

MEMORANDUM OF AGREEMENT

This memorandum records the following agreement between the Department of Justice (DOJ) and the Office of Government Ethics (OGE) relating to the responsibility of rendering formal advisory opinions with which the Director, OGE, is charged by section 402(b)(8) of the Ethics in Government Act of 1978, P.L. 95-521, as amended (the Act).

FIRST: That the functions of the Director, OGE, under §402(b)(8) of the Act include the rendering of formal written advisory opinions on matters of general applicability and important matters of first impression which involve the interpretation or application of any of the laws embodied in 18 U.S.C. 202-209 (conflict of interest laws).

SECOND: That the Director, OGE, shall consult with the Criminal Division, DOJ, before rendering an advisory opinion on an actual or apparent violation of any conflict of interest law. If after consultation the Criminal Division determines to undertake a criminal investigation, the Director shall not render an advisory opinion pending a determination by the Criminal Division not to prosecute.

THIRD: That if the Director, OGE, proposes to render an advisory opinion involving any conflict of interest law that in his judgment is an opinion on an important matter of first impression and if there has been no actual or apparent violation of such law in the matter, he shall consult with the Office of Legal Counsel, DOJ, before issuing the opinion.

FOURTH: That (a) any person who relies upon any provision or finding of an advisory opinion in accordance with subparagraph (b) and who acts in good faith in accordance with the provisions and findings of such opinion shall not, as a result of such act, be subject to prosecution under any conflict of interest law, and

(b) any advisory opinion rendered by the Director, OGE, under paragraph FIRST may be relied upon by (1) any person involved in the specific transaction or activity with respect to which such advisory opinion has been rendered and (2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion has been rendered.

This agreement shall be effective May 19, 1980.

Department of Justice

by

title Asst. Atty. Gen.-OLC

date May 7, 1980

by

title AAG Criminal Div.

date May 17, 1980

Office of Government Ethics

by

title Director

date April 24, 1980