

Summary of Responses to Information Request

The enclosed flash drive includes documents in response to your March 23, 2017 inquiry for information regarding Trump Administration appointees' ongoing efforts to comply with the President's "Executive Order on Ethics Commitments by Executive Branch Appointees" and other ethical standards of conduct for federal employees.

Documents are sorted by topic, with a descriptive Table of Contents for the material in each grouping. The following generally describes the categories of documents contained in the flash drive:

1. Guidance for Presidential Transition Team and Incoming Nominees:

OGE's role in assisting the President in nominating top-level executive branch officials is particularly important during the transition period following a Presidential election. The nation is vulnerable to a variety of risks, including risks associated with national security and natural disasters, during a Presidential transition when leadership is transferred and nearly all political positions are vacant. For this reason, the processing of Presidential nominations must be accomplished as efficiently as possible. OGE plays a vital role in this process by ensuring that PAS nominees are free of financial conflicts of interest.

In preparation for a Presidential transition and to assist in a smooth transition to a new administration, OGE created guidance for the Presidential transition team and for nominees, respectively. These guidance documents explain the financial disclosure aspects of the nomination process; direct nominees to relevant resources, including *Integrity* and its related training materials for electronically filing their reports; provide an overview of the executive branch's ethics rules; and provide contact information for agency ethics officials.

2. Communications:

For your convenience, OGE is providing pertinent documents from its Freedom of Information Act Electronic Reading Room. These documents contain communications between OGE and the White House, the Presidential Transition Team, and representatives for Jared Kushner and Ivanka Trump, as well as other pertinent communications.

3. Summary of Transition Training, Materials, and Services Provided or Offered by OGE:

These documents detail OGE's efforts and communications with the President-elect's Transition Team, including a summary of transition training, materials, and services provided or offered by OGE.

4. Congressional Correspondence:

Through formal correspondence to Congress, OGE communicates its substantive views on legislative proposals, transmits its own legislative proposals, responds to written congressional inquiries, and transmits performance and other required information.

Guidance for Presidential Transition Team and Incoming Nominees – Table of Contents

1. OGE Role in the Presidential Transition

The law requires OGE to review the financial disclosure reports of most Presidential nominees for civilian positions requiring Senate confirmation. OGE reviews these reports for potential conflicts of interest and for compliance with disclosure requirements. OGE's efforts to resolve potential conflicts help ensure that nominees will be able to perform the duties of their positions.

2. OGE Guide for the Presidential Transition Team

The work of a Presidential transition is a monumental undertaking. OGE developed this Guide as a resource for the Presidential Transition Team to prepare for the upcoming transition so that top leadership positions can be filled quickly and free from conflicts of interest. This guide explains the nominee ethics process, provides strategies for establishing a strong ethical culture in the new Presidential administration, and includes useful reference materials.

3. OGE Guide for Nominees

OGE developed this Guide as a resource for potential Presidentially appointed, Senate confirmed (PAS) nominees during the upcoming transition. The Guide contains helpful guidance for incoming PAS nominees including an introduction to the nominee process, guidance on financial disclosure, and an overview of key ethics rules and regulations.

4. OGE Appendix to the Guide for Nominees

The Appendix to the Guide for Nominees contains detailed reference content, such as financial disclosure checklists, criteria for identifying excepted investment funds, and information on ongoing financial disclosure obligations.

5. (Unofficial) Excel workbook listing positions for which OGE reviews nominees

The official source for identifying political positions in the executive branch is the publication titled, "United States Government Policy and Supporting Positions." This publication, commonly known as the Plum Book, is published alternately by the Senate and the House committees after each Presidential election. However, the Presidential transition Team will need to begin identifying possible nominees well before the election. To assist in this process, OGE has compiled an unofficial Excel workbook listing the civilian Presidentially appointed, Senate confirmed positions traditionally subject to OGE's review in the nomination process.

6. Ways OGE Can Help in the Presidential Transition (1page graphic)

OGE is ready to assist the Presidential Transition Team in navigating the transition and laying the groundwork for a strong ethical culture in the new administration. OGE is also ready to assist in establishing a strong White House ethics program.

7. OGE Public Financial Disclosure Guide

The Public Financial Disclosure Guide is an interactive tool to assist individuals who file or review public financial disclosure reports (OGE Form 278e or OGE Form 278T). The Guide offers helpful instructions, illustrations of sample language, definitions of terms, and plain language answers to frequently asked questions.

8. OGE Nominee Ethics Agreement Guide

The ethics agreement outlines specific steps a nominee will take to avoid conflicts of interest. OGE's staff and agency ethics officials draft each ethics agreement using standardized language from this Guide that will be modified as needed to tailor the agreement to the nominee's unique circumstances.

9. Nominee Public Financial Disclosure Review Checklists

OGE developed this collection of public financial disclosure checklists for incoming Presidential nominees who file public financial disclosure reports, as well as for agency reviewers. The collection includes a general checklist applicable to all nominees and supplemental checklists that target incoming attorneys; corporate officers, employees, and directors; university professors and deans; and investment fund managers.

10. OGE Electronic Public Financial Disclosure Filing System, Integrity

Presidential nominees in the executive branch file public financial disclosure reports through Integrity, the executive branch electronic financial disclosure system. The online user manual for Integrity provides useful explanations of the system's features. A user name and password is required to access both Integrity and its user manual.

11. Presidential, Vice Presidential, Appointee, and Nominee Records

This page is used to access the public financial disclosure reports of the President and Vice President, Presidential and Vice Presidential candidates, and others whose reports are required to be certified by OGE. Copies of ethics agreements may also be accessed using this page.

12. The theme of OGE 2016 National Government Ethics Summit: Presidential Transition

The National Government Ethics Summit held this spring kicked off OGE's efforts to ensure that the more than 4,500 ethics officials throughout the executive branch are

prepared to help facilitate a smooth transition between Presidential administrations. Follow this link and the links below for more information on OGE's 2016 National Government Ethics Summit and other Presidential Transition readiness efforts.

13. Materials from the 2016 National Government Ethics Summit on the Presidential Transition (March 8-10, 2016)

Agenda for the full-day Symposium on Nominee Financial Disclosure in a Transition
Video: Replay of selected session from the 2016 National Government Ethics Summit
OGE and Agency Ethics Officials Train for Post-Election Readiness
Video: Transition Readiness Series

14. OGE Form 278 (Public Financial Disclosure Report) and OGE Form 450 (Confidential Financial Disclosure Report)

Follow this link for access to OGE's financial disclosure forms and instructions for downloading the forms.

15. OGE Senior Leadership

Follow this link to learn more about OGE's Senior Leadership.

16. OGE Staff Contact Information

Follow this link for an OGE staff listing and contact information.

17. OGE Agency Profile

This profile provides an overview of the executive branch ethics program and OGE. It also includes detailed information about OGE's leadership, structure, and components; major functional areas; and critical management practices.

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

November 20, 2016

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

Dear Director Shaub:

As the Ranking Member of the Senate Committee with jurisdiction over the Office of Government Ethics, I write today to request your assistance with understanding how your office plans to address the potential for conflicts of interest in the upcoming Administration of President-elect Donald Trump.

As you know, President-elect Trump is a businessman with considerable financial interests in the United States and around the world. The full extent of his financial interests remains unclear, in part because he was the first presidential candidate in modern history to decline to release his tax returns to the American public. These unique circumstances raise important questions about how the Administration of President-elect Trump will avoid conflicts of interest and ensure integrity of executive branch programs and operations.

As you know, the Office of Government Ethics oversees the executive branch ethics program and works with ethics practitioners in more than 130 agencies to implement this effort. The Office of Government Ethics also plays a critical role in the 2016 Presidential Transition by making sure that prospective nominees are free of conflicts of interest. This role includes providing guidance regarding the federal laws that prohibit certain officials from participating personally and substantially in an official capacity in any matter that will have a direct and predictable effect on their financial interests. Unless an official receives a waiver or an exemption applies, the official with a conflict of interest must disqualify him or herself from participating in the matter. Criminal penalties may apply to officials who violate this statute.

As the independent ethics watchdog of the federal government, the Office of Government Ethics must provide assurances to the American people that your agency will advance a strong ethics program that holds the Administration of President-elect Trump accountable for any conflicts of interest. To better understand how your office plans to address the potential for conflicts of interest in the upcoming Administration of

President-elect Donald Trump, I ask that you please provide the following information by December 5, 2016:

1. **Handling of Trump Organization** – For constitutional reasons, the President is exempt from certain conflict of interest rules, such as the prohibition on acting in matters affecting his personal financial interest or representing his own claims and business interests to the government. However, the President remains subject to many related statutes, such as prohibitions on bribery and embezzlement. President-elect Trump and the Trump Organization reportedly have business with the federal government, lease federal property, and have regulatory and enforcement matters presently being adjudicated by federal government agencies.
 - a. What guidance has Office of Government Ethics (OGE) provided to agency ethics officials regarding the protocols for handling matters directly affecting President-elect Trump and the Trump Organization?
 - b. Will OGE recommend safeguards to protect federal officials from fear of reprisal in dealings with the Trump Organization?
 - c. Will OGE take steps to ensure Trump Organization employees do not have privileged access to decision-makers or access to nonpublic government information?
 - d. President-elect Trump reportedly intends to transfer control of the Trump Organization to his three oldest children.¹ Does this transfer meet the standards of a qualified blind trust, as defined under the Ethics in Government Act?
2. **President-elect Trump's Financial Conflicts** – President-elect Trump's previous financial disclosure reports reveal potential financial conflicts of interest in several areas of the economy and foreign relations. While Presidents are exempt from conflict of interest rules for constitutional reasons, Presidents of both parties, dating back to Lyndon Johnson, have taken significant steps to avoid the appearance of a conflict.²
 - a. Please identify the information that must be included in the President's annual financial disclosure, when a President must file his first disclosure, and whether the public will receive access to these disclosures.
 - b. What steps does OGE require a President to take if any conflicts of interest are apparent on the face of a financial disclosure?
 - c. What steps will OGE require to *prevent* acquisition of new conflicts by President-elect Trump and his Trump Organization?
3. **Transition Team** – President-elect Trump's three oldest children are members of the Presidential Transition team while continuing to serve as executives and

¹ *Three Trump Children Seen Managing President-Elect's Company*, REUTERS (Nov. 11, 2016).

² CYNTHIA BROWN AND L. PAIGE WHITAKER, CONG. RESEARCH SERV., LEGAL SIDEBAR, CONFLICTS OF INTEREST AND THE PRESIDENCY (2016).

officers in the Trump Organization.³ As leaders on the Transition team, his children will be party to sensitive government information and empowered to discuss matters of government policy and operations with the leadership of several federal agencies.

- a. What guidance has OGE provided to agency ethics officials regarding the handling of non-transition business communications from Mr. Trump's children and the Trump Organization during the transition?

4. **President-elect Trump's Oldest Children and Jared Kushner** – President-elect Trump has reportedly expressed interest in obtaining security clearances for his three oldest children and his son-in-law, Jared Kushner.⁴

- a. What guidance has OGE provided to President-elect Trump's oldest children and Mr. Kushner concerning the management of their conflicts of interest while participating in executive branch deliberations?
- b. Does President-elect Trump have legal authority to appoint these individuals to government positions?
- c. Are President-elect Trump's children and Mr. Kushner exempt from conflict of interest laws?
- d. Has OGE provided guidance to these individuals to ensure they disqualify themselves from matters in which they have financial interests and to prevent inadvertent disclosure of confidential government information?

5. **Ongoing Financial Disclosure Obligations** – President-elect Trump has disclosed a large portfolio of financial interests that include securities interests in several investment companies.⁵ President-elect Trump will be under an ongoing obligation to file public reports of any securities transactions so that the public may understand his financial interests.

- a. What guidance has OGE provided to President-elect Trump to ensure he continues to file any required financial disclosures of securities transactions?
- b. How often will President-elect Trump be required to file such disclosures?
- c. Will OGE or the White House Counsel be responsible for assessing fines for any late filings?

³ Brian Naylor & Barbara Sprunt, *From Lobbyists to Loyalists, See Who's on Donald Trump's Transition Team*, NPR (Nov. 16, 2016).

⁴ Jim Acosta et al., *Trump Transition Team Asked about Security Clearance for His Children*, CNN (Nov. 15, 2016).

⁵ Gregor Aisch et al., *What's in Donald Trump's 104-Page Financial Disclosure?*, N.Y. TIMES (May 18, 2016).

6. **Outside Fiduciary Positions** – President-elect Trump has disclosed that he serves as chairman or board member of hundreds of companies.⁶ As a board member or officer, he owes those entities and their investors' legal fiduciary duties that have the potential to interfere with his duties as president.
- a. What guidance has OGE provided to President-elect Trump regarding his outside positions and the steps he should take to address potential conflicts of interest?
 - b. What safeguards will OGE establish to prevent conflicts of interest between his legal fiduciary obligations to these companies and his legal obligations and duties as President?
7. **Misuse of Image** – Longstanding White House policy across Administrations prohibits the use of the President's name or image in advertising or for the endorsement of any commercial product or service.
- a. What guidance has OGE provided to President-elect Trump regarding the use of his name and image for the endorsement of the Trump Organization or his children's businesses?

If you or members of your staff have any questions about this request, please feel free to contact Roberto Berrios of my staff at (202) 224-2627. Thank you very much for your attention to this matter.

With best personal regards, I am

Sincerely yours,



Tom Carper
Ranking Member

cc: The Honorable Ron Johnson
Chairman

⁶ David Goldman, *Donald Trump's 500 Businesses Would Pose 'Unprecedented Ethical Dilemma'*, CNN (Mar. 17, 2016).

United States Senate

WASHINGTON, DC 20510-4606

January 4, 2017

COMMITTEES:

FINANCE

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Ms. Shelley K. Finlayson
Legislative Affairs Liaison
U.S. Office of Government Ethics
1201 New York Avenue NW, Suite 500
Washington, DC 20005-3917

Dear Ms. Finlayson,

I have recently been contacted by (b)(6) of Radford, Virginia.
Attached please find a copy of that correspondence.

I would appreciate it if you could look into this matter and provide me with an appropriate response. Thank you.

Sincerely,



MARK R. WARNER
United States Senator

MRW/lm

(b)(6) (8333832)

Contact Information:

(b)(6)

Incoming Message:

Date: 12/1/2016

I am disappointed in the U. S. Government Ethics Office for sending sarcastic tweets. I don't know what these people make, but I do know that taxpayers pay their salary. As a taxpayer, I expect federal employees to act like grownups. This behavior would rarely be tolerated in the private sector. So, I suggest that the person(s) responsible for this behavior be fired, with cause, no severance and no unemployment benefits. I am tired of political candidates, political parties, sniping, and nastiness. I exercised my right to vote in the presidential election because I consider it a right and a responsibility, not because either candidate was easy to stomach. And I don't want to see sniping tweets from government employees. As my elected representatives I hope that you will insist on mature behavior and hard work from federal employees.

United States Senate

WASHINGTON, DC 20510

January 5, 2017

Mr. Walter M. Schaub, Jr.
Director
Office of Government Ethics
1201 New York Avenue NW, Suite 500
Washington, DC 20005

Dear Mr. Schaub:

We write today to request information on your agency's implementation of the Ethics in Government Act and how the process to address potential conflicts of interest is proceeding with respect to President-elect Donald Trump's intended cabinet nominees.

As you are aware, President-elect Trump has announced the names of those he intends to nominate to serve in his Cabinet, and the Majority in the Senate has announced hearing dates for many of them, starting as early as Tuesday of next week. Under the precedent established by previous Presidential transitions, these hearings have not been conducted unless and until the nominees have submitted a substantial set of materials to the Senate, including a signed letter from the Office of Government Ethics certifying that there are no unresolved conflict of interest. Nominees must, at or before the commencement of the first Senate committee hearing to consider their nomination, file an updated statement with the appropriate Senate committee. Failure to adhere to these long-standing conflict of interest requirements may subject an appointee to criminal or civil penalties under federal law.

Many of the President-elect's Cabinet nominees are extremely wealthy individuals with complex financial situations. In the past, similarly situated Cabinet nominees have taken many months to complete and execute an ethics agreement to bring them into compliance with the Ethics in Government Act and federal criminal conflict of interest law. For example, it has been widely reported that Penny Pritzker's ethics agreement took six months to complete.

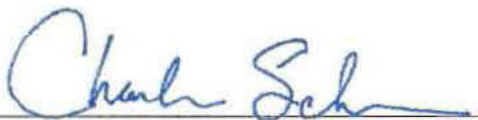
The law contemplates an expedited review of financial disclosure statements in circumstances such as a presidential transition. But even under these circumstances, neither your office nor the nominees are exempt from the requirements of the law. We are concerned that, in a rush to schedule numerous hearings all at once next week, pressure may be put on your office to rush through your legally required reviews in a way that could compromise full compliance with the law.

To that end, we would appreciate if you would tell us whether you have been asked to conduct an expedited review of a financial disclosure statement under a timeline you believe would not allow you to fulfill your responsibilities under the Ethics in Government Act.

We appreciate the important role your office places in assuring that public servants remain free from conflicts of interest and that public service remains a public trust. It is important that Congress supports your office's ability to fulfill its responsibilities under the Ethics in Government Act and neither accepts nor participates in any inappropriate pressure on you to limit the execution of your responsibilities. We would appreciate a response to this letter as rapidly as possible, and no later than 48 hours prior to the commencement of any confirmation hearings.

Thank you very much for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, reading "Charles E. Schumer". The signature is fluid and cursive, with the first name "Charles" and last name "Schumer" clearly distinguishable.

Charles E. Schumer
United States Senator

A handwritten signature in blue ink, reading "Elizabeth Warren". The signature is fluid and cursive, with the first name "Elizabeth" and last name "Warren" clearly distinguishable.

Elizabeth Warren
United States Senator

United States Senate

WASHINGTON, DC 20510

January 12, 2017

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

Dear Mr. Shaub:

Thank you for your continuing efforts to ensure Senate committees, like the Senate Environment and Public Works Committee [EPW] on which we serve, have the information we need to review potential conflicts of interest faced by nominees of President-elect Trump.

We are in receipt of the Office of Government Ethics [OGE] certified financial disclosure report [Form 278] of Edward Scott Pruitt, nominee to be the Administrator of the Environmental Protection Agency [EPA]. After reviewing Mr. Pruitt's information, we are concerned that the record presented may not provide a complete picture of ethical issues faced by this nominee.

Since the Supreme Court's decision in *Citizens United*, we have entered into an unprecedented and dangerous time in which massive and often anonymous corporate political spending threatens to corrupt our government. OGE's ethics review focuses primarily on a nominee's personal financial interests, and appears not to address a nominee's history of political solicitations and activity. Corporations spend their money to get results, so it is now more important than ever that we have a full disclosure of a nominee's ties to the industries he or she will be charged with regulating. This is particularly important where a nominee may have solicited or raised "dark money" from interests to which they thus may be beholden.

During his tenure as Attorney General of Oklahoma, Mr. Pruitt has blurred the distinction between official and political actions, often at the behest of corporations he will regulate if confirmed to lead EPA. While the disclosures Mr. Pruitt made to OGE may be sufficient to ascertain his personal financial conflicts of interest, they do not document conflicts he may have as a result of political activities. Public reporting based on documents produced by Freedom of Information Act requests illustrate how Mr. Pruitt and members of his staff have worked closely with fossil fuel lobbyists to craft his office's official positions. Public reporting has also identified numerous potential conflicts of interest not disclosed on his Form 278 or addressed in his ethics agreement. For example:

- Pruitt indicated on his Form 278 that he has served in various positions, including Chairman, of the Rule of Law Defense Fund [RLDF] since 2014. Because RLDF is organized under section 501(c)(4) of the Internal Revenue Code, it can receive unlimited contributions from individuals, corporations, and partnerships and need not disclose the identities of its donors, donors who may have been solicited directly by Mr. Pruitt in exchange for the RLDF advocating certain positions.

