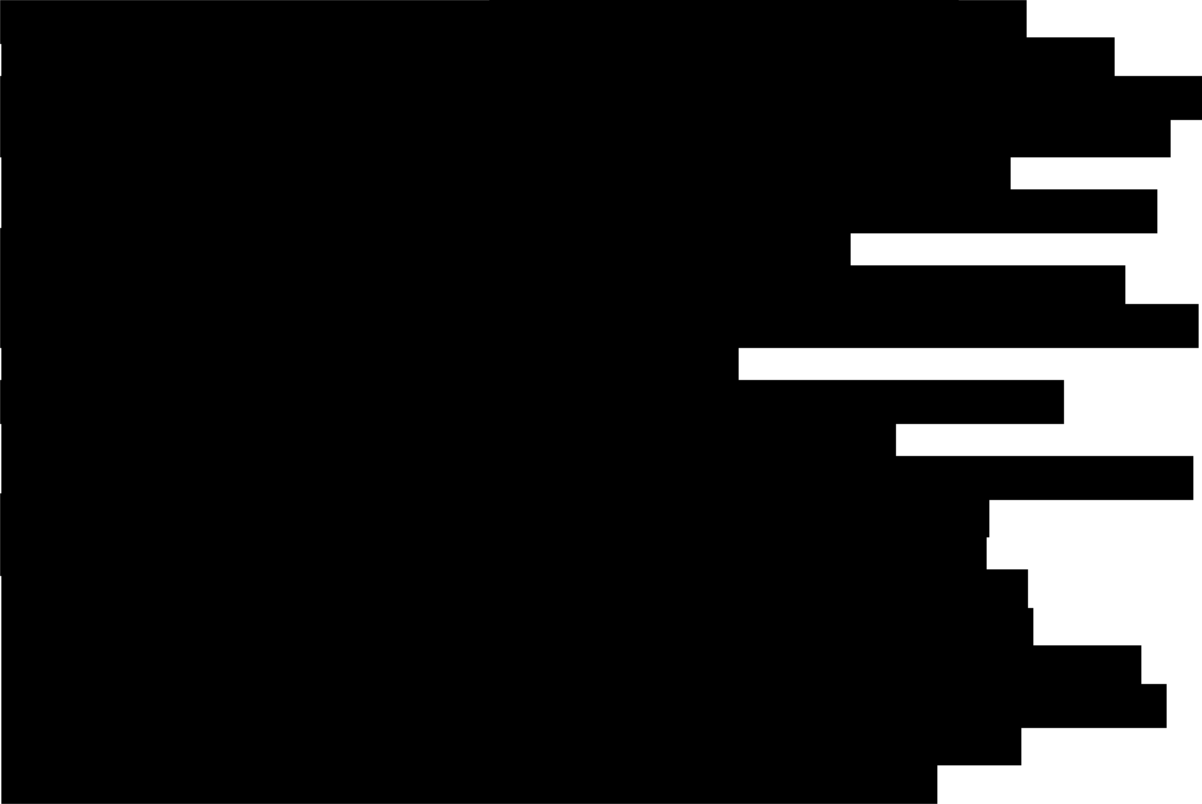
From: Jones, Bradley **On Behalf Of** Andreasen, Jessica A. EOP/OMB
Sent: Friday, April 21, 2017 11:12 AM
To: Wylie, Maureen; Muesle, Mary; Cohen, Miriam; Golder, Jennifer
Subject: Fwd: [External_Sender] Small Agency Call with OMB Senior Staff
When: Friday, April 21, 2017 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Participant Dial-In: (b) (6) Access Code: (b) (6)
Importance: High