- Although Mr. Pruitt served as Chairman of the Republican Attorney Generals Association [RAGA] for two terms, his affiliation was not listed on his OGE disclosures. Since 2014, RAGA has received nearly \$4 million from fossil fuel-related entities, many of which are either companies regulated by EPA or industry trade associations.¹ According to campaign finance records and the RLDF's 990s, hundreds of thousands of dollars have passed between the RLDF and RAGA. Recently released emails show that RAGA has provided services such as chartered airplane flights to its members. Mr. Pruitt's OGE disclosures do not include information about any gifts or in-kind donations Mr. Pruitt received from RAGA or other groups with which he's been involved.
- It has been reported that Mr. Pruitt is, or has been, affiliated with at least three other political action committees [PACs]: Liberty 2.0, Oklahoma Strong Leadership, and Scott Pruitt for Attorney General. These PACs have received contributions from numerous corporations that are regulated by EPA.² Many of these are challenging EPA standards in court along with Mr. Pruitt. Mr. Pruitt's OGE disclosures do not include any of this information.³

To better understand the types of information Mr. Pruitt is required to disclose and the potential conflicts of interest that may remain outstanding, we would appreciate answers to the following questions:

- Did Mr. Pruitt provide OGE any information about the identity of RLDF donors, amounts contributed, and any promises made or actions taken by him or the RLDF in exchange for donations made to it?
- Did Mr. Pruitt provide OGE any information about his positions with RAGA, any role he played soliciting money for RAGA, what resulted from those solicitations, or any promises made or actions taken by him or RAGA in exchange for donations made to it?
- Did Mr. Pruitt provide OGE with any information about gifts, such as any RAGA-sponsored chartered flights he may have been on?
- Did Mr. Pruitt disclose contributions to section 527 PACs operating on his behalf?
- Does OGE require nominees to provide information about the types of groups described above as part of its vetting process? If so, is OGE satisfied that it has received complete disclosures from Mr. Pruitt? Is OGE aware of any other avenues that will require Mr.

¹ These include Devon Energy, ExxonMobil, Koch Industries, Murray Energy, and Southern Company, and several industry trade associations, such as the American Petroleum Institute, American Fuel and Petrochemical Manufacturers, and National Mining Association. All of these entities have been involved in litigation Mr. Pruitt has pursued against the EPA and representatives from at least three had private meetings with Republican Attorneys General and staff at RAGA events.

² Murray Energy was the leading contributor to Liberty 2.0 in the 2016 election cycle and executives from Devon Energy and Alliance Resources maxed out to Oklahoma Strong Leadership in 2016. Devon Energy, Koch Industries, Arch Coal, and ExxonMobil all contributed thousands to Scott Pruitt for Attorney General when he was last up for reelection during the 2014 cycle.

³ Just last week we learned that a new 501(c)(4) organization, Protecting America Now, has formed specifically to support Mr. Pruitt's confirmation. This new dark money organization is promising anonymity to donors who contribute to its efforts on behalf of Mr. Pruitt. With so many fossil fuel interests having publicly supported Mr. Pruitt's political organizations in the past, it would come as little surprise if many of these same interests are now supporting his nomination anonymously.

Pruitt to disclose this information to EPA's Designated Agency Ethics Official during his tenure as Administrator, if confirmed?

For your information, attached to this letter is a letter we are sending today to EPA requesting additional information on its recusal and waiver process. The EPW Committee has scheduled Mr. Pruitt's confirmation hearing for January 18th. Accordingly, we respectfully request responses to these questions prior to the date of the hearing.

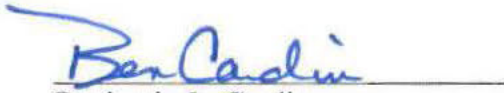
Sincerely,



Thomas R. Carper
United States Senator



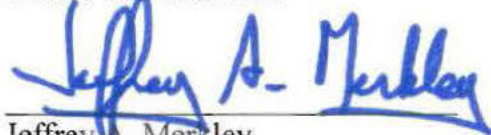
Sheldon Whitehouse
United States Senator



Benjamin L. Cardin
United States Senator



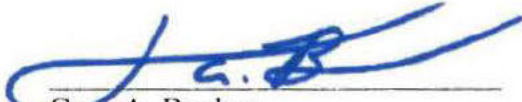
Bernard Sanders
United States Senator



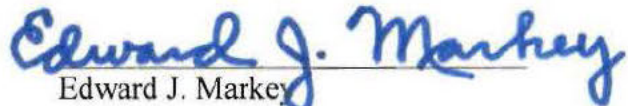
Jeffrey A. Merkley
United States Senator



Kirsten Gillibrand
United States Senator



Cory A. Booker
United States Senator



Edward J. Markey
United States Senator



Tammy Duckworth
United States Senator

Enclosure: letter to Kevin Minoli, Designated Agency Ethics Official, U.S. Environmental Protection Agency

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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

January 6, 2017

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

Dear Director Shaub:

I write to request information regarding the status of your ethics review of Elisabeth ("Betsy") DeVos, President-elect Trump's designee to be Secretary of the Department of Education. The Senate Health, Education, Labor, and Pensions ("HELP") Committee is scheduled to hold a confirmation hearing on Ms. DeVos on Wednesday, January 11th.

Only in rare instances has the Senate HELP Committee held a confirmation hearing without first receiving a letter from the Office of Government Ethics (OGE) explaining the steps the nominee will take under an ethics agreement to address financial conflicts as required by law, as well as a certified financial disclosure form (OGE-278). In fact, all of President Obama's Cabinet nominees in HELP's jurisdiction provided certified OGE-278s and ethics agreements prior to their hearings.

Given Ms. DeVos' very significant financial resources and the high position of public trust to which she will be nominated, it is essential that our Committee fully understand in advance of the hearing what are the potential conflicts of interest and the steps she will take in order to comply with federal ethics laws and regulations.

Earlier this week, the nominee provided answers to the questions posed on the HELP Committee questionnaire. While that document makes significant disclosures, it has made me further question the status of the OGE process. It is my understanding that a nominee submitting a financial disclosure form is the first step in an ethics review. The financial disclosure form then undergoes an ethics review by the agency to which the nominee is being nominated. The nominee must enter into a formal, signed agreement with the agency's ethics official to resolve any "actual or apparent" conflicts of interest, and have his or her disclosure and agreement certified by the OGE.

These ethics agreements are critically important, as they bind nominees to any necessary recusals, divestitures, resignations, waivers, qualified trusts, outside earned income limitations,

and resolve severance and other payments. It is the nominee's pledge to abide by the specific steps in the ethics agreement. OGE's certification that those steps will resolve any financial conflicts is critical in order for the Senate to fully consider a nomination.

Given the nominee's significant assets and potential conflicts, I am seeking a better understanding regarding where the nominee stands in the process and seeking answers to the following questions:

1. Have OGE and the Department of Education received all the necessary information from Mrs. DeVos?
2. Has the report been filed with OGE?
3. Has an ethics agreement been completed?
4. Has OGE reviewed and certified both Ms. DeVos' financial disclosure form (OGE-278) and ethics agreement?
5. Are there outstanding ethics issues that still need to be resolved?
6. Can you provide an estimate of how long it will take to reach and certify an agreement?

I would appreciate any information you can share about the timing and status of the DeVos review. Thank you for your immediate attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Patty Murray".

Patty Murray
United States Senator

Cc: The Honorable Lamar Alexander
United States Senator

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

January 12, 2017

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

Dear Director Shaub:

On December 19, 2015, the Committee requested information related to the Office of Government Ethics' publicly-released guidance and other public interactions. The Committee's questions about blurring the line between public relations and official ethics guidance have resurfaced in the wake of OGE's communications with the incoming administration on ethics questions via Twitter and through the press.

On November 30, 2016, the OGE official Twitter account issued a series of tweets in response to the President-elect's announcement that he will address potential conflicts of interest related to his business interests and personal financial assets. The public OGE account tweeted:

.@realDonaldTrump OGE is delighted that you've decided to divest your businesses. Right decision!

.@realDonaldTrump [*sic*] As we discussed with your counsel, divestiture is the way to resolve these conflicts

.@realDonaldTrump this aligns with OGE opinion that POTUS should act as if 18 USC 208 applies. bit.ly/2fRpIG0

.@realDonaldTrump Bravo! Only way to resolve these conflicts is to divest. Good call!

.@realDonaldTrump this divestiture does what handing over control could never have done.

.@realDonaldTrump – we told your counsel we'd sing your praises if you divested, we meant it.

.@realDonaldTrump OGE applauds the "total" divestiture decision. Bravo!

.@realDonaldTrump Brilliant! Divestiture is good for you, very good for America!

.@realDonaldTrump We can't repeat enough how good this total divestiture will be.¹

It was not clear whether the tweets constituted official OGE guidance or something less formal. It is clear, however, the tweets publicized private discussions with the President-elect's counsel. The tweets also created the appearance that OGE approved the President-elect's divestiture plan, which caused further confusion.

The line between official OGE policy and informal commentary was also blurred in May 2015. At that time, OGE offered public comments in response to former Secretary of State Hillary Clinton's failure to disclose honoraria paid to the Clinton Foundation in return for speeches made by her or her husband while she was Secretary of State. Specifically, OGE spokesman Vincent Salamone issued the following statement:

Disclosure of speaking fees is not required when a public filer or the filer's spouse is acting as an agent of an organization and payment is made directly to that organization. The rule is different when the speaking is done in a personal capacity and the fees are directed or donated to charity, in which case disclosure would be required.²

The commentary offered in response to the Clinton case created confusion. Your agency had not conducted any investigation of the circumstances of the speeches that would have allowed it to determine whether the Clintons were acting as agents of the Clinton Foundation. Ethics experts stated that there was little evidence the speeches had anything to do with the Clinton Foundation.³ The Office of Government Ethics also declined to comment when asked by the press whether this exception has previously appeared in the agency's public guidance or regulations.⁴

Your agency's mission is to provide clear ethics guidance, not engage in public relations. The Committee is thus continuing its examination of OGE's operations. OGE's statutory authorization lapsed at the end of fiscal year 2007 and the Committee has jurisdiction in the House of Representatives for reauthorizing the office. To help the Committee understand how you perceive OGE's role, among other things, please make yourself available for a transcribed interview with Committee staff as soon as possible, but no later than January 31, 2017. The Committee may also need to interview additional witnesses pursuant to this review.

¹ Office of Gov't Ethics (@OfficeGovEthics), Twitter (Nov. 30, 2016), <https://twitter.com/OfficeGovEthics/status/804020923800158209>.

² Josh Gerstein, *Hillary's speech disclosures come under fire*, POLITICO, May 20, 2015.

³ *Id.*

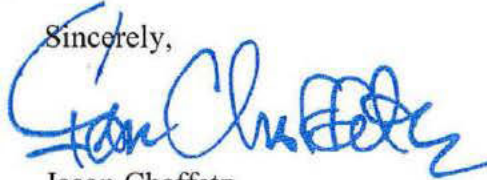
⁴ *Id.*

The Honorable Walter M. Shaub, Jr.
January 12, 2017
Page 3

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Please contact Jack Thorlin of the Committee staff at (202) 226-4240 to schedule the transcribed interview requested herein or with any questions regarding this request. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason Chaffetz", with a stylized flourish at the end.

Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



January 6, 2017

The Honorable Charles E. Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

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

Dear Senators Schumer and Warren:

I write in response to your letter dated January 5, 2017, requesting information about the work of the U.S. Office of Government Ethics (OGE) to implement the Ethics in Government Act in connection with the individuals whom the President-elect has announced he intends to nominate.¹ This response addresses the issues your letter raises.

As OGE's Director, the announced hearing schedule for several nominees who have not completed the ethics review process is of great concern to me. This schedule has created undue pressure on OGE's staff and agency ethics officials to rush through these important reviews. More significantly, it has left some of the nominees with potentially unknown or unresolved ethics issues shortly before their scheduled hearings. I am not aware of any occasion in the four decades since OGE was established when the Senate held a confirmation hearing before the nominee had completed the ethics review process.

The Ethics in Government Act establishes a requirement that covered nominees to Presidentially-appointed, Senate-confirmed positions must obtain OGE's certification of their financial disclosure reports.² That this certification must be obtained prior to the hearing is evidenced by the additional requirement that nominees must "make current" their financial disclosure reports as to earned income by the date of the hearing.³ Further evidence is found in the requirement that, "The [OGE] Director shall forward a copy of the report of each nominee to

¹ These individuals are not nominees because the President-elect cannot nominate them until he assumes the office of the President on January 20, 2017, but this letter refers to them as "nominees" for the sake of convenience.

² ~~See 5 C.F.R. §§101(b), 103(c), 106(b).~~ Corrected: *See* 5 U.S.C. app. §§ 101(b), 103(c), 106(b).

³ ~~See 5 C.F.R. §§101(b).~~ Corrected: *See* 5 U.S.C. app. § 101(b)(1).

the congressional committee considering the nomination.”⁴ This timing is significant because the need for OGE’s certification prior to the hearing creates the leverage necessary to compel nominees to disclose their assets fully and resolve all conflicts of interest.

The nominee financial disclosure process is complex. It involves assisting nominees to make complete and accurate disclosure of complex financial holdings and arrangements, identifying conflicts of interest uncovered through reviews of nominees’ disclosures, and developing comprehensive written ethics agreements that resolve all identified conflicts of interest. This work is labor-intensive. As a result, the process is necessarily measured in weeks, not days. OGE’s staff and agency ethics officials must have adequate opportunities to ensure that the Senate receives a complete accounting of each nominee’s relevant financial interests and an explanation of the steps the nominee will take to resolve conflicts of interest. To provide a window into the complexity of this work, I have enclosed non-exhaustive checklists that we have developed for financial disclosure reviews, OGE’s Nominee Ethics Guide, the Appendix to the Nominee Ethics Guide, and a copy of OGE’s Ethics Agreement Guide.⁵

This normally intensive process has been further complicated by both the Senate hearing schedule and the announcement of nominees prior to consulting OGE for an evaluation of any ethics issues. In the past, the ethics work was fully completed prior to the announcement of nominees in the overwhelming majority of cases.⁶ Under this traditional process, the names of nominees were not made public until OGE “precleared” them and, therefore, there was no opportunity for undue influence on the independent ethics review process.

During this Presidential transition, not all of the nominees presently scheduled for hearings have completed the ethics review process. In fact, OGE has not received even initial draft financial disclosure reports for some of the nominees scheduled for hearings. Despite the challenges current circumstances present, OGE’s staff and agency ethics officials have been working diligently in an effort to deliver expedited reviews that meet the Senate’s schedule. As a measure of our success, I note that we have precleared 58% of the financial disclosure reports that we have received from the President-elect’s Transition Team. By the same date eight years ago, we had precleared 21% of the financial disclosure reports that we had received from the transition team.

We remain committed to completing the ethics work on each nominee as quickly as possible without compromising the integrity of our ethics work or the nominee’s future activities on behalf the American public. I am optimistic that we will be able to continue expediting our ethics reviews of the President-elect’s nominees to meet reasonable timeframes without sacrificing quality. It would, however, be cause for alarm if the Senate were to go forward with

⁴ 5 U.S.C. app. § 103(b).

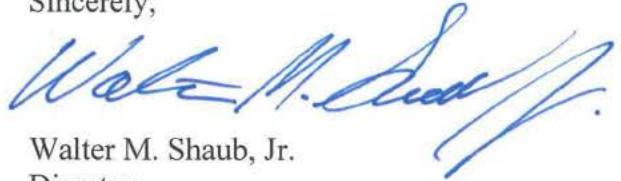
⁵ All of these materials are available on the Presidential transition page of OGE’s website at the following address: <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>.

⁶ I have enclosed OGE’s Transition Guide for more information on the process. A copy of this document is also available on the Presidential transition page of OGE’s website.

The Honorable Charles E. Schumer
The Honorable Elizabeth Warren
Page 3

hearings on nominees whose reports OGE has not certified. For as long as I remain Director, OGE's staff and agency ethics officials will not succumb to pressure to cut corners and ignore conflicts of interest.

Sincerely,

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

Walter M. Shaub, Jr.
Director

Enclosures

Cc: The Honorable Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



January 9, 2017

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

Dear Ranking Member Murray:

This responds to your letter of January 7, 2017, requesting specific information regarding the ethics review of a named individual who has been announced as an intended nominee of the President-elect. The U.S. Office of Government Ethics (OGE) generally avoids providing information about individual nominees, but believes that the information regarding the nominee financial disclosure process provided below is responsive to your request.

It is necessary to avoid formally sharing information regarding OGE's ongoing work on individual nominations whenever releasing such information could undermine the purposes of the nominee ethics review process by slowing the effective review the financial disclosure report and completion of an ethics agreement to resolve identified conflicts of interest, potentially leading to the release of incomplete or incorrect information, or harming individual nominees and the overall recruitment for positions the President needs to fill in order to carry out his constitutional responsibilities. OGE adheres to this nondisclosure practice as closely as possible, particularly if other information may satisfy the interests underlying the request.

In this instance, the additional information about OGE's work and the nomination process provided below may address the concerns underlying your request. As explained below, if OGE has not transmitted a certified financial disclosure report and an ethics agreement to the Senate, the ethics work on a particular nomination has not been completed. Until all of the ethics work is completed, OGE cannot provide any assurance that conflicts of interest have been identified and resolved. Our responses to your specific questions below provide an explanation of the steps necessary to complete this important work.

QUESTIONS 1, 4 AND 5

A nominee submits a draft public financial disclosure report (OGE Form 278e) through OGE's electronic filing system (*Integrity*). Ethics officials review the draft financial disclosure report, ask follow-up questions, and provide instructions for revising

the report. Multiple rounds of questions and revisions are almost always needed before a report can be finalized to meet the complex disclosure requirements of the Ethics in Government Act. Once the report is complete, as a result of these revisions, OGE and agency ethics officials analyze the information contained in the report to identify potential conflicts of interest with the duties of the position for which the nominee is being nominated. OGE and agency ethics officials then work together to prepare an ethics agreement outlining steps the nominee must take to avoid conflicts.

Until OGE has precleared a report, OGE does not have all necessary information from a nominee and has not resolved all potential conflicts of interest. Often, there are delays while a nominee searches for information that OGE has requested, while a nominee enters the information into the draft financial disclosure report, while a nominee considers his or her willingness to take the steps necessary to resolve conflicts of interest, or while a nominee considers the ethics agreement that OGE and agency ethics officials have drafted. OGE's staff and agency ethics officials typically complete their work quickly. The two primary determinants in the timing of this process are the complexity of the nominee's holdings and the nominee's level of responsiveness to questions from agency ethics officials. However, the requirement to obtain OGE's certification prior to a hearing invariably provides the necessary leverage to secure the cooperation and legal compliance from nominees. Of course, that leverage is greatly diminished if a hearing is held prior to OGE's preclearance and subsequent certification.¹

Once complete, OGE preclears (that is, tentatively approves) the nominee's report and ethics agreement. The nominee then finalizes the report and OGE is able to certify it. Shortly thereafter, the report is transmitted to the Senate.

QUESTION 2

Nominees submit their initial draft reports through OGE's electronic filing system, *Integrity*. The White House—or, during a Presidential transition, the transition team—receives the report and holds it until ready to release the report to OGE and the agency. The length of time that the White House or transition team holds the report before releasing it varies widely.

The date of initial submission of the draft is recorded as the date of "filing" on the face of the report. However, filing is actually a two-step process. *Integrity* does not allow the nominee to complete the process of "filing" until OGE has precleared (tentatively approved) the report. After OGE has precleared the report, the nominee must log back into the system and formally file the report by certifying that the information in the finalized report is correct. OGE then certifies the report and sends the report to the Senate. Therefore, until OGE has precleared a nominee's financial disclosure report, the

¹ In a letter last week, I indicated that I was unaware of any such thing ever having happened. Subsequent news reports have brought to my attention two instances, both of which occurred 16 years ago during the unusual circumstance of a Presidential transition that was delayed several weeks due to litigation. Even if there were any other instances, the fact that there may have been extremely rare breaches of the ethics process in the past is not a justification for a subsequent breach. (See <http://www.politico.com/f/?id=00000159-70db-d0f6-a75d-ffffb2ae0002>.)

nominee cannot comply with the legal requirement under 5 U.S.C. app. § 101(b)(2) to “file” the required report prior to a hearing, for the simple reason that the electronic filing system does not permit the nominee to complete the two-step process of “filing” that report until the report has been precleared.

QUESTION 3

The commitments that nominees make in their ethics agreements ensure that they will be able to carry out their duties as Presidential appointees. The ethics agreement outlines the specific steps a nominee will take to avoid conflicts of interest identified in his or her financial disclosure report. OGE and agency ethics officials draft each ethics agreement using standardized language from OGE’s ethics agreement guide, which is tailored to the nominee’s unique circumstances. The nominee must agree to take the steps outlined in the agreement to resolve his or her conflicts of interest; for example, resignation of positions, divestiture of holdings, or recusal. When OGE is satisfied that the report is complete and the ethics agreement has resolved all ethics issues, OGE preclears the report, the nominee finalizes it, and OGE is then able to certify it. Shortly thereafter, the report is transmitted to the Senate.

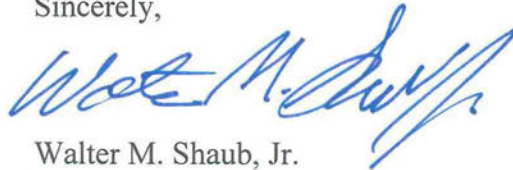
QUESTION 6

It is impossible to predict how long the process will take for any individual nominee because OGE is dependent on the nominee to provide needed information, respond to questions, and accept the terms of an ethics agreement. Many factors affect the timing of this process, including the responsiveness of the nominee. Another factor is the complexity and extent of the nominee’s financial holdings and arrangements. It usually takes even the most responsive nominees time to gather the information they are required to produce, particularly if they are wealthy. Multiple rounds of questions and revisions are usually needed before a report can be finalized because the financial disclosure requirements in the Ethics in Government Act are quite complex. Some nominees also find it difficult to untangle their complex financial investments and employment arrangements quickly, especially if they wish to do so without incurring otherwise avoidable financial losses. For these reasons, the financial disclosure vetting process for a potential nominee can take weeks and, in the case of extremely wealthy individuals, sometimes months. Through focused effort, OGE’s and agency ethics officials help nominees to complete their work on these reports as quickly as possible without sacrificing quality.

I hope you have found the information provided regarding the nominee financial disclosure process helpful. I also hope this response provides clarity about the significance of the Senate not having received a certified financial disclosure report and an ethics agreement from

OGE prior to holding a hearing on a nominee. If you require more detailed information about this specific named individual, the President-elect's transition team may be able to provide it.

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter M. Shaub, Jr.", written in a cursive style.

Walter M. Shaub, Jr.
Director

cc: The Honorable Lamar Alexander
Chairman

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



December 12, 2016

The Honorable Thomas R. Carper
Ranking Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
513 Hart Senate Office Building
Washington, DC 20510-6250

Dear Ranking Member Carper:

Thank for your letter dated November 20, 2016, regarding the role of the United States Office of Government Ethics (OGE) in preventing conflicts of interest. Your letter initially set a response deadline of December 5, 2016, but your office extended that deadline to December 12, 2016. I have enclosed OGE's responses to the questions posed in your letter.

If your staff has any questions or would like to discuss these responses, they may feel free to contact OGE's Chief of Staff, Shelley K. Finlayson, at (202) 482-9292.

Sincerely,

A handwritten signature in blue ink, reading "Walter M. Shaub, Jr.", is positioned above the printed name and title.

Walter M. Shaub, Jr.
Director

Enclosure

cc. The Honorable Ron Johnson
Chairman

RESPONSES TO THE QUESTIONS POSED IN THE NOVEMBER 20, 2016, LETTER OF THOMAS R. CARPER, RANKING MEMBER, COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, UNITED STATES SENATE (DECEMBER 12, 2016)

Before responding to each of your questions, some background on OGE and its legal authorities may prove helpful. As your letter correctly indicates, OGE oversees the executive branch ethics program and works with ethics practitioners in more than 130 federal agencies to carry out its important mission of preventing conflicts of interest on the part of the approximately 2.7 million federal employees. However, OGE is not, as your letter indicates, an “independent” agency, with the protections and authorities¹ that such status would confer. Instead, OGE is an executive agency with the limited authorities that the Ethics in Government Act vests in it.²

As your letter suggests, OGE has some involvement in ethics issues related to Presidents. For example, the Stop Trading on Congressional Knowledge Act (STOCK Act) imposes limited ethics-related restrictions on the President.³ The STOCK Act bars the President from: using nonpublic information for private profit;⁴ engaging in insider trading;⁵ participating in an initial public offering;⁶ intentionally influencing an employment decision or practice of a private entity solely on the basis of partisan political affiliation;⁷ and participating in a particular matter directly and predictably affecting the financial interests of any person with whom he has, or is negotiating for, an agreement of future employment or compensation.⁸ In addition, OGE is authorized to review the President’s annual, periodic transaction, and termination financial disclosure reports.⁹ OGE’s regulations on gifts from outside sources and gifts from employees also apply to the President.¹⁰

¹ Such protections and authorities typically include: a restriction on removing the agency head, except for cause; a requirement that Congress be notified of the agency’s independent budget request; and bypass authority for unrestricted communications with Congress. *See, e.g.*, 5 U.S.C. §§ 1202(d), 1204(k)-(l), 1205-1206, 1211(b), 1212(e), 1217-18 (2012); 5 U.S.C. app. §§ 3(b), 5, 6(f) (2012).

² 5 U.S.C. app. §§ 401-408 (2012).

³ *See* STOCK Act, Pub. L. No. 112-105, § 2(3)(B)(i), 126 Stat. 291 (2012), as amended.

⁴ *See* STOCK Act, Pub. L. No. 112-105, § 9(a), 126 Stat. 291 (2012) (linked to the subject of OGE’s regulation on the misuse of nonpublic information at 5 C.F.R. § 2635.703 (2016)).

⁵ *See* STOCK Act, Pub. L. No. 112-105, § 9(b), 126 Stat. 291 (2012).

⁶ *See* STOCK Act, Pub. L. No. 112-105, § 12, 126 Stat. 291 (2012). However, note that, except for identifying and advising covered executive branch officials, OGE is not involved in interpreting section 12 because that section amends the Securities and Exchange Act of 1934, 15 U.S.C. 78u-1. *Cf.* OGE LA-14-02 (Mar. 7, 2014).

⁷ *See* STOCK Act, Pub. L. No. 112-105, § 18, 126 Stat. 291 (2012), (codified at 18 U.S.C. § 227 (2012)). Note, however, that the Ethics in Government Act does not authorize OGE to make any finding that a criminal law has been violated. 5 U.S.C. app. § 402(f)(5).

⁸ *See* STOCK Act, Pub. L. No. 112-105, § 17, 126 Stat. 291 (2012). Note that OGE has interpreted future employment or compensation as employment or compensation that will commence after a covered individual’s government service has ended. *See* OGE LA-13-06 (Apr. 25, 2013); OGE LA-12-01 (Apr. 6, 2012).

⁹ *See* 5 U.S.C. app. §§ 101(f)(1), 103(b), 106 (2012).

¹⁰ *See* 5 C.F.R. 2635.102(h) (2016). Note that an exception to the gift rules generally permits the President to accept gifts from outside sources, but that exception does not except him from overarching considerations relating to the acceptance of gifts. *See* 5 C.F.R. §§ 2635.204(j), 2635.202(c) (2016); *see also* 81 Fed. Reg. 81,641, 81,648-49 (Nov. 18, 2016) (to be codified at 5 C.F.R. § 2635.201).

At the same time, OGE's involvement in ethics issues related to the President has significant limits. For example, although the bribery statute applies to the President, a 1980 memorandum of understanding between OGE and the U.S. Department of Justice withholds from OGE authority to issue binding opinions on the statutory prohibition against bribery.¹¹ Similarly, although the President is subject to the Emoluments Clause¹² and the Presidential Emoluments Clause¹³ of the United States Constitution, OGE lacks authority and expertise to address issues arising under those clauses. In addition, provisions of the Ethics in Government Act limiting outside earned income and outside employment are inapplicable to the President because they employ the terms "officer" and "employee," which are subject to definitions that exclude the President in the same title of the United States Code.¹⁴ Most important to the questions raised in your letter, the primary criminal conflicts of interest statute, 18 U.S.C. § 208, is inapplicable to the President, though OGE has for more than three decades asserted authority to make nonbinding recommendations regarding a President's conflicts of interest.¹⁵

While OGE's role in ethics issues involving the President is limited, OGE has significant involvement in ethics issues related to the President's nominees. The law requires OGE to review the financial disclosure reports of most Presidential nominees for civilian positions requiring Senate confirmation. If confirmed, these individuals become, upon assuming their government positions, subject to the criminal conflict of interest laws at 18 U.S.C. §§ 201-208, as well as the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) and other OGE regulations. Those who are not special government employees also become subject to 18 U.S.C. § 209.¹⁶ Therefore, OGE reviews their financial disclosure reports not only for compliance with applicable disclosure requirements but also for conflicts of interest. OGE approaches this work from the perspective of managing risk, preparing ethics agreements to prescribe concrete steps they must take to reduce the potential for conflicts of interest to arise. OGE then transmits their nominee packages directly to the Senate.¹⁷

With this background, please find below OGE's responses to each of the questions posed in your November 20, 2016, letter.

¹¹ See 18 U.S.C. § 201 (2012).

¹² U.S. Const., art. I, § 9, cl. 8.

¹³ U.S. Const., art. II, § 1, cl. 7.

¹⁴ See 5 U.S.C. §§ 2104 (officer), 2105 (employee); 5 U.S.C. app. §§ 501 (Outside earned income limitation), 502 (Limitations on outside employment), 505(2) (modifying the definitions of "officer" and "employee" in title 5, United States Code to exclude from those definitions special government employees for purposes of title V of the Ethics in Government Act).

¹⁵ See 18 U.S.C. § 202(c) (2012); see also OGE opinion 83x16 (October 20, 1983) available online at [https://www.oge.gov/web/oge.nsf/Legal%20Advisories/01F8E09232041FD185257E96005FBBE8/\\$FILE/64ed9ad9bd294b45a88ac8729a97968a3.pdf?open](https://www.oge.gov/web/oge.nsf/Legal%20Advisories/01F8E09232041FD185257E96005FBBE8/$FILE/64ed9ad9bd294b45a88ac8729a97968a3.pdf?open).

¹⁶ For additional information, you may find it helpful to review OGE's Transition Guide, OGE's Nominee Ethics Guide, and the appendix to OGE's Nominee Ethics Guide. All three of these documents are available online at: <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>.

¹⁷ For more information about OGE's mission, structure and operations, you might find it useful to review OGE's newly released agency profile publication, which is available online at [https://www.oge.gov/web/oge.nsf/0/AAD52FD1763F7B6A85258082005E8840/\\$FILE/OGE%20Agency%20Profile%20Book%20Spread%20View.pdf](https://www.oge.gov/web/oge.nsf/0/AAD52FD1763F7B6A85258082005E8840/$FILE/OGE%20Agency%20Profile%20Book%20Spread%20View.pdf)

QUESTION 1:

1. ***Handling of Trump Organization***—*For constitutional reasons, the President is exempt from certain conflict of interest rules, such as the prohibition on acting in matters affecting his personal financial interest or representing his own claims and business interests to the government. However, the President remains subject to many related statutes, such as prohibitions on bribery and embezzlement. President-elect Trump and the Trump Organization reportedly have business with the federal government, lease federal property, and have regulatory and enforcement matters presently being adjudicated by federal government agencies.*
 - a. *What guidance has Office of Government Ethics (OGE) provided to agency ethics officials regarding the protocols for handling matters directly affecting President-elect Trump and the Trump Organization?*

For approximately the past 18 months, OGE has worked diligently to prepare the executive branch ethics community for the types of ethics issues that demand greater focus during a Presidential transition. As part of that preparation, OGE undertook significant regulatory reforms and provided extensive guidance and training to agency ethics officials across the executive branch. The effort included, among other measures, strengthening OGE's regulations on seeking employment, gifts from outside sources, and requirements for the executive branch ethics program.¹⁸ 81 Fed. Reg. 48,687 (July 26, 2016); 81 Fed. Reg. 81,641 (November 18, 2016) (gifts from outside sources); and 81 Fed. Reg. 36,193 (June 6, 2016) (ethics program requirements). The effort also included proposed revisions to OGE's financial disclosure regulations. 81 Fed. Reg. 69,204 (October 5, 2016). In addition, OGE developed and distributed a number of new guidance and resource materials to ethics officials on topics such as nominee financial disclosure, ethics agreements, and post-employment restrictions.¹⁹ OGE provided extensive training to agency ethics officials on ethics issues related to the transition, including: a three-day training event regarding the Presidential transition with over 500 in-person participants and thousands of online viewers; a full day of financial disclosure training, with separate tracks for beginner and advanced reviewers; and a transition readiness program, comprising six distance learning events. This transition-specific training was in addition to the regular training that OGE presents in order to ensure that agency ethics officials have the requisite skills to support executive branch officials. In fiscal year 2016, OGE received nearly 7,000 registrations for its training courses, and recorded sessions from its past training events were viewed online over 20,000 times across the year.

OGE also worked extensively with the nonpartisan Partnership for Public Service and a number of agency service providers to advance the Partnership's transition readiness project. This project involved the development of guidance, training, and an expansive database of resource materials²⁰ for the transition teams of both major party Presidential candidates. In

¹⁸ Significantly, OGE's regulatory revisions to ethics program requirements included expanded ethics training requirements for executive branch employees, with specific emphasis on impartiality and misuse of position.

¹⁹ These materials are all available on OGE's website at www.oge.gov.

²⁰ For additional information, you may want to review the Partnership for Public Service's Center for Presidential Transition online at <http://presidentialtransition.org/>.

conjunction with this project, OGE met separately with each of the two transition teams and provided additional technical information and training on establishing transition procedures and operating *Integrity*,²¹ OGE's electronic public financial disclosure filing system. OGE also developed a page on its website dedicated to the Presidential transition, which is linked through a prominent banner on the homepage of its website.²² OGE contributed other information and materials to websites operated by the General Services Administration, as well.²³

b. Will OGE recommend safeguards to protect federal officials from fear of reprisal in dealings with the Trump Organization?

OGE believes that a strong ethical culture inherently depends on protecting whistleblowers. For this reason, OGE is supportive of the important work of the U.S. Office of Special Counsel, which is the agency authorized to investigate and administratively prosecute executive branch officials for whistleblower retaliation, and the U.S. Merit Systems Protection Board, which is the agency authorized to adjudicate claims of whistleblower retaliation.

c. Will OGE take steps to ensure Trump Organization employees do not have privileged access to decision-makers or access to nonpublic government information?

As an initial matter, it bears emphasizing that members of President-elect's Transition Team (PETT) will necessarily interact with executive branch officials, some of whom may have decision-making authority. Such interaction is not only permitted but encouraged by the authorities that establish processes for Presidential transitions.²⁴ Moreover, the PETT is not a federal agency and its members are not executive branch employees.²⁵ Therefore, the ethics restrictions applicable to federal employees are inapplicable to PETT members, and OGE has no authority over them.²⁶

OGE is aware of a memorandum of understanding (MOU) between the Chief of Staff to the President and the Chair of the PETT that addresses the confidentiality of nonpublic government information. That agreement addresses the responsibilities of PETT members with regard to nonpublic information and related conflicts of interest.²⁷ The MOU also references a Code of Ethical Conduct for the transition, as well as the public disclosure requirements of the Presidential Transition Act, as amended.²⁸ OGE has no role in drafting either such an MOU or a

²¹ Available online at <https://integrity.gov/efeds-login/> or simply integrity.gov.

²² Available online at <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>.

²³ Available online at <https://presidentialtransition.usa.gov/>.

²⁴ See Pub. L. No. 88-277 (1963), Pub. L. No. 94-499 (1976), Pub. L. No. 100-398 (1988), Pub. L. No. 106-293 (2000), Pub. L. No. 111-283 (2010), Pub. L. No. 114-136 (2016); Exec. Order 13,727 (May 6, 2016).

²⁵ See Pub. L. No. 88-277, § 3(a)(2) (1963); see also Applicability of 18 U.S.C. § 207(c) to President-Elect's Transition Team, Letter for the Director, Office of Government Ethics, 12 Op. O.L.C. 264, 265 n.1, (Nov. 18, 1988).

²⁶ See 5 U.S.C. app. § 402(a) (2012).

²⁷ See Mem. of Understanding between Denis R. McDonough, Chief of Staff to the President, and Michael R. Pence, Chair of the President-elect's Transition Team (Nov. 15, 2016), available online at <https://presidentialtransition.usa.gov/files/2015/11/16-11-15-Final-Signed-MOU.pdf>.

²⁸ See *id.* In addition, the disclosure provisions of the Presidential Transition Act, as amended, require the PETT, as a condition of receiving funds and services from the government, to make public (1) the names and most recent employment of all transition personnel who are members of agency transition teams, and (2) information regarding the sources of funding that support the transition activities of each transition team member. Presidential Transition

transition code of ethical conduct. The Office of Management and Budget or the PETT may be able to supply additional information about these documents.

It is OGE's understanding that the requirements set forth in the MOU and the Code of Ethical Conduct are contractual and cannot be enforced against PETT members using the mechanisms generally applicable to federal employees. Federal employees who interact with the PETT, however, continue to be subject to the full range of executive branch ethics laws, including restrictions on the use of nonpublic information and the use of public office for private gain established in the Standards of Conduct.²⁹ Accordingly, federal employees may not provide PETT members with nonpublic information unless the requirements of the MOU and the Presidential Transition Act, as amended, have been met. Their employing agencies have authority to impose disciplinary sanctions for violations of these authorities.³⁰

With regard to other potential contacts between outside organizations, such as the one mentioned in your question, executive branch employees are subject to requirements in the Standards of Conduct related to impartiality, misuse of position, and release of nonpublic information.³¹ To ensure that employees comply with these requirements, OGE will continue providing training and guidance to the nearly 4,500 agency ethics officials in the executive branch, who in turn will continue to provide training and guidance to the 2.7 million federal employees in their agencies. OGE similarly supports Offices of Inspectors General through training and guidance related to the enforcement of ethics laws and regulations.

d. President-elect Trump reportedly intends to transfer control of the Trump Organization to his three oldest children. Does this transfer meet the standards of a qualified blind trust, as defined under the Ethics in Government Act?

OGE does not have any independent knowledge of facts that would either support or refute the premise of this question. As to the question itself, the Ethics in Government Act prescribes specific requirements for establishing a qualified blind trust.³² Transferring operational control of a company to one's children would not constitute the establishment of a qualified blind trust, nor would it eliminate conflicts of interest under 18 U.S.C. § 208 if applicable.³³

Act of 1963, 3 U.S.C. § 102 note, Sec. 6(b)(1), *amended by* Edward 'Ted' Kaufman and Michael Leavitt Presidential Transitions Improvements Act of 2015, Pub. L. No. 114-136, 130 Stat. 301.