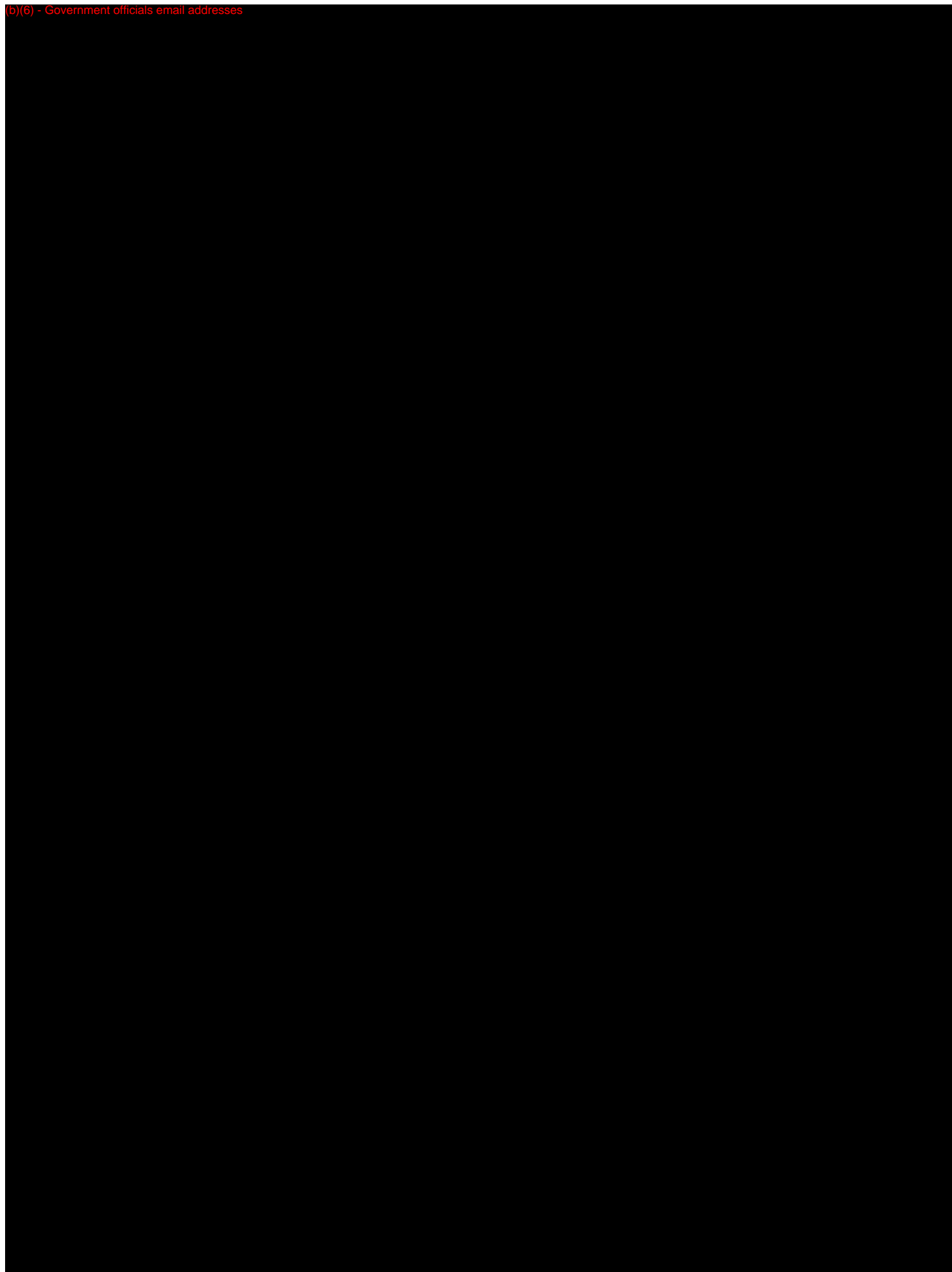
(b)(6) - personal nonresponsive records

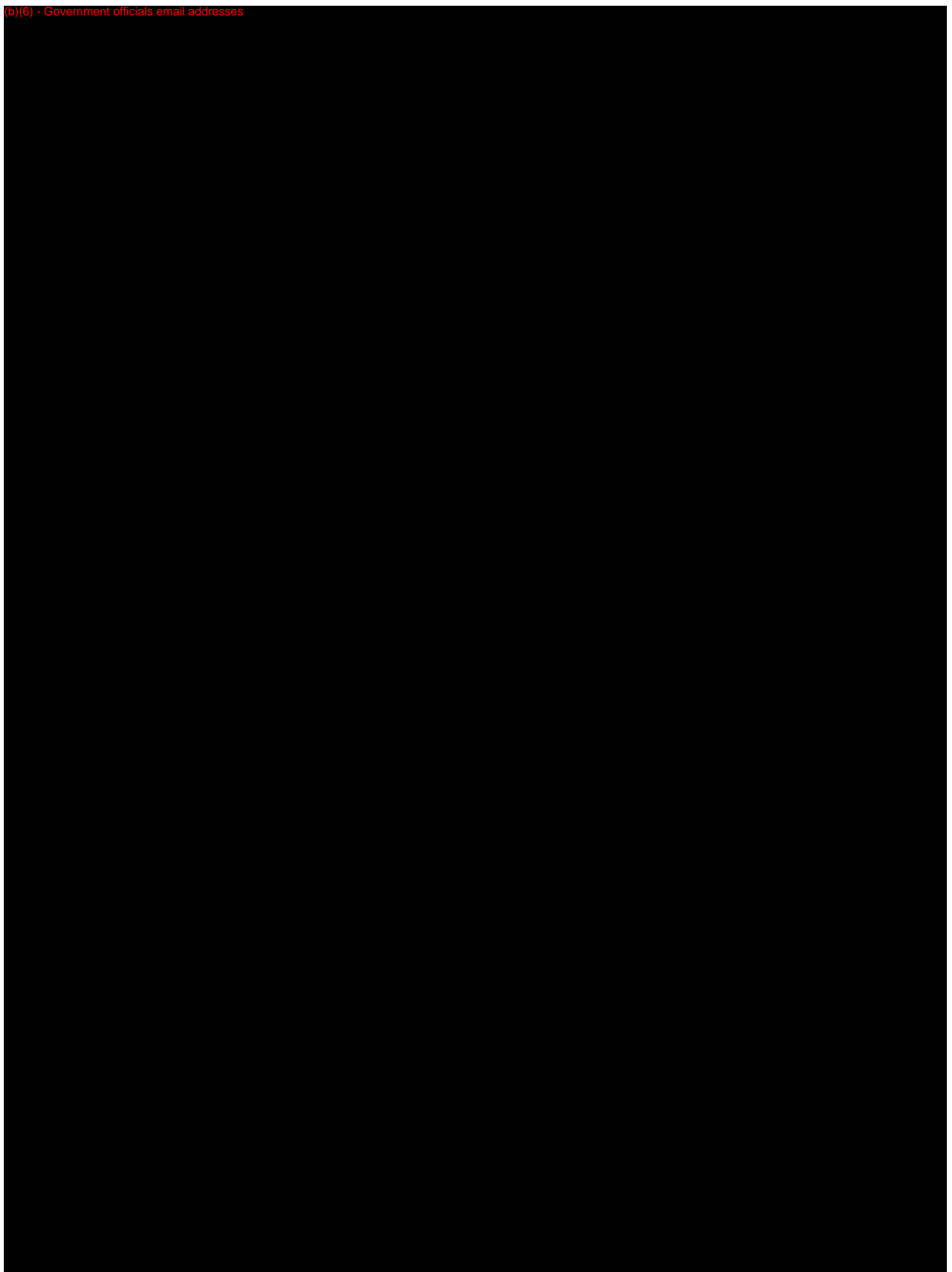


----- Original Message -----

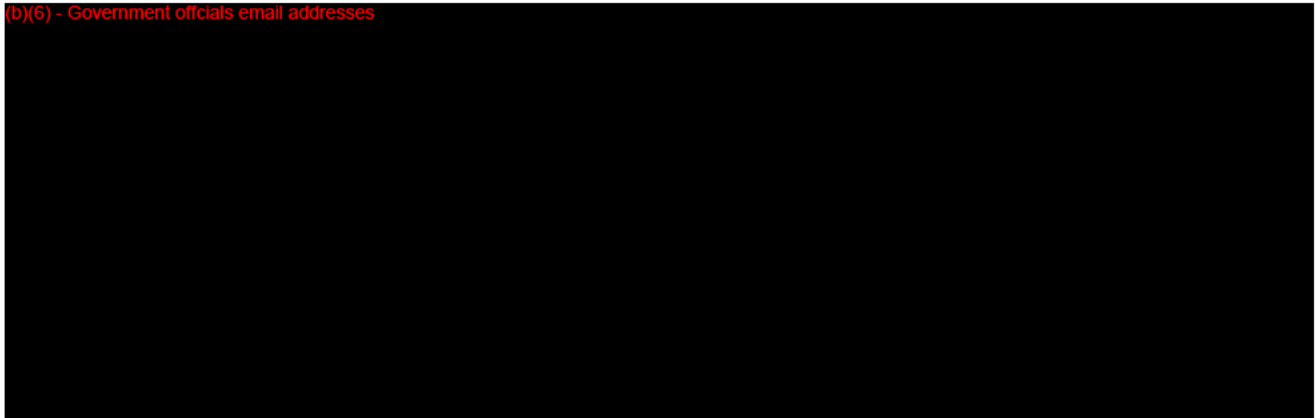
From: "Andreasen, Jessica A. EOP/OMB" <(b) (6)>
Date: Thu, April 20, 2017 3:07 PM -0400
To: "Kinneen, Kelly A. EOP/OMB" (b)(6) - Government officials email addresses







(b)(6) - Government officials email addresses



Subject: [External_Sender] Small Agency Call with OMB Senior Staff

Dear colleagues,

(b) (5)

-
-
-
-

Best regards,
The Office of Management and Budget

From: [Shelley K. Finlayson](#)
To: [Director of OGE](#); [David J. Apol](#); [Seth Jaffe](#)
Subject: FW: M-17-21 Guidance Implementing Executive Order 13771, Titled "Reducing Regulation and Controlling Regulatory Costs"
Date: Thursday, April 06, 2017 7:39:33 AM

I am forwarding this in case you have not already received it.

From: OMB Correspondence to Agencies (b) (6)
On Behalf Of White, Arnette C. EOP/OMB
Sent: Wednesday, April 05, 2017 8:08 PM
To: (b) (6)
Subject: M-17-21 Guidance Implementing Executive Order 13771, Titled "Reducing Regulation and Controlling Regulatory Costs"

This guidance, in the form of Questions and Answers (Q&As), addresses the requirements of Executive Order (EO) 13771, titled "reducing Regulation and Controlling Regulatory Costs."

To view this memo, please click <https://www.whitehouse.gov/the-press-office/2017/04/05/memorandum-implementing-executive-order-13771-titled-reducing-regulation>

This email list is maintained by Arnette White at the Office of Management and Budget (OMB). If you should be removed or need someone added, please send a request to (b) (6)

From: Section 2-EO13783
To: [Director of OGE](#); [Section 2-EO13783](#)
Subject: RE: Request for Waiver of Presidential Executive Order on Promoting Energy Independence and Economic Growth
Date: Friday, May 12, 2017 11:46:40 AM

This email serves as confirmation of receipt of the Office of Government Ethics' waiver under EO 13783 on May 12, 2017.

Per OMB Memorandum M-17-24, *Guidance for Section 2 of Executive Order, Title "Promoting Energy Independence and Economic Growth"*, Section III:

If the OMB Director does not provide a determination within 30 days that the agency has agency actions as described in Section 2(a), then the agency will not be required to develop a plan or report.

From: Director of OGE [mailto:director@oge.gov]
Sent: Friday, May 12, 2017 11:19 AM
To: Section 2-EO13783 (b) (6)
Subject: Request for Waiver of Presidential Executive Order on Promoting Energy Independence and Economic Growth

No attachment found in search

Please find attached letter from OGE Director Walter M. Shaub, Jr.

The original will follow by standard mail.

Thank You,

Matthew Marinec, M.P.P.
Confidential Assistant to the Director
U.S. Office of Government Ethics
1201 New York Ave., NW, Suite 500
Washington, DC 20005-3917
Tel. 202.482.9286

Visit OGE's website: www.oge.gov
Follow OGE on Twitter: @OfficeGovEthics

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

May 17, 2017

Walter Shaub
Director
Office of Government Ethics
1201 New York Avenue N.W. Suite 500
Washington, D.C. 20005

Dear Director Shaub:

On April 28, 2017, pursuant to a Program Advisory, the Office of Government Ethics (“OGE”) requested copies of certain waivers and authorizations of appointees in Federal agencies and the White House.¹ Agencies have made inquiries to the Executive Office of the President regarding this request, and the Office of Management and Budget is seeking to provide them with appropriate guidance on the matter. In particular, this data call appears to raise legal questions regarding the scope of OGE’s authorities.

Due to the uniqueness of OGE’s request and potential legal questions that may exist, the Office of Legal Counsel at the Department of Justice may need to be consulted pursuant to 28 U.S.C. § 512 on the scope of the authorities underlying OGE’s data call.

I therefore request that you stay the data call until these questions are resolved.

Sincerely,

Mick Mulvaney
Director

cc: Agency General Counsels and Designated Agency Ethics Officials

¹ U.S. Office of Government Ethics, PA-17-02, Memorandum, Walter M. Shaub, Jr., Director, to Chief of Staff to the President, Agency Heads, Designated Agency Ethics Officials, Inspectors General, and Appointees, Re: Data Call for Certain Waivers and Authorizations (Apr. 28, 2017), <https://goo.gl/XzMWN6>.

From: [Walter M. Shaub](#)
To: [Shelley K. Finlayson](#); [Diana Veilleux](#)
Subject: FW: Now available: (b) (5)
Date: Tuesday, June 13, 2017 3:11:57 PM
Attachments: (b) (5)

Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

Telephone: 202.482.9292
Email: walter.shaub@oge.gov

From: Mirza, Asma Y. EOP/OMB [mailto:(b) (6)]
Sent: Monday, June 12, 2017 5:39 PM
To: FN-OMB-GovReform
Cc: Brown, Dustin S. EOP/OMB; Crump, Julie EOP/OMB; Bussow, Mark A. EOP/OMB; Wiggins, Mary Ellen E. EOP/OMB; 'Josie Beets - OGP'; Wiggins, Mary Ellen E. EOP/OMB; Lipton, Adam S. EOP/OMB; Armitage, David T. EOP/OMB
Subject: Now available: (b) (5)

(b) (5)



(b) (5)



From: Mirza, Asma Y. EOP/OMB

Sent: Tuesday, June 6, 2017 3:25 PM

To: FN-OMB-GovReform (b) (6)

Cc: Brown, Dustin S. EOP/OMB (b) (6); Crump, Julie EOP/OMB (b) (6); Bussow, Mark A. EOP/OMB (b) (6); Wiggins, Mary Ellen E. EOP/OMB (b) (6); Josie Beets - OGP

(b) (6); Wiggins, Mary Ellen E. EOP/OMB (b) (6); Lipton,
Adam S. EOP/OMB (b) (6); Armitage, David T. EOP/OMB
(b) (6)
Subject: (b) (5)

(b) (5)



Best,

Asma Mirza

From: Passantino, Stefan C. EOP/WHO
To: [David J. Apol](#)
Cc: [Director of OGE](#)
Subject: (b)(5), (6)
Date: Tuesday, March 21, 2017 6:14:37 PM

1 page attachment withheld in full - (b)(5)

I am just returning to the office and will try to call shortly. I am attaching today's nominations in case the press shop doesn't have them out yet. I am hearing that (b)(5), (b)(6) nomination paperwork has been submitted and filed with the Senate; however, I am told there may be some form of OGE clearance required to allow (b)(5), (b)(6) to log onto his account so he can submit his report. Is that accurate?

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel

From: Passantino, Stefan C. EOP/WHO
To: [David J. Apol](#); [Walter M. Shaub](#)
Subject: Financial Disclosures
Date: Wednesday, March 22, 2017 4:15:50 PM

Please let me know if you would like for me to brief you on the plan here so we are on the same page:
<https://www.whitehouse.gov/the-press-office/2017/03/22/white-house-make-financial-disclosures-public>

STEFAN C. PASSANTINO
Deputy Counsel to the President, Compliance & Ethics
Office of the White House Counsel