²⁹ See 5 C.F.R. §§ 2635.702-2635.703 (2016). In addition, the MOU states that a government employee may not allow the improper use of nonpublic information to further his or her own private interest or that of another. This provision is enforceable, through normal disciplinary procedures, by the employing agency of any employee who violates it.

³⁰ See, e.g., 5 U.S.C. ch. 75 (2012).

³¹ See 5 C.F.R. 2635, subparts E and G (2016).

³² See 5 U.S.C. app. § 102(f) (2012).

³³ *Id.*

QUESTION 2:

2. ***President-elect Trump's Financial Conflicts***—*President-elect Trump's previous financial disclosure reports reveal potential financial conflicts of interest in several areas of the economy and foreign relations. While Presidents are exempt from conflict of interest rules for constitutional reasons, Presidents of both parties, dating back to Lyndon Johnson, have taken significant steps to avoid the appearance of a conflict.*
- a. *Please identify the information that must be included in the President's annual financial disclosure, when a President must file his first disclosure, and whether the public will receive access to these disclosures.*

The President-elect's first annual public financial disclosure report will be due on or before May 15, 2018.^{34 35} Traditionally, Presidents voluntarily file an annual financial disclosure report by May 15 during their first year in office, but OGE does not know whether the President-elect will choose to adhere to that tradition. Because the STOCK Act requires that his annual public financial disclosure report be posted online, it will be posted on either OGE's website or the White House's website.³⁶ The items below describe the information that a President is required to disclose in an annual public financial disclosure report (OGE Form 278e).³⁷

- *Filer's Positions Held Outside United States Government*

Part 1 of the OGE Form 278e discloses positions that the filer held at any time during the reporting period (excluding positions with the United States Government). Positions are reportable even if the filer did not receive compensation. This section does not include the following: (1) positions with religious, social, fraternal, or political organizations; (2) positions solely of an honorary nature; (3) positions held as part of the filer's official duties with the United States Government; (4) mere membership in an organization; and (5) passive investment interests as a limited partner or non-managing member of a limited liability company.

³⁴ See 5 U.S.C. app. § 101(a) and (d) (2012).

³⁵ Note that in 2012 the STOCK Act amended the Ethics in Government Act, in part, by requiring Presidents to file periodic transaction reports in order to disclose each covered transaction. See 5 U.S.C. app. § 103(l) (2012). In the case of the President-elect, this requirement will apply only to transactions occurring on or after January 20, 2017. The deadline for disclosing each such transaction is "[n]ot later than 30 days after receiving notification of any transaction required to be reported under section 102(a)(5)(B), but in no case later than 45 days after such transaction." *Id.*

³⁶ See STOCK Act, Pub. L. No. 112-105, 126 Stat. 291, § 11(b) (2012), as amended by Pub. Law No. 113-7, § 1(b)(2) (2013). Note that the public posting requirement applies equally to periodic transaction reports. *Id.*

³⁷ 5 U.S.C. app. § 102 (2012); 5 C.F.R. part 2634, subpart C (2016).

- *Filer's Employment Assets & Income and Retirement Accounts*

Part 2 of the OGE Form 278e discloses the following:

- Sources of earned and other non-investment income of the filer totaling more than \$200 during the reporting period (e.g., salary, fees, partnership share, honoraria, scholarships, and prizes); and
- Assets related to the filer's business, employment, or other income-generating activities that (1) ended the reporting period with a value greater than \$1,000 or (2) produced more than \$200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, deferred compensation, and intellectual property, such as book deals and patents).

This section does not include assets or income from United States Government employment or assets that were acquired separately from the filer's business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account). Note that the type of income is not required to be identified if the amount of income is \$0 - \$200 or if the asset qualifies as an excepted investment fund (EIF).

- *Filer's Employment Agreements and Arrangements*

Part 3 of the OGE Form 278e discloses agreements and arrangements that the filer had during the reporting period with an employer or former employer (except the United States Government), such as the following:

- Future employment;
- Leave of absence;
- Continuing payments from an employer, including severance and payments not yet received for previous work (excluding ordinary salary from a current employer);
- Continuing participation in an employee welfare, retirement, or other benefit plan, such as pensions or a deferred compensation plan; and
- Retention or disposition of employer-awarded equity, sharing in profits or carried interests (e.g., vested and unvested stock options, restricted stock, future share of a company's profits, etc.).

- *Spouse's Employment Assets & Income and Retirement Accounts*

Part 5 of the OGE Form 278e discloses the following:

- Sources of earned income (excluding honoraria) for the filer's spouse totaling more than \$1,000 during the reporting period (e.g., salary, consulting fees, and partnership share);
- Sources of honoraria for the filer's spouse greater than \$200 during the reporting period; and
- Assets related to the filer's spouse's employment, business activities, other income-generating activities that (1) ended the reporting period with a value greater than \$1,000, or (2) produced more than \$200 in income during the reporting period (e.g., equity in a business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, deferred compensation, and intellectual property, such as book deals and patents).

Information disclosed in Part 5 does not include assets or income from United States Government employment or assets that were acquired separately from the filer's spouse's business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account). Note that the type of income is not required to be identified if the amount of income is \$0 - \$200 or if the asset qualifies as an EIF. Amounts of income are not required for a spouse's earned income (excluding honoraria).

- *Other Assets and Income*

Part 6 of the OGE Form 278e discloses each asset, not already reported, that (1) ended the reporting period with a value greater than \$1,000 or (2) produced more than \$200 in investment income during the reporting period. For purposes of the value and income thresholds, the filer aggregates the filer's interests with those of the filer's spouse and dependent children. This section does not include the following types of assets: (1) a personal residence (unless it was rented out during the reporting period); (2) income or retirement benefits associated with United States Government employment (e.g., Thrift Savings Plan); and (3) cash accounts (e.g., checking, savings, certificates of deposit, money market accounts, etc.) at a single financial institution with a value of \$5,000 or less (unless more than \$200 of income was produced). Additional exceptions apply. Note that the type of income is not required if the amount of income is \$0 - \$200 or if the asset qualifies as an EIF.

- *Transactions*

Part 7 of the OGE Form 278e discloses purchases, sales, or exchanges of real property or securities in excess of \$1,000 made on behalf of the filer, the filer's spouse or dependent child during the reporting period. This section does not include transactions that concern the following: (1) a personal residence, unless rented out; (2) cash accounts (e.g., checking, savings, certificates of deposit, money market accounts, etc.) and money market mutual funds; (3) Treasury bills, bonds, and notes; and (4) holdings within a federal Thrift Savings Plan account. Additional exceptions apply.

- *Liabilities*

Part 8 of the OGE Form 278e discloses liabilities over \$10,000 that the filer, the filer's spouse, or the filer's dependent child owed at any time during the reporting period. With regard to a President, this section does not include the following types of liabilities: (1) loans secured by a personal motor vehicle, household furniture, or appliances, unless the loan exceeds the item's purchase price; and (2) revolving charge accounts, such as credit card balances, if the outstanding liability did not exceed \$10,000 at the end of the reporting period. Additional exceptions apply.

- *Gifts and Travel Reimbursements*

Part 9 of the OGE Form 278e discloses:

- Gifts totaling more than \$375 that the filer, the filer's spouse, and dependent children received from any one source during the reporting period; and
- Travel reimbursements totaling more than \$375 that the filer, the filer's spouse, and dependent children received from any one source during the reporting period.

For purposes of this section, the filer need not aggregate any gift or travel reimbursement with a value of \$150 or less. Regardless of the value, this section does not include the following items: (1) anything received from relatives; (2) anything received from the United States Government or from the District of Columbia, state, or local governments; (3) bequests and other forms of inheritance; (4) gifts and travel reimbursements given to the filer's agency in connection with the filer's official travel; (5) gifts of hospitality (food, lodging, entertainment, etc.) at the donor's residence or personal premises; and (6) anything received by the filer's spouse or dependent children totally independent of their relationship to the filer. Additional exceptions apply.

Note that annual filers are not required to complete Part 4 of the OGE Form 278e. Part 4 discloses sources (except the United States Government) that paid more than \$5,000 in a

calendar year for the filer's services during any year of the reporting period. The filer discloses payments both from employers and from any clients to whom the filer personally provided services. The filer discloses a source even if the source made its payment to the filer's employer and not to the filer. The filer does not disclose a client's payment to the filer's employer if the filer did not provide the services for which the client is paying.

b. What steps does OGE require a President to take if any conflicts of interest are apparent on the face of a financial disclosure?

Congress amended 18 U.S.C. § 202 in 1989 to clarify that 18 U.S.C. § 208 does not apply to a President.^{38,39} Even prior to that amendment, OGE did not construe 18 U.S.C. § 208 as applicable to a President.⁴⁰ Nevertheless, it has been the consistent policy of the executive branch that a President should conduct himself "as if" he were bound by this financial conflict of interest law.⁴¹ Given the unique circumstances of the Presidency, OGE's view is that a President should comply with this law by divesting conflicting assets,⁴² establishing a qualified blind trust,⁴³ or both. However, although every President in modern times has adopted OGE's recommended approach, OGE has no power to require adherence to this tradition.

c. What steps will OGE require to prevent acquisition of new conflicts by President-elect Trump and his Trump Organization?

Please refer to OGE's response to (2)(b), above.

QUESTION 3:

3. Transition Team—President-elect Trump's three oldest children are members of the Presidential Transition team while continuing to serve as executives and officers in the Trump Organization. As leaders on the Transition team, his children will be party to

³⁸ See Ethics Reform Act of 1989, Pub. L. No. 101-194, § 401 (1989); see also 18 U.S.C. § 202(c) (2012).

³⁹ Note that, as mentioned earlier, the STOCK Act separately imposes one limited conflict of interest restriction on the President. That law prohibits the President from participating in any particular matter directly and predictably affecting the financial interests of any person with whom he has, or is negotiating for, an agreement of future employment or compensation. STOCK Act, Pub. L. 112-105 at § 17. OGE has interpreted future employment or compensation as employment or compensation that will commence after a covered individual's government service has ended. See OGE LA-13-06 (Apr. 25, 2013); OGE LA-12-01 (Apr. 6, 2012). However, it is Congress, not OGE, that possesses authority to address violations of law by sitting Presidents. U.S. Const., art. II, § 4.

⁴⁰ See OGE Opinion 83 x 16 (Oct. 20, 1983). Setting aside constitutional arguments, the merits of which are the subject of differing views, the inapplicability of the prohibition under 18 U.S.C. § 208(a) stems from the statute's use of the terms "officer" and "employee," which are generally construed to have the meanings assigned in 5 U.S.C. §§ 2104-05. See Applicability of 18 U.S.C. § 207(c) to President-Elect's Transition Team, 29 Op. O.L.C. 127, 128 (Jul. 22, 2005) ("Title 18 does not define 'officer' or 'employee,' but we have found the definitions in title 5 to be the most obvious source of a definition for title 18 purposes" (internal quotation marks omitted)); see also Application of Conflict of Interest Rules to Appointees Who Have Not Begun Service, 26 Op. O.L.C. 32 (May 8, 2002) ("Because title 18 sets out no definition of 'officer' or 'employee,' we have looked to the definitions in title 5 as the most obvious source of a definition for title 18 purposes" (internal quotation marks omitted)).

⁴¹ See OGE Advisory 83 x 16 (Oct. 20, 1983) (and authorities cited therein).

⁴² In lieu of a blind trust, the proceeds could be reinvested in diversified mutual funds. See 5 C.F.R. § 2640.201(a) (2016).

⁴³ See 5 U.S.C. app. § 102(f) (2012).

sensitive government information and empowered to discuss matters of government policy and operations with the leadership of several federal agencies.

- a. *What guidance has OGE provided to agency ethics officials regarding the handling of non-transition business communications from Mr. Trump's children and the Trump Organization during the transition?*

As explained in response to Question 1(c), OGE lacks authority over the Presidential transition team and its members, but will continue to provide training and guidance to agency ethics officials regarding provisions of the Standards of Conduct related to impartiality, misuse of position, and release of nonpublic information.

QUESTION 4:

4. ***President-elect Trump's Oldest Children and Jared Kushner***—*President-elect Trump has reportedly expressed interest in obtaining security clearances for his three oldest children and his son-in-law, Jared Kushner.*

- a. *What guidance has OGE provided to President-elect Trump's oldest children and Mr. Kushner concerning the management of their conflicts of interest while participating in executive branch deliberations?*

To the best of OGE's knowledge, these individuals are private citizens who have not been appointed to positions as officers or employees of the federal executive branch. For this reason, the criminal conflicts of interest law, 18 U.S.C. § 208, is inapplicable to them. Please refer to OGE's response to Question 1(c) for discussion of documents governing their activities in the capacity of PETT members.

- b. *Does President-elect Trump have legal authority to appoint these individuals to government positions?*

The Constitution of the United States authorizes the President to appoint officers and employees in the executive branch.⁴⁴ Various statutes and regulations outside OGE's purview may address the exercise of that authority.⁴⁵ The U.S. Department of Justice, the U.S. Office of Personnel Management, the U.S. Office of Special Counsel, and the U.S. Merit Systems Protection Board may have some role in interpreting such authorities.

- c. *Are President-elect Trump's children and Mr. Kushner exempt from conflict of interest laws?*

Please refer to OGE's response to Question 4(a).

⁴⁴ U.S. Const., art. II, § 2, cl. 2.

⁴⁵ See, e.g., 5 U.S.C. § 3110 (2012).

- d. *Has OGE provided guidance to these individuals to ensure they disqualify themselves from matters in which they have financial interests and to prevent inadvertent disclosure of confidential government information?*

Please refer to OGE's response to Question 4(a).

QUESTION 5:

5. ***Ongoing Financial Disclosure Obligations***—*President-elect Trump has disclosed a large portfolio of financial interests that include securities interests in several investment companies. President-elect Trump will be under an ongoing obligation to file public reports of any securities transactions so that the public may understand his financial interests.*

- a. *What guidance has OGE provided to President-elect Trump to ensure he continues to file any required financial disclosures of securities transactions?*

OGE provides assistance to the PETT and the White House. As part of this effort, OGE will be providing the PETT and, after January 20, 2016, the White House assistance in complying with applicable financial disclosure requirements. OGE has also made information available on its website in the form of legal advisories, a public financial disclosure guide, and training materials.⁴⁶ In addition, OGE's electronic filing system is available to assist public filers with satisfying public financial disclosure requirements.⁴⁷ A President's public financial disclosure reports are filed with OGE.⁴⁸

- b. *How often will President-elect Trump be required to file such disclosures?*

Annual public financial disclosure reports are filed annually on or before May 15 each year.⁴⁹ Periodic transaction reports are filed by the earlier of 45 days after the transaction or 30 days after receiving notification of the transaction.⁵⁰ Additional information regarding periodic

⁴⁶ OGE's legal advisories are available online at <https://www.oge.gov/Web/OGELegal.nsf/Legal%20Advisories>. OGE's online Public Financial Disclosure Guide is available online at <https://www.oge.gov/Web/278eGuide.nsf>. Examples of OGE's training materials are available online at <https://www.youtube.com/user/OGELInstitute> and <https://plus.google.com/+OGELInstitute>. Checklists for nominee financial disclosure reports, which would also be useful for a President's representatives, are available at [https://www.oge.gov/Web/OGELegal.nsf/0/BC975C546E68A21C852580560045BE83/\\$FILE/Financial%20Disclosure%20Checklists.pdf](https://www.oge.gov/Web/OGELegal.nsf/0/BC975C546E68A21C852580560045BE83/$FILE/Financial%20Disclosure%20Checklists.pdf). A guide for Presidential nominees and an appendix to that guide, both of which contain information that would be useful for a President's representatives are available at [https://www.oge.gov/Web/OGELegal.nsf/0/908088E45E5A64778525801B00590DD5/\\$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf](https://www.oge.gov/Web/OGELegal.nsf/0/908088E45E5A64778525801B00590DD5/$FILE/Final%20Nomination%20Guide%20Spreads%20Optimized%20Web.pdf) and [https://www.oge.gov/Web/OGELegal.nsf/0/0EA56347F998FFA78525801B0058E0F9/\\$FILE/Final%20Appendix%20Spreads%20Web%20.pdf](https://www.oge.gov/Web/OGELegal.nsf/0/0EA56347F998FFA78525801B0058E0F9/$FILE/Final%20Appendix%20Spreads%20Web%20.pdf), respectively. A guide for the transition team is available online at [https://www.oge.gov/Web/OGELegal.nsf/0/915128106F6180848525801B0059371D/\\$FILE/Transition%20Guide%20Spread.pdf](https://www.oge.gov/Web/OGELegal.nsf/0/915128106F6180848525801B0059371D/$FILE/Transition%20Guide%20Spread.pdf).

⁴⁷ That system is available online at <https://integrity.gov/efeds-login/>.

⁴⁸ 5 U.S.C. app. § 103(b) (2012).

⁴⁹ 5 U.S.C. app. § 101(c) (2012).

⁵⁰ 5 U.S.C. app. § 103(l) (2012).

transaction reports can be found in OGE's legal advisories.⁵¹ Termination financial disclosure reports are filed on or before the thirtieth day after terminating employment in a filing position.⁵²

c. Will OGE or the White House Counsel be responsible for assessing fines for any late filings?

Having never encountered this issue, OGE does not currently know whether a sitting President can be assessed late filing fees.⁵³ If so, the Counsel to the President is responsible for collecting them.⁵⁴

QUESTION 6:

6. *Outside Fiduciary Positions*—*President-elect Trump has disclosed that he serves as chairman or board member of hundreds of companies. As a board member or officer, he owes those entities and their investors legal fiduciary duties that have the potential to interfere with his duties as president.*

a. What guidance has OGE provided to President-elect Trump regarding his outside positions and the steps he should take to address potential conflicts of interest?

The President-elect has indicated publicly that he will announce a plan for resolving his conflicts of interest on December 15, 2016. Although OGE offered to provide recommendations, OGE has not been involved in developing that plan. Please refer to Question 2(b) for discussion of OGE's views on conflicts of interest.

b. What safeguards will OGE establish to prevent conflicts of interest between his legal fiduciary obligations to these companies and his legal obligations and duties as President?

Please refer to Question 2(b).

7. *Misuse of Image*—*Longstanding White House policy across Administrations prohibits the use of the President's name or image in advertising or for the endorsement of any commercial product or service.*

a. What guidance has OGE provided to President-elect Trump regarding the use of his name and image for the endorsement of the Trump Organization or his children's businesses?

The policy to which this question refers is outside OGE's purview. Furthermore, OGE is not familiar with that policy or its interpretation and application by the White House.

⁵¹ See OGE LA-12-04 (Jun. 20, 2012); OGE LA-13-01 (Jan. 18, 2013).

⁵² 5 U.S.C. app. § 101(e) (2012).

⁵³ See 5 U.S.C. app. § 104 (2012); cf. A Sitting President's Amenability to Indictment and Criminal Prosecution, 24 Op. O.L.C. 222 (Oct. 16, 2000).

⁵⁴ 5 U.S.C. app. § 104(d) (2012); 5 C.F.R. § 2634.704 (2016).

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



January 16, 2017

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

Dear Chairman Chaffetz:

In a letter dated January 12, 2017, you requested that I attend a transcribed interview with your Committee staff to answer questions about the role of the U.S. Office of Government Ethics (OGE). Over the weekend, your office modified your original request and proposed a private meeting with you and the Ranking Member and your respective staffs to take place on January 23. Through staff, I requested that meeting be open to the public. I recently received word from your Chief of Staff that you are not able to accommodate that request. I write to ask you to reconsider. Allowing the public to attend our meeting—or, at the very least, to view it through live broadcast or the attendance of the news media—would ensure transparency and educate the public about how OGE guards the executive branch against conflicts of interest.

As you know, I have devoted most of my career to government ethics. I believe passionately that ethics matters and that if Americans do not have confidence that their government leaders' decisions are free from conflicts, the integrity of our government suffers. I have had the honor of helping thousands of officials from both parties ensure that their work is free from any conflicts of interest. In recent weeks, I have spoken publicly about my concerns about the President Elect's current plan to not divest—as well as to applaud some of his nominees' ethics agreements, such as Rex Tillerson's. My remarks were intended to educate the public about the shortcomings of the President Elect's current plan and made in the hopes of persuading him to make adjustments that will resolve his conflicts of interest. I believe these remarks to be in line with OGE's mission.

OGE is an independent agency that aims to prevent conflicts of interest in the executive branch. A core function of OGE is to educate the public about government ethics and “promote transparency of the executive branch ethics program by raising the visibility of the ethics



The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
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program and OGE, and by ensuring that ethics information is publicly available.”¹ Since the election, there has been significant public interest in OGE and government ethics issues. Our office has received an unprecedented volume of telephone calls, emails, and letters from members of the public related to our executive branch ethics program. As these communications make clear, the public wants to understand conflicts of interest in government and the role that OGE plays in preventing conflicts from hindering effective governance. Holding our meeting in public is in accordance with OGE’s educational function and will further ensure transparency in how we approach ethical governance.

Although I am willing to attend a private meeting if you insist, I am hopeful that you will agree that a public meeting is preferable. If a different date would allow for a public meeting, I would be happy to discuss alternative dates with you or your staff.

Sincerely,

Walter M. Shaub, Jr.
Director

cc. 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

¹ See <https://www.oge.gov/web/oge.nsf/Mission%20and%20Responsibilities>; see also, e.g., 5 C.F.R. § 2638.108(a)(16) (“The Office of Government Ethics conducts outreach to inform the public of matters related to the executive branch ethics program.”).

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



January 17, 2017

The Honorable Thomas R. Carper
Ranking Member
Committee on Environment and
Public Works
United States Senate
456 Dirksen Senate Office Bldg.
Washington, DC 20510

The Honorable Benjamin L. Cardin
United States Senator
509 Hart Senate Office Bldg.
Washington, DC 20510

The Honorable Bernard Sanders
United States Senator
332 Dirksen Senate Office Bldg.
Washington, DC 20510

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

The Honorable Jeff Merkley
United States Senator
313 Hart Senate Office Bldg.
Washington, DC 20510

The Honorable Kirsten Gillibrand
United States Senator
478 Russell Senate Office Bldg.
Washington, DC 20510

The Honorable Cory A. Booker
United States Senator
359 Dirksen Senate Office Bldg.
Washington, DC 20510

The Honorable Edward Markey
United States Senator
255 Dirksen Senate Office Bldg.
Washington, DC 20510

The Honorable Tammy Duckworth
United States Senator
SD-G12 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Ranking Member Carper and Senators Cardin, Sanders, Whitehouse, Merkley, Gillibrand, Booker, Markey, and Duckworth:

This responds to your letter of January 12, 2017, requesting specific information regarding the ethics review of a named individual who has been announced as an intended nominee of the President-elect. The U.S. Office of Government Ethics (OGE) generally avoids providing information about individual nominees, but believes that the information regarding the nominee financial disclosure process provided below is responsive to your request.



It is necessary to avoid formally sharing information regarding OGE's work on individual nominations whenever releasing such information could undermine the purposes of the nominee ethics review process. As described below, preclearing a nominee financial disclosure report involves an extensive deliberative process between OGE, the nominee, and agency ethics officials. Accordingly, OGE adheres to this nondisclosure practice as closely as possible, particularly if other information may satisfy the interests underlying the request.

In this instance, additional information about OGE's work and the nomination process is provided below to address the concerns underlying your request. As explained below, if OGE has transmitted a certified financial disclosure report and an ethics agreement to the Senate, it means that OGE is satisfied that all financial conflicts of interest have been identified and resolved. Note that OGE is focused on financial conflicts of interest and not on what might be described as "intellectual conflicts of interest" or the political viewpoints of nominees, which are often the subject of media and public scrutiny of nominees but which are outside the scope of OGE's review. OGE's determination is based on the information contained in the report, the agency's advice regarding possible financial conflicts of interest, and whether the report complies with the Ethics in Government Act and government ethics regulations, all in light of the agency's functions and the nominee's proposed duties.

A nominee submits a draft public financial disclosure report (OGE Form 278e) through OGE's electronic filing system (*Integrity*). Ethics officials review the draft financial disclosure report, ask follow-up questions, and provide instructions for revising the report. Multiple rounds of questions and revisions are almost always exchanged before a report meets the complex disclosure requirements of the Ethics in Government Act.

We note that the disclosure requirements of the OGE Form 278e are dictated by the Ethics in Government Act.¹ Moreover, as your letter correctly stated, OGE's ethics review focuses on a nominee's personal financial interests, not a nominee's history of political solicitations and activity. Your letter asked about reportable positions and "affiliations." Nominees are required to report certain positions held, during the current calendar year and during the two-year period preceding such calendar year, as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States.² They are not, however, required to report positions held in any religious, social, fraternal, or political entity or any positions solely of an honorary nature.³ OGE's view is that a position with a political action committee, for example, qualifies for this exclusion from disclosure by virtue of being political in nature.

The exclusion does not extend, however, to earned income from an excluded position, which must be disclosed in Part 2 of the OGE Form 278e. Nominees must report salaries, fees, commissions, wages, and any other compensation for personal services (other than from

¹ See 5 U.S.C. app. § 102.

² See 5 U.S.C. app. § 102(a)(6)(A).

³ See *id.*

United States Government employment) in excess of \$200 from any one source, including income from positions that need not be reported in Part 1 of the OGE Form 278e.⁴

Your letter also asked about reportable gifts. Nominees are not required to complete the portion of the report that covers gifts and travel reimbursements.⁵

Each nominee is legally responsible for ensuring that the information he or she reports is “true, complete and correct.”⁶ The financial disclosure system does not require or authorize either OGE or agency ethics officials to independently investigate or verify the information that a nominee reports; however, OGE and agency ethics officials recognize that the reporting requirements are complex and work diligently to help each nominee to fully comply with the requirements based on the information the nominee provides. OGE and agency ethics officials review a nominee’s report for internal inconsistencies and self-evident omissions. OGE staff also asks extensive questions that lead to more complete reporting.

For this work, OGE’s staff draws on decades of collective experience in reviewing financial disclosure reports to help filers to identify the types of assets, positions, and liabilities that filers commonly overlook or forget to report. Examples of the types of items that OGE staff discusses with filers are found in sample checklists on OGE’s website.⁷ Multiple rounds of questions and revisions are usually needed before a nominee’s report can be finalized. This back and forth process can take weeks or, in the case of extremely wealthy individuals, sometimes months. Through focused effort, OGE and agency ethics officials help nominees complete their reports as quickly as possible without sacrificing quality.

Once the nominee confirms that the report contains all of his or her legally reportable information, as a result of the revisions discussed above, OGE and agency ethics officials analyze the information contained in the report to identify potential conflicts of interest with the duties of the position for which the individual is being nominated. OGE and agency ethics officials then work together to prepare an ethics agreement. The ethics agreement outlines the specific steps a nominee will take to avoid the identified conflicts of interest and ensures that the nominee will be able to carry out his or her duties as a Presidential appointee. OGE and agency ethics officials draft each ethics agreement using standardized language from OGE’s ethics agreement guide, which is tailored to the nominee’s unique circumstances.⁸ The nominee must agree to take the steps outlined in the agreement to resolve his or her conflicts of interest; for example, resignation of positions, divestiture of holdings, or recusal.

When the nominee has confirmed that the report is “true, complete and correct” and has agreed to take the steps outlined in the ethics agreement to resolve the identified conflicts of interest, OGE can begin to finalize its work. OGE ensures that it is satisfied that the report is

⁴ See 5 C.F.R. § 2634.302(a)(1).

⁵ See 5 C.F.R. § 2634.304(c).

⁶ Public financial disclosure report filers must make the following certification: “I certify that the statements that I have made in this report are true, complete and correct to the best of my knowledge.” See OGE Form 278e, at 1.

⁷ These checklists are available online at

[https://www.oge.gov/Web/OGE.nsf/0/BC975C546E68A21C852580560045BE83/\\$FILE/Financial%20Disclosure%20Checklists.pdf](https://www.oge.gov/Web/OGE.nsf/0/BC975C546E68A21C852580560045BE83/$FILE/Financial%20Disclosure%20Checklists.pdf).

⁸ The OGE PAS Nominee Ethics Agreement Guide is available online at

[https://www.oge.gov/Web/oge.nsf/Resources/PAS+Nominee+Ethics+Agreement+Guide+\(MS+Word\)](https://www.oge.gov/Web/oge.nsf/Resources/PAS+Nominee+Ethics+Agreement+Guide+(MS+Word)).

complete and the ethics agreement has resolved all ethics issues. OGE then preclears the report (i.e., provides staff-level assurance that it is cleared for certification by OGE's Director). After OGE has precleared the report, the nominee must log back into the electronic filing system and formally file the report by certifying that the information in the finalized report is correct. Ethics officials at the agency to which the nominee is being nominated then review the report. If they are satisfied with the report, they certify the report and send it to OGE with an opinion indicating that all conflicts of interest have been resolved. Next, OGE reviews the report for final certification, certifies the report, and transmits both the report and the ethics agreement to the Senate.

Your letter asked whether there are "other avenues" that will require the nominee to disclose additional information to the Designated Agency Ethics Official (DAEO), if confirmed. When OGE certifies a report, it means that both the DAEO and OGE are satisfied that all potential conflicts of interest apparent at the present time have been identified and addressed. However, the nominee financial disclosure report is a snapshot in time. If confirmed, the nominee, after becoming an appointee, is subject to periodic transaction, annual, and termination financial disclosure reporting requirements.⁹

In addition, promptly after appointment, the nominee—now an appointee—must complete an initial ethics briefing. The initial ethics briefing must include the following content:¹⁰

(1) If the individual acquired new financial interests reportable under section 102 of the [Ethics in Government] Act after filing the nominee financial disclosure report, the agency ethics official must appropriately address the potential for conflicts of interest arising from those financial interests.

(2) The agency ethics official must counsel the individual on the basic recusal obligation under 18 U.S.C. 208(a).

(3) The agency ethics official must explain the recusal obligations and other commitments addressed in the individual's ethics agreement and ensure that the individual understands what is specifically required in order to comply with each of them, including any deadline for compliance. The ethics official and the individual must establish a process by which the recusals will be achieved, which may consist of a screening arrangement or, when the DAEO deems appropriate, vigilance on the part of the individual with regard to recusal obligations as they arise in particular matters.

⁹ See 5 U.S.C. app. §§ 101(d), 101(e), 103(l).

¹⁰ 5 C.F.R. § 2638.305(f) (2017). The recently updated regulations at 5 C.F.R. part 2638 are not yet in print but are available online at http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=c8d1bb7d7982feb93026d4806f7f436b&r=PART&n=5y3.0.10.10.11#se5.3.2638_1305.

(4) The agency ethics official must provide the individual with instructions and the deadline for completing initial ethics training, unless the individual completes the initial ethics training either before or during the ethics briefing.

In addition, the nominee must complete new employee ethics training and, later, annual ethics training.¹¹ An appointee must also demonstrate compliance with the ethics agreement signed as part of the nomination process. The DAEO works closely with the appointee to ensure full compliance.¹² OGE tracks ethics agreement compliance by requiring the DAEO to notify OGE when compliance efforts are complete. Finally, an appointee has an ongoing obligation to comply with ethics statutes and regulations, including the criminal conflict-of-interest laws, the Ethics in Government Act, and the *Standards of Ethical Conduct for Employees of the Executive Branch*.

In other words, even if a nominee has fully complied with the requirements of the nominee financial disclosure process, it is possible for that nominee, once confirmed, to face potential conflicts involving interests that were not identified or addressed in his or her financial disclosure report or ethics agreement. This potential is the reason for the executive branch requirements for briefings, training, ongoing disclosure, and consultations with agency ethics officials. Executive branch officials, especially those at the highest levels, should regularly seek the advice of their agency ethics officials in order to avoid potential conflicts of interest when performing the important duties with which the public has entrusted them.

I hope you have found the information provided regarding the nominee financial disclosure process helpful.

Sincerely,

Walter M. Shaub, Jr.
Director

cc: The Honorable John Barrasso
Chairman
Committee on Environment and
Public Works
United States Senate
307 Dirksen Senate Office Bldg.
Washington, DC 20510

¹¹ See 5 C.F.R. §§ 2638.304, 2638.308 (2017).

¹² See 5 C.F.R. § 2638.104(c)(13) (2017).

GOVERNMENT ETHICS AND PRESIDENTIAL TRANSITION

working with the
U.S. OFFICE OF GOVERNMENT ETHICS

Action items

- Schedule *Integrity* training for September
- Recruit ethics expert & lead WH ethics counsel
- Notify OGE who will lead nominee ethics work
- Consult OGE regarding any ethics initiatives
- Take advantage of OGE's review options

Critical Milestones



pre-election

post-
election

post-
inauguration

SEP

OCT

NOV

DEC

JAN

FEB

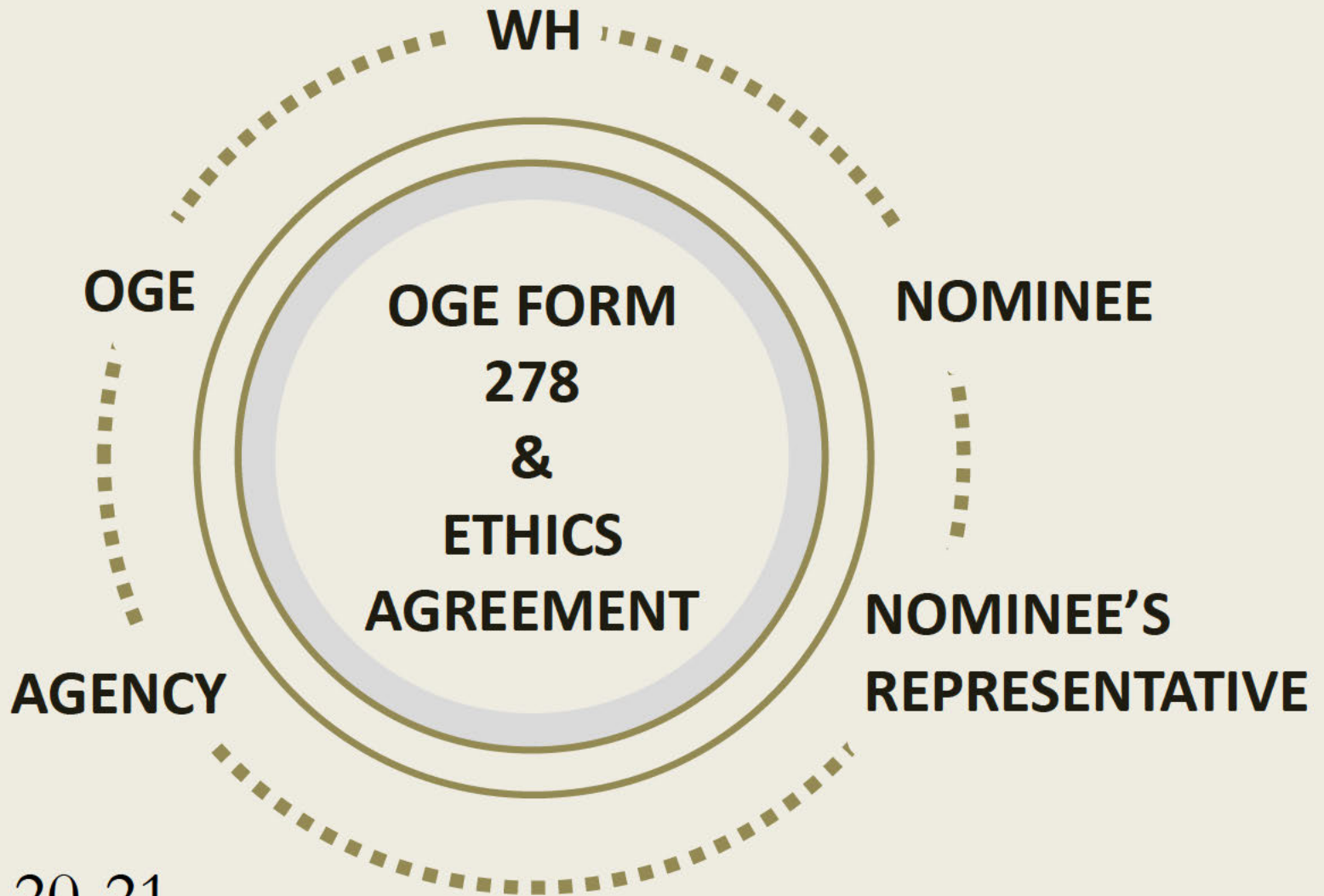
post-
inauguration

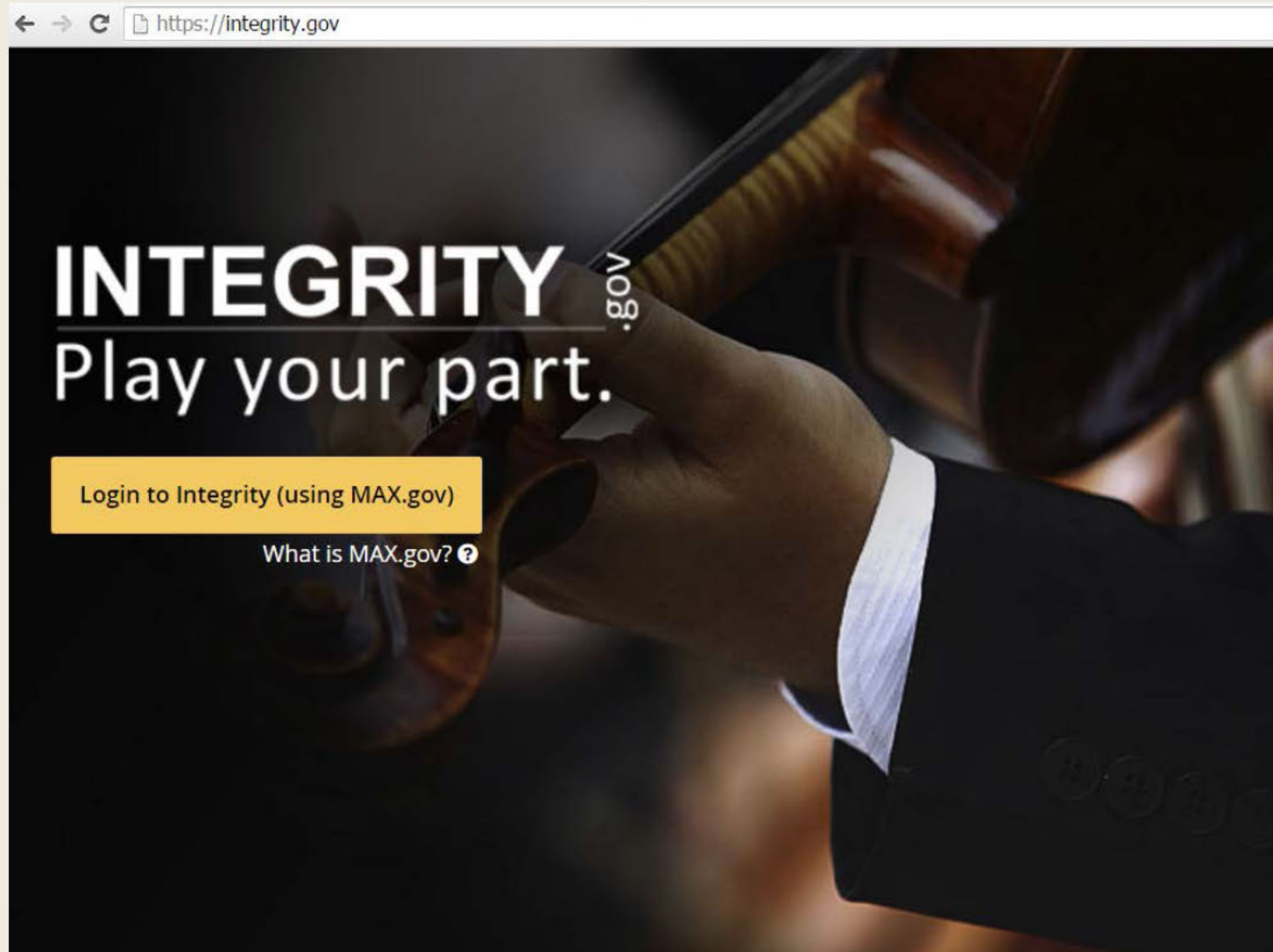
JAN

FEB

*Let's look at the normal
process first.*

Nominee Process





You indicated that you hold (or held) stock options. Answer the questions below regarding the stock options.

VALUE

Are you able to provide a value of these stock options?

- ☐ Yes
- ☒ No, a value is not readily ascertainable

DESCRIPTION IN LIEU OF A VALUE

You have indicated that a value is not readily ascertainable. In lieu of providing a value, provide the following information: (1) the number of shares of the stock for which the option was issued; (2) the strike price (e.g., "\$16.53/share"); (3) the expiration date; (4) an indication as to whether the options are vested or unvested; and (5) the date on which the options will vest (if the options are unvested).

1,000 unvested shares, \$11.75, exp. 2/1/27, vest 2/1/17
1,000 vested shares, \$11.50, exp. 2/1/26

Characters Left: 403

INCOME

Provide the amount of income produced by these options during the reporting period. ?

Note: We do not treat the receipt of stock options as income, even when taxable as ordinary income. For this reason, most filers select the "none or less than \$201" category.

Please Select

Please Select

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$1,000,000

\$1,000,001 - \$5,000,000

Over \$5,000,000

ARRANGEMENT DESCRIPTION

- Each source of your earned and other non-investment income totaling more than \$200 during the reporting period for this section (e.g., salary, fees, partnership share, honoraria, scholarships, and prizes).
- Each asset related to your business, employment, or other income-generating activities if the asset had a value greater than \$1,000 at the end of the preceding calendar year or if the asset produced more than \$200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, anticipated payments such as severance, deferred compensation, and intellectual property such as book deals and patents). Click the question mark for more examples.
 - Do not include assets or income from United States federal government employment. In addition, do not include assets that were acquired separately from your business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account) because you will report these assets in a later section.

25 records per page

Search:

	#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
<input type="checkbox"/>	1	XYZ Corp, stock options (value not readily ascertainable): 1,000 unvested shares X-Corp., \$11.75, exp. 2/1/27, vest 2/1/17 1,000 vested shares X-Corp, \$11.50, exp. 2/1/23	N/A			None (or less than \$201)
<input type="checkbox"/>	2	MicroMax, Inc.	N/A	\$50,001 - \$100,000	Dividends	\$2,501 - \$5,000
<input type="checkbox"/>	3	Technology Associates, LLC	N/A	\$100,001 - \$250,000	Dividends	\$201 - \$1,000
<input type="checkbox"/>	4	ValueTime Large Cap Diversified	Yes			\$1,001 - \$2,500
<input type="checkbox"/>	5	Labeledz Global Distressed Hedging Strategies VI, LLC	No	\$500,001 - \$1,000,000	Dividends	\$5,001 - \$15,000
<input type="checkbox"/>	5.1	Corp Corp, Inc.	N/A	\$50,001 - \$100,000	Dividends	\$201 - \$1,000
<input type="checkbox"/>	5.2	Mega Watt Minerals Extraction, Inc.	N/A	\$50,001 - \$100,000		\$2,501 - \$5,000
<input type="checkbox"/>	6	EntertainZ Events Plus Corp.	N/A	\$500,001 - \$1,000,000	Dividends	\$2,501 - \$5,000

Showing 1 to 8 of 8 entries

← Previous

1

Next →

ITEM DESCRIPTION

If this is an honorarium for a speech or appearance, provide the date.

PARENT ASSET (IF APPLICABLE)

EIF

– Select a Response –

ITEM VALUE

– Choose Item Value –

INCOME TYPE

Select all that apply or one of the options below.

☐ Not applicable (less than \$201)

☐ Dividends

☐ Capital Gains

☐ Interest

☐ Rent or Royalties

☐ Other

INCOME AMOUNT

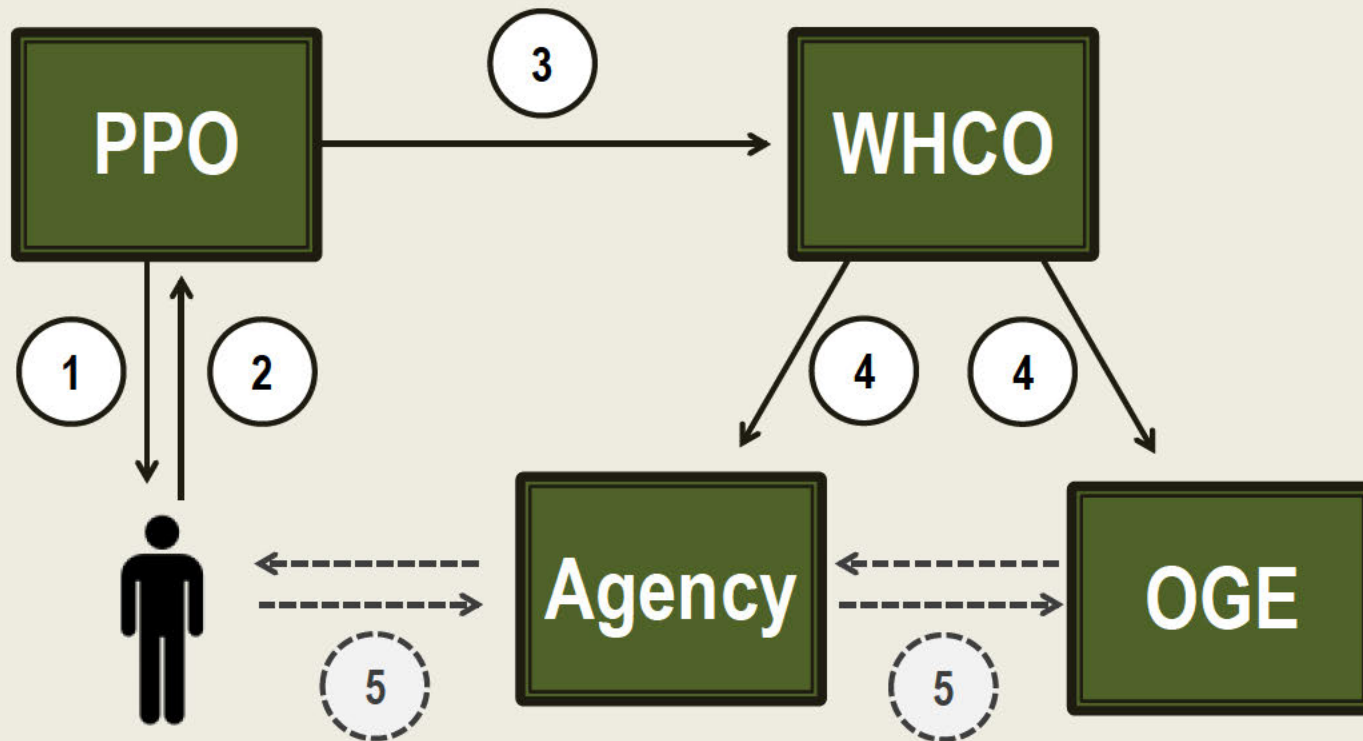
– Choose Income Amount –

OPTIONAL ENDNOTE

This will be visible to the public.

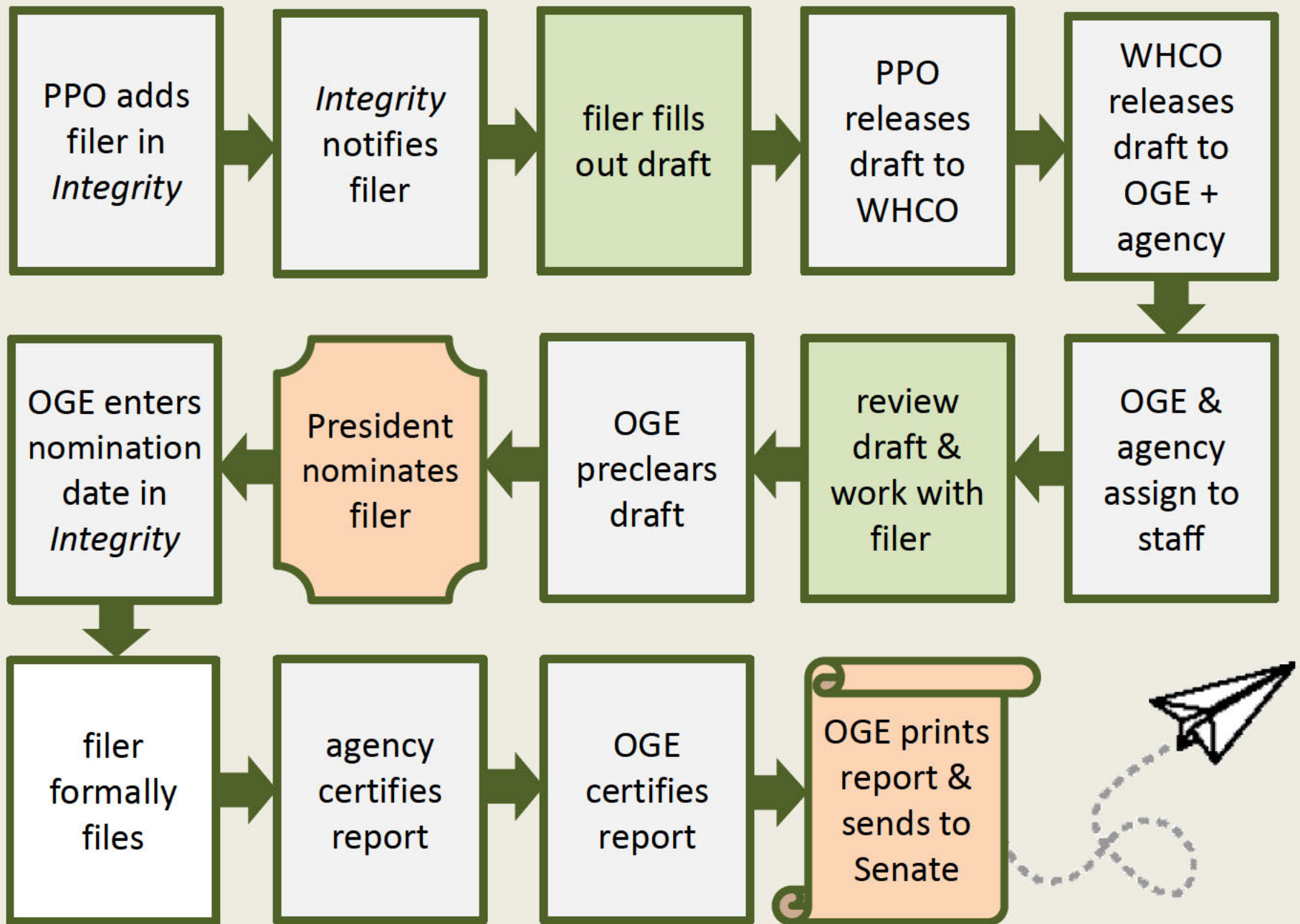
Add/Edit Endnote

Initiating Reports in *Integrity*



PRECLEARANCE is the pivotal point in the nominee process when the White House receives staff-level assurance from OGE that the nominee report is ready to be certified.

This process protects the President's constitutional authority to appoint individuals to senior leadership positions in the government.



post-
election

NOV

DEC

JA

Between the election and the inauguration, the Presidential Transition Team substitutes for the White House.

Sequence in Depth

SEQUENCE OF THE PROCESS

The nominee process prior to inauguration flows in this sequence:

Transition Team: The transition team provides the nominee with a copy of OGE's Nominee Ethics Guide.

Transition Team: A transition team member assigned to the "PPO" role in *Integrity* registers the nominee in *Integrity* and initiates a financial disclosure report. *Integrity* automatically emails the nominee a notice with instructions.

Nominee: The nominee completes a draft financial disclosure report in *Integrity* and submits it to the transition team by clicking the "submit" button.

Transition Team: The transition team member assigned to the "PPO" role in *Integrity* releases the report to the transition team member assigned to the "WHCO" role in *Integrity*.

Transition Team: The transition team member assigned to the "WHCO" role in *Integrity* releases the report through *Integrity* to OGE and the nominee's agency.

OGE/Agency/Nominee: OGE and agency ethics officials work with the nominee to perfect the report and prepare an ethics agreement. This work takes multiple rounds. OGE then "preclears" the report in *Integrity*.

Transition Team: The transition team reviews the ethics package, the FBI's background investigation report, and other vetting materials. If a favorable decision is made, the name of the intended nominee is released publicly.

The remainder of this sequence assumes that the Senate will hold a hearing in advance of the inauguration. The Senate will likely hold advance hearings for nominees to several cabinet-level positions before January 20, 2017. For other nominees, the following steps will occur when the President makes formal nominations only after having been sworn into office.

Agency/Nominee: The agency instructs the nominee to formally file the report in *Integrity* and to sign the ethics agreement. After the nominee takes these actions, the agency certifies the report and sends the ethics agreement to OGE.


OGE: OGE's Director certifies the report in *Integrity* and then transmits both the report and the ethics agreement to the appropriate Senate committee.

Agency/Nominee: Within 5 days of the Senate hearing, the nominee provides the agency with a letter containing updated information about earned income. The agency sends copies of the letter to OGE and the Senate.

Senate/President: Committee staffers meet with the nominee. Then, the committee holds a hearing. After being sworn into office, the President makes the formal nomination. The Senate then votes on the nomination.

President: If the Senate confirms the nominee, the President can appoint the nominee.

Blind review

1. Recruit nominee
 2. Register nominee in *Integrity*
 3. File draft OGE Form 278 in *Integrity*
 4. Print out draft and redact personal information
 5. Scan and email draft to OGE only
- 
- same as
normal
process*

Blind review

6. OGE sends you action items
7. **You** help nominee to address items
8. Repeat Steps 6 & 7 multiple times
9. OGE indicates OGE Form 278 is in order
10. No further work can be done

Blind review - limitations

- Cannot perform conflicts of interest analysis
- Cannot prepare ethics agreement
- Cannot “preclear”
- Consumes your resources

pre-election

OGE-only review

- The agency is not involved
- Same limitations as a “blind review” except OGE can work with the nominee directly

pre-election

SEP

OCT

NOV

Before the election, OGE
can do blind reviews and
consultations.

Consultation

- Informal
- Discuss conflicts of interest generally
- More specific information = more specific advice

pre-election

post-
election

post-
inauguration

SEP

OCT

NOV

DEC

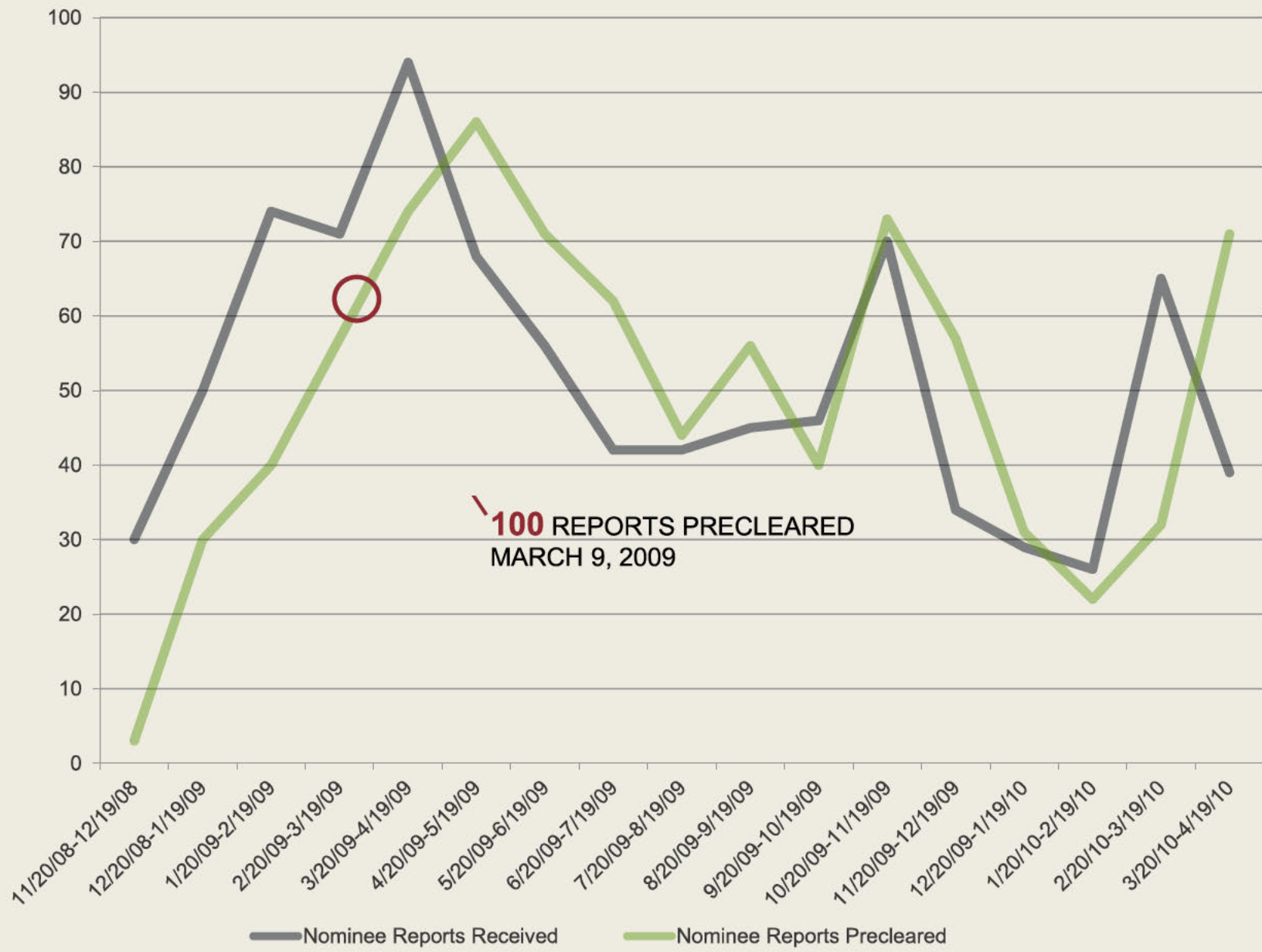
JAN

FEB

- maybe blind review
- maybe consultation

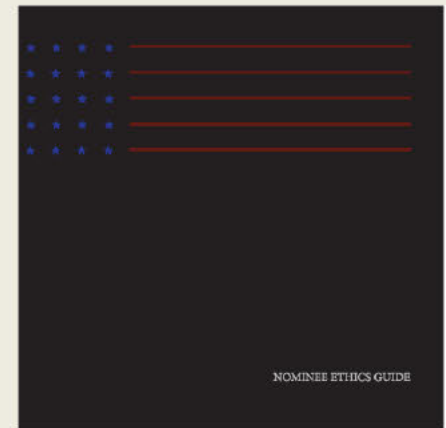
- review
- maybe OGE-only review
- maybe blind review

- review



Working with Nominees

- Nominee response time is *critical*
- Provide the Nominee Ethics Guide
- Warn of divestitures & resignations
- Possible divestitures by spouses too
- Require prompt responses





5

RESOURCES

Pages 49-65

4

ETHICS IN THE NEW ADMINISTRATION

Pages 49-65



Case Study

Both Blind and Diversified Trusts

- OGE must oversee establishment of trust
- Must disclose all assets placed in trust
- Trustee must be an institution and independent
- Must relinquish all control of assets, and cannot communicate with trustee
- There must be no restriction on the trustee's authority to transfer or sell any asset
- Cannot provide instructions or specific preferences as to assets to acquire
- Cannot have knowledge of assets acquired, and statements reveal **only** overall value

Blind Trusts

- Trustee prepares & files **trust's** taxes
- Initial assets placed in trust are not considered "blind" and **remain conflicts** until sold down to \$1,000 or less

Diversified Trusts

- Trustee prepares & files trust's taxes and **your personal income taxes**
- No more than **5%** in any asset and **20%** in any sector
- Assets placed in trust immediately cease to pose conflicts
- But cannot place any asset in trust that poses a **significant conflict**

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

★
Preventing Conflicts of Interest
in the Executive Branch

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- PROGRAM MANAGEMENT
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 - ★ Outside Employment & Activities
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 - ★ Selected Employee Categories
 - ★ Enforcement



THE U.S. OFFICE OF GOVERNMENT ETHICS

Performance Management & Budget

OGE is building a culture of performance that relies on using data to make informed decisions. Read about OGE's long-term strategic goals, annual plan to achieve those strategic goals, and success in using the taxpayers' dollars to achieve its mission.

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PRESIDENTIAL TRANSITION

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Director's Notes RSS



08/29/2016
OGE's New Presidential Transition Page
OGE's website now features a Presidential Transition page targeting the Presidential campaigns, the future Presidential Transition

Dates & Deadlines RSS

- 9/9 Unless further information is required, agencies'...[more](#)
- 9/13 The Public Financial Disclosure reports of PAS, DA...[more](#)
- 9/23 The late filing fee now applies to annual Public F...[more](#)

★ Open Government



- Presidential Appointee and Nominee Records
- 2016 Presidential Candidate Records
- Program Review Reports

PRESIDENTIAL TRANSITION

August 25, 2016

OGE Transition Materials

- ✦ **OGE's Role in the Presidential Transition**
The law requires OGE to review the financial disclosure reports of most Presidential nominees for civilian positions requiring Senate confirmation. OGE reviews these reports for potential conflicts of interest and for compliance with disclosure requirements. OGE's efforts to resolve potential conflicts help ensure that nominees will be able to perform the duties of their positions.
[Learn more >](#)
- ✦ **OGE's Guide for the Presidential Transition Team**
The work of a Presidential transition is a monumental undertaking. OGE developed this Guide as a resource for the Presidential Transition Team to prepare for the upcoming transition so that top leadership positions can be filled quickly and free from conflicts of interest. This guide explains the nominee ethics process, provides strategies for establishing a strong ethical culture in the new Presidential administration, and includes useful reference materials.
[Web version](#) | [Print version](#)
- ✦ **OGE's Guide for Nominees**
OGE developed this Guide as a resource for potential Presidentially-appointed, Senate-confirmed (PAS) nominees during the upcoming transition. The Guide contains helpful guidance for incoming PAS nominees including an introduction to the nominee process, guidance on financial disclosure, and an overview of key ethics rules and regulations.
[Web version](#) | [Print version](#)
- ✦ **OGE's Appendix to the Guide for Nominees**
The Appendix to the Guide for Nominees contains detailed reference content, such as financial disclosure checklists, criteria for identifying accepted investment funds, and information on ongoing financial disclosure obligations.
[Web version](#) | [Print version](#)
- ✦ **(Unofficial) Excel workbook listing positions for which OGE reviews nominees**
The official source for identifying political positions in the executive branch is the publication titled, "United States Government Policy and Supporting Positions." This publication, commonly known as the Plum Book, is published alternately by the Senate and the House committees after each Presidential election. However, the Presidential Transition Team will need to begin identifying possible nominees well before the election. To assist in this process, OGE has compiled an unofficial Excel workbook listing the civilian Presidentially appointed, Senate-confirmed positions traditionally subject to OGE's review in the nomination process.
[Click here >](#)
- ✦ **Ways OGE Can Help in the Presidential Transition (1-page graphic)**
OGE is ready to assist the Presidential Transition Team in navigating the transition and laying the groundwork for a strong ethical culture in the new administration. OGE is also ready to assist in establishing a strong White House ethics program.
[Click here >](#)
- ✦ **OGE's Public Financial Disclosure Guide**

Action items

- Schedule *Integrity* training for September
- Recruit ethics expert & lead WH ethics counsel
- Notify OGE who will lead nominee ethics work
- Consult OGE regarding any ethics initiatives
- Take advantage of OGE's review options

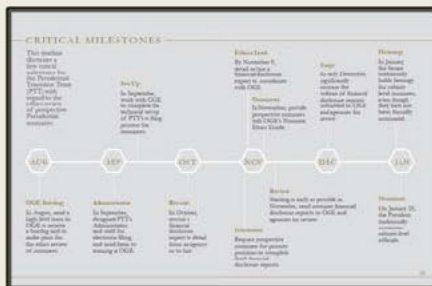
GOVERNMENT ETHICS AND PRESIDENTIAL TRANSITION

- working with the
U.S. OFFICE OF GOVERNMENT ETHICS

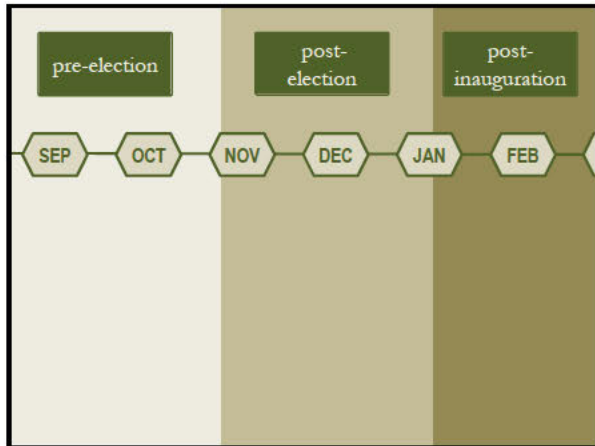
Action items

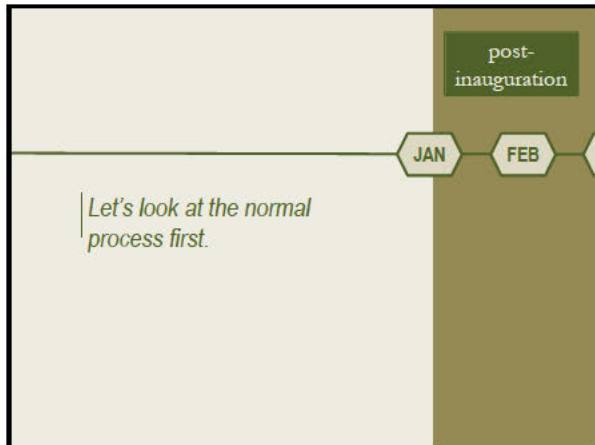
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- Consult OGE regarding any ethics initiatives
- Take advantage of OGE's review options

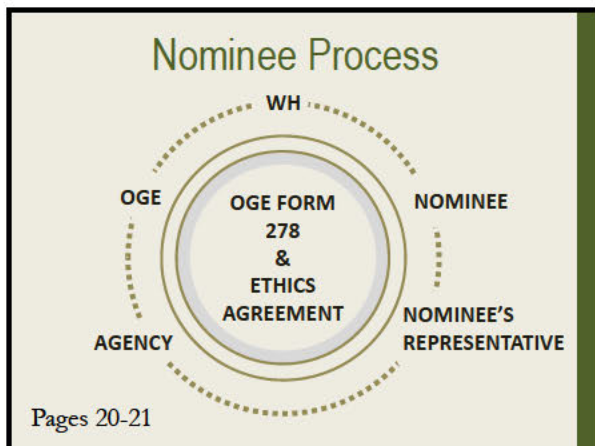
Critical Milestones



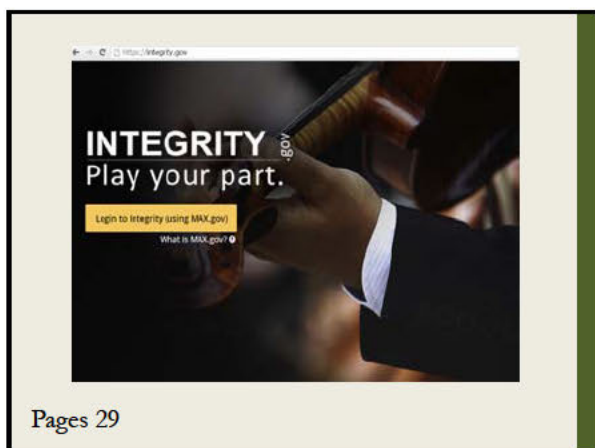
Pages 22-23







Pages 20-21



You indicated that you hold (or held) stock options. Answer the questions below regarding the stock options.

VALUE
Are you able to provide a value of these stock options? ☐ Yes ☒ No, a value is not readily ascertainable

DESCRIPTION IN LIEU OF A VALUE
You have indicated that a value is not readily ascertainable. In lieu of providing a value, provide the following information: (1) the number of shares of the stock for which the option was issued; (2) the strike price (e.g., "\$16.53/share"); (3) the expiration date; (4) an indication as to whether the options are vested or unvested, and (5) the date on which the options will vest (if the options are unvested).

2,000 unvested shares, \$11.75, exp. 3/3/27, vest 3/1/17
1,000 vested shares, \$11.50, exp. 3/1/16

Characters Left: 403

INCOME
Provide the amount of income produced by these options during the reporting period.

Please Select
Please Select
None (or less than \$201)
\$201 - \$1,000
\$1,001 - \$5,000
\$5,001 - \$10,000
\$10,001 - \$50,000
\$50,001 - \$100,000
\$100,001 - \$1,000,000
\$1,000,001 - \$5,000,000
Over \$5,000,000

Note: We do not treat the exercise of stock options as income, even when taxable as ordinary income. For this reason, most filers select the "none or less than \$201" category.

ADVANCED FINANCIAL INFORMATION

Each source of your named and other non-investment income. ☒ Sharing more than \$200 during the reporting period. ☐ For this section (e.g., salary fees, partnership shares, honoraria, scholarship, and grants).

Each report related to your business, employment, or other income generating activities if the asset had a value greater than \$1,000 at the end of the preceding calendar year or if the asset produced more than \$200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans, annuities, and their underlying holdings as appropriate. Irregular payments such as severance, deferred compensation, and restricted stock property such as stock awards and restricted stock units should be reported here.)

Do not include assets or income from United States federal government employment. In addition, do not include assets that were acquired separately from your business, employment, or other income generating activities (e.g., assets purchased through a brokerage account) because you will report these assets in a later section.

25 records per page Search

#	NAME	TYPE	VALUE	INCOME TYPE	INCOME AMOUNT
1	XFL Corp. stock options (value not readily ascertainable) 1,000 unvested shares X Corp. \$11.75, exp. 3/3/27, vest 3/1/17 2,500 vested shares X Corp. \$11.50, exp. 3/1/16	N/A	None (or less than \$201)		
2	MicroMax, Inc.	N/A	\$10,001 - \$50,000	Dividends	\$2,501 - \$5,000
3	Technology Associates, LLC	N/A	\$100,001 - \$500,000	Dividends	\$201 - \$1,000
4	ValueTime Large Cap Diversified	N/A	\$10,001 - \$50,000	Dividends	\$1,001 - \$5,000
5	Island Capital Development/Investing Strategies V, LLC	N/A	\$100,001 - \$500,000	Dividends	\$5,001 - \$15,000
5.1	Corp Corp. Inc.	N/A	\$10,001 - \$50,000	Dividends	\$201 - \$1,000
5.2	Shiga West Mineral Extraction, Inc.	N/A	\$10,001 - \$50,000	Dividends	\$2,501 - \$5,000
8	Entertainment Events Plus Corp.	N/A	\$100,001 - \$500,000	Dividends	\$2,501 - \$5,000

Showing 1 to 8 of 8 entries

Previous Next

IF THIS IS AN OPPORTUNITY FOR A QUICK OR APPEARANCE, PROVIDE THE DATA.

PARENT ASSET (IF APPLICABLE)

IF ☒ Select a transaction

ITEM VALUE

Choose item value

INCOME TYPE

Select all that apply or one of the options below

☐ Not applicable (less than \$201)

☐ Dividends

☐ Capital Gains

☐ Interest

☐ Rent or Royalties

☐ Other

INCOME AMOUNT

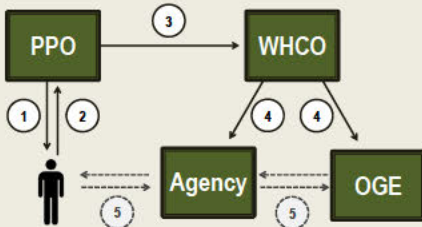
Choose Income Amount

OPTIONAL FOOTNOTE

This will be visible to the public.

Address footer

Initiating Reports in *Integrity*

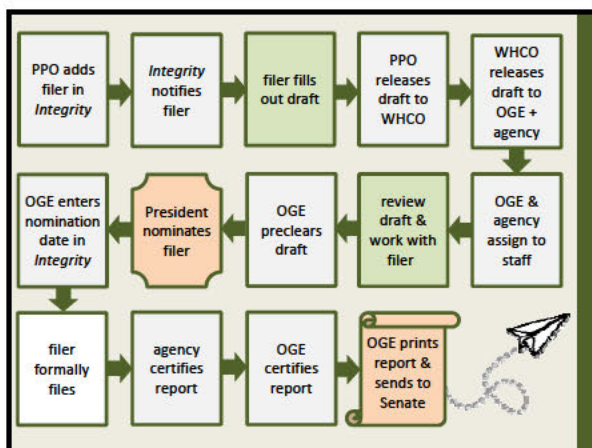


Page 35

PRECLEARANCE is the pivotal point in the nominee process when the White House receives staff-level assurance from OGE that the nominee report is ready to be certified.

This process protects the President's constitutional authority to appoint individuals to senior leadership positions in the government.

Page 28



post-election

NOV DEC JA

Between the election and the inauguration, the Presidential Transition Team substitutes for the White House.

[illegible][illegible]

post-election

Blind review

1. Recruit nominee
2. Register nominee in *Integrity*
3. File draft OGE Form 278 in *Integrity*
4. Print out draft and redact personal information
5. Scan and email draft to OGE only

} same as normal process

post-
election

Blind review

6. OGE sends you action items
7. **You** help nominee to address items
8. Repeat Steps 6 & 7 multiple times
9. OGE indicates OGE Form 278 is in order
10. No further work can be done

Page 13

post-
election

Blind review - limitations

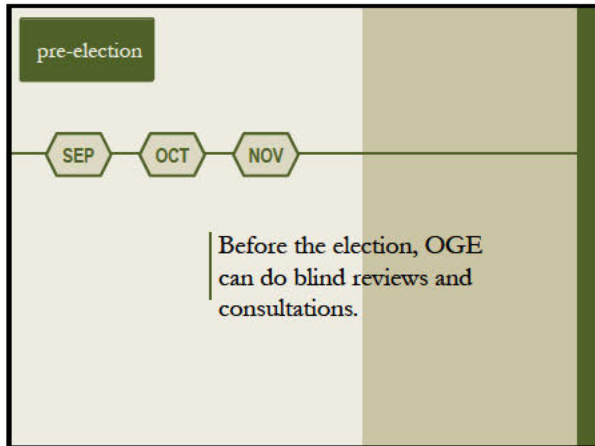
- Cannot perform conflicts of interest analysis
- Cannot prepare ethics agreement
- Cannot “preclear”
- Consumes your resources

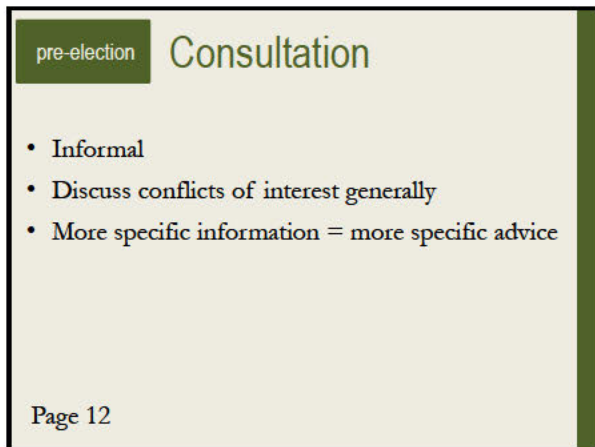
Page 13

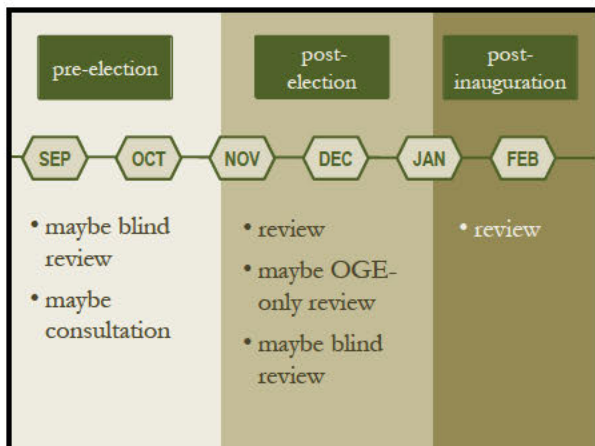
pre-election

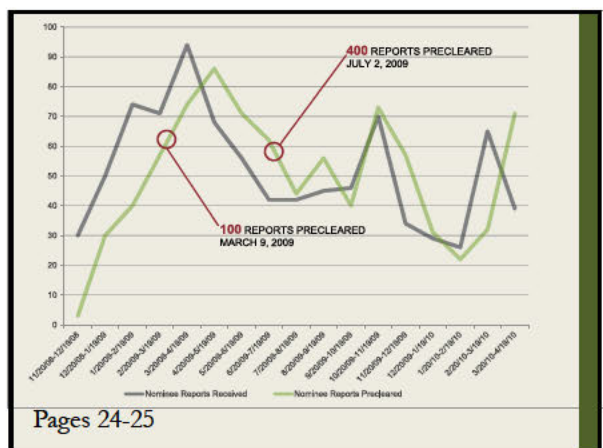
OGE-only review

- The agency is not involved
- Same limitations as a “blind review” except OGE can work with the nominee directly







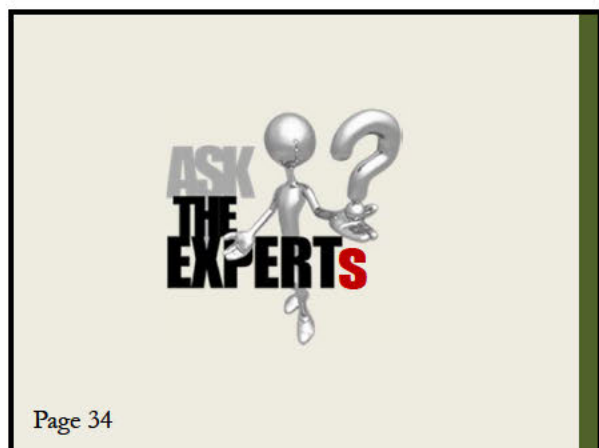


Working with Nominees

- Nominee response time is *critical*
- Provide the Nominee Ethics Guide
- Warn of divestitures & resignations
- Possible divestitures by spouses too
- Require prompt responses



Pages 26-27



5

RESOURCES

Pages 49-65

4

ETHICS IN THE NEW
ADMINISTRATION

Pages 49-65



Case Study

Both Blind and Diversified Trusts	
<ul style="list-style-type: none"> • OGE must oversee establishment of trust • Must disclose all assets placed in trust • Trustee must be an institution and independent • Must relinquish all control of assets, and cannot communicate with trustee • There must be no restriction on the trustee's authority to transfer or sell any asset • Cannot provide instructions or specific preferences as to assets to acquire • Cannot have knowledge of assets acquired, and statements reveal only overall value 	
Blind Trusts	Diversified Trusts
<ul style="list-style-type: none"> • Trustee prepares & files trust's taxes • Initial assets placed in trust are not considered "blind" and remain conflicts until sold down to \$1,000 or less 	<ul style="list-style-type: none"> • Trustee prepares & files trust's taxes and your personal income taxes • No more than 5% in any asset and 20% in any sector • Assets placed in trust immediately cease to pose conflicts • But cannot place any asset in trust that poses a significant conflict

Action items
<ul style="list-style-type: none"> • Schedule <i>Integrity</i> training for September • Recruit ethics expert & lead WH ethics counsel • Notify OGE who will lead nominee ethics work • Consult OGE regarding any ethics initiatives • Take advantage of OGE's review options

CASE STUDY

The following is a sampling of a few basic types of issues that can arise for a nominee (“Filer”) who is a former corporate executive and is coming into an agency that regulates the corporation:

Stock

Example of possible disclosure issues:

- If the company is not publicly traded, Filer may not know the value of the stock

Examples of possible conflicts issues:

- Because the agency regulates the company, Filer may have to divest this stock
- If the company is not publicly traded, divesting the stock may be difficult

Vested stock options and unvested stock options

Examples of possible disclosure issues:

- Filer doesn’t know the details of these options (*i.e.*, how many tranches of options, the strike price(s), expiration date(s), how to value options that are underwater)
- Filer did not indicate that some of these options were unvested until OGE inquired

Examples of possible conflicts issues:

- Because the agency regulates the company, Filer may have to divest the options
- The company requires forfeiture of unvested options upon resignation. Ethics issues may arise if the company offers to waive the forfeiture requirement (or accelerate vesting)

Unvested restricted stock

Examples of possible disclosure issues:

- Filer forgot to report unvested restricted stock until OGE inquired about it
- Filer doesn’t know whether the company requires forfeiture of unvested shares

Example of possible conflicts issues:

- Can’t assess conflicts until more information is provided

Stock appreciation rights

Example of possible disclosure issues:

- Filer doesn’t know what these are or how they work

Example of possible conflicts issues:

- Can’t assess conflicts until more information is provided

Deferred compensation plan

Example of possible disclosure issues:

- Filer doesn’t know what this is or how it works (*e.g.*, Filer doesn’t know whether the plan (1) provides for a future cash payment, (2) holds assets, or (3) possibly tracks something like an index)

Examples of possible conflicts issues:

- If this is actually a plan that holds assets, the assets may pose conflicts
- Even if the deferred compensation represents only a future cash payment, conflicts may arise if the amount is dependent on the performance of the company

Retirement plan containing investment funds set up by the company

Examples of possible disclosure issues:

- If the funds are not publicly available, Filer may have to disclose the specific holdings of these investment funds (but may not have access to this information)
- Filer isn't even sure that these are actually funds (as opposed to investment instruments that have no holdings but, instead, track an index)

Example of possible conflicts issues:

- These funds (or index tracked investments) might present conflicts of interest

Anticipated bonus or severance payment

Example of possible disclosure issues:

- Filer doesn't know how or when the company decides to pay a bonus or severance

Example of possible conflicts issues:

- Ethics issues may arise if this is based on the fact that Filer is going into government

The spouse holds shares of the employer's stock in an employee retirement plan

Example of possible disclosure issues:

- Filer might not realize spouse holds this stock (e.g., held in a non-diversified stock fund)

Example of possible conflicts issues:

- Because the agency regulates the company, Filer's spouse may have to roll retirement savings into a different option in the company's plan

Filer's spouse holds stock options in an employer that the agency regulates

Example of possible disclosure issues:

- Filer doesn't know the details of these stock options

Example of possible conflicts issues:

- These stock options may pose a conflict (but, aside from being costly, divestiture could be complicated if the spouse anticipates additional periodic grants of stock options)

Filer's spouse is the trustee of a trust that the spouse's parents established for the benefit of Filer's children, as well as the spouse's nieces and nephews

Example of possible disclosure issues:

- As trustee, Filer's spouse may not want to disclose the holdings (but the trust does not qualify for an exception to the reporting requirement)

Examples of possible conflicts issues:

- Some of the trust's holdings may pose conflicts for Filer, but divestiture could be problematic if it affects the other beneficiaries (i.e., nephews & nieces)
- Future acquisitions by the trust could pose conflicts of interest (and the spouse's fiduciary responsibility as trustee may make it difficult to commit not to acquire conflicting assets)

GOVERNMENT ETHICS & FINANCIAL DISCLOSURE

working with the
U.S. OFFICE OF GOVERNMENT ETHICS

Action items

- Engage with OGE now to discuss the process
 - ✓ Meet in late August for detailed briefing
 - ✓ Send staff to e-filing training in September
- Acquire expertise
 - ✓ Expert government ethics attorney
 - ✓ Someone you *trust*
- Take advantage of the various advance review processes OGE offers (e.g., blind review)

pre-election

post-
election

post-
inauguration

SEP

OCT

NOV

DEC

JAN

FEB

e-filing training

recruit ethics expert

recruit nominees

OGE blind reviews?

OGE-only reviews?

OGE consultations?

retain ethics expert

process nominees

✓ financial disclosure

✓ FBI background

✓ other paperwork

OGE reviews

OGE blind reviews?

normal process

high volume

post-
inauguration

JAN

FEB

It's easiest to explain the normal process first. Let's look at the process used by sitting Presidents.

Normal Process*

*simplified

1. Recruit nominee
2. Register nominee in *Integrity* (and OPM's e-QIP)
3. Nominee completes a draft OGE Form 278 in *Integrity* (SF-86 filed in e-QIP)
4. WH releases draft 278 to OGE/agency (86 to FBI)
5. OGE/agency review 278, draft ethics agreement
6. OGE “preclears” nominee

PRE-CLEARANCE is the pivotal point in the nominee process when the White House receives staff-level assurance from OGE that the nominee report is ready to be certified.

This process protects the constitutional authority of the President to nominate individuals to senior leadership positions in the government.

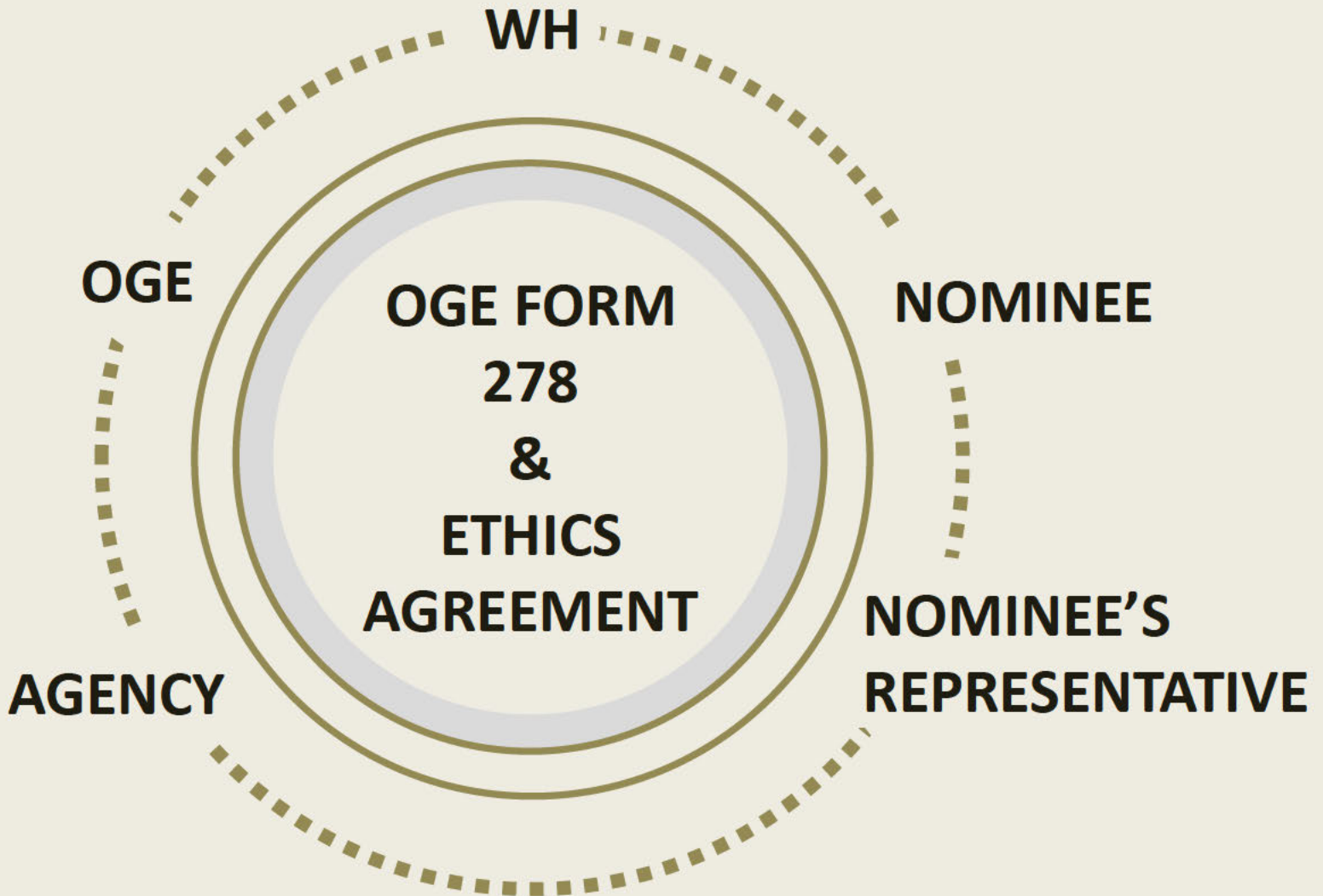
Normal Process*

*simplified

7. WH reviews OGE Form 278, ethics agreement, SF-86, background investigation report, etc.
8. WH announces intent to nominate (or nominates)
9. Nominee signs final 278 in *Integrity*
10. Agency certifies 278, sends opinion to OGE
11. OGE certifies 278, ethics package to Senate
12. WH & agency send other materials to Senate

post-
inauguration

Normal Process



post-
election

NOV

DEC


JAN

Between the election and the inauguration, OGE uses the normal process but substitutes the Transition Team for the White House. OGE can also do a blind review of a nominee's financial disclosure report.

post-
election

Blind review*

*simplified

1. Recruit nominee
 2. Register nominee in *Integrity*
 3. File draft OGE Form 278 in *Integrity*
 4. Print out draft and redact personal information
 5. Scan and email draft to OGE only
- 
- same as
normal
process*

post-
election

Blind review*

*simplified

6. OGE sends you questions/action items
7. You help nominee to address questions/items
8. Repeat Steps 6 & 7 multiple times
9. OGE indicates OGE Form 278 is in order
10. No further work can be done at this time

Blind review

Limitations

- Cannot perform conflicts of interest analysis
- Cannot prepare ethics agreement
- Cannot “preclear”
- Uses your resources (because you have to work with the nominee)

Blind review

Advantages

- Resolves time-consuming disclosure issues
- Nominee begins resolving conflicts by:
 - ✓ untangling business relationships
 - ✓ determining treatment of unvested assets
 - ✓ identifying limitations on divesting investments

pre-election

SEP

OCT

NOV

*Before the election, OGE can do
blind reviews, OGE-only reviews,
and consultations.*

pre-election

OGE-only review

- Like “bind review” except that you disclose the nominee’s name and intended position
- The agency is not involved
- Same limitations as a “blind review” except that OGE can work directly with the nominee, which reduces your level of effort

pre-election

Consultation

- Alternative to “blind review” and “OGE-only” reviews
- Can talk generally about conflicts of interest
- *More* information = more *specific* advice
Less information = less *specific* advice

pre-election

post-
election

post-
inauguration

SEP

OCT

NOV

DEC

JAN

FEB

- maybe blind review
- maybe OGE-only review
- maybe consultation

- review
- maybe blind review

- review

Working with Nominees

- *Can send web link to **Nominee Guide** early in process*
- Give *hard copy* of **Nominee Guide** before you register nominee in *Integrity*
- Stress importance of *prompt* responses
- Warn of possible divestitures and resignations
- Possible divestitures by spouses, too

Possible Process Improvements

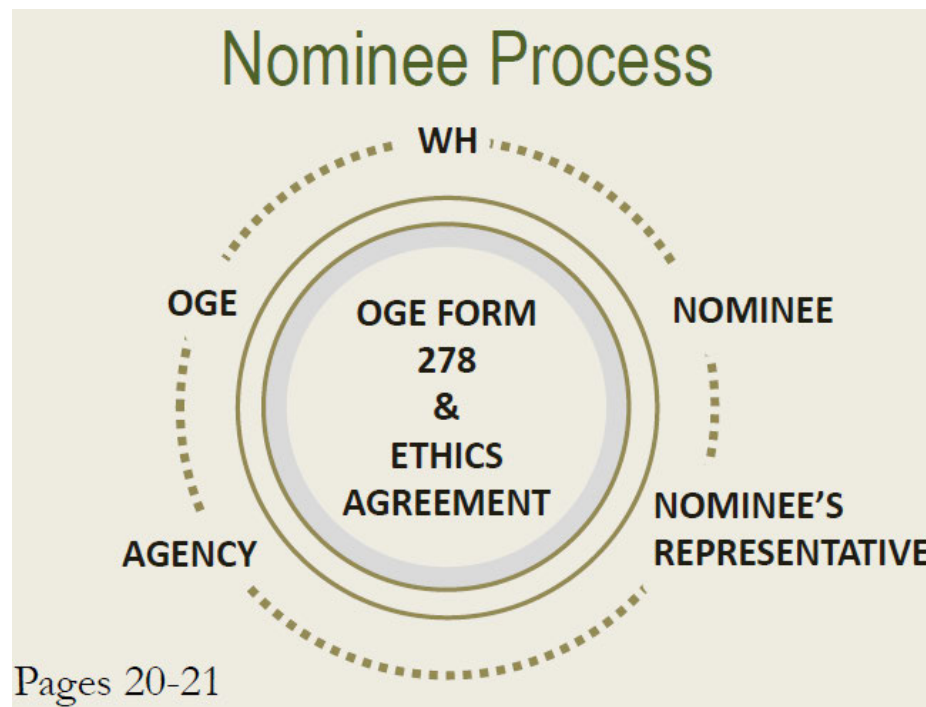
- Consider questions raised by bipartisan working group regarding security clearances:
 - Do all nominees really need Top Secret clearances?*
 - Does investigation really need to go back further than 10-years (standard for sensitive positions)?*
- Consider the working group's recommendations regarding financial disclosure

Action items

- Engage with OGE now to discuss the process
 - ✓ Meet in late August for detailed briefing
 - ✓ Send staff to e-filing training in September
- Acquire expertise
 - ✓ Expert government ethics attorney
 - ✓ Someone you *trust*
- Take advantage of the various advance review processes OGE offers (e.g., blind review)

INFORMAL DISCUSSION POINTS (11/21/16)


- nominee process
 - financial disclosure report
 - collection by WH (transition team)
 - release to OGE/agency
 - multiple rounds of revision and information collection, conflicts analysis, ethics agreement (9-year average = ~40 days)



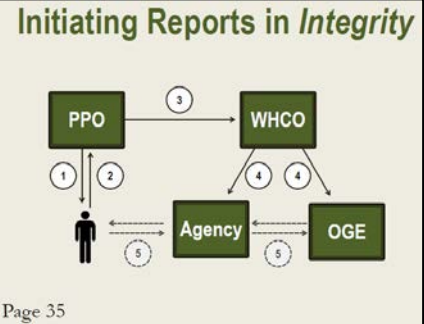
- preclearance
- review by WH (transition team)
- national security form
 - initiation by WH (transition team) through OPM's e-QIP
 - processed by OPM
 - FBI background investigation
 - FBI report drafted & issued
 - review by WH (transition team)
- public records search by WH (transition team)
- review of tax filings by WH (transition team)

- supplemental information collected by WH (transition team)
- Senate questionnaire collection, review, editing in consultation with agency and WH (transition team)
- reconciling inconsistent information in different forms
- interview of nominee by WH (transition team) vetting attorney
- meeting by WH (transition team) personnel office and counsel to formulate recommendation to President (President-elect)
- decision by President (President-elect)
- WH (transition team) communications team recommends best approach to announcing intent to nominate
- WH (transition team) legislative team prepares nominee
- Senate typically holds some cabinet hearings before January 20
- process in detail (pages 20-21)
- received v. preclear chart (pp. 24-25)
- critical milestones (pp. 22-23)
- blind reviews (page 13)
- *blind review v. OGE-only review v. risk management consultation*
- working with nominees (pp. 26-27)
 - nominee responsiveness is the primary driver of speed/delay
 - to speed up process:
 - deliver hard copy of Nominee Ethics Guide
 - communicate that it will be a lengthy process (multiple rounds) and that prompt responses are critical
 - communicate that they (and their spouses) may need to make changes to finances
- assignee
- *assignee v. detailee*
- additional expertise: in-house or outside counsel

- transition team personnel are running an instance of *Integrity* (page 29)



Initiating Reports in Integrity



Page 35

Each source of your annual and other non-investment income... reporting more than \$200 during the reporting period... for this reporting, using this percentage plus income, investments, and gains.

Each source related to your business, employment, or other income generating activities if the asset had a value greater than \$1,000 at the end of the reporting period... equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, annuities/pensions, trust or annuities, deferred compensation, and individual property such as bank, state and federal grants. Click the question mark for more examples.

Do not include value or interest from United States Federal government employment. In addition, do not include assets that were acquired separately from your business, employment, or other income generating activity, assets purchased through a brokerage account, or assets you report these assets in a later section.

Source	Asset	Value	Income	Reporting Period
1	ABC Corp. 1000 shares (cost: \$10.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
2	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
3	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
4	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
5	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
6	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
7	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
8	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
9	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017
10	XYZ Corp. 500 shares (cost: \$20.00, exp. 2/1/27, vest 2/1/27)	10,000	100	2017

You indicated that you hold (or held) stock options. Answer the questions below regarding the stock options.

VALUE

Are you able to provide a value of these stock options?

☐ Yes

☒ No, a value is not readily ascertainable

DESCRIPTION IN LIEU OF A VALUE

You have indicated that a value is not readily ascertainable. In lieu of providing a value, provide the following information: (1) the number of shares of the stock for which the option was issued; (2) the strike price (e.g., "\$16.53/share"); (3) the expiration date; (4) an indication as to whether the options are vested or unvested; and (5) the date on which the options will vest (if the options are unvested).

1,000 unvested shares, \$11.75, exp. 2/1/27, vest 2/1/17

1,000 vested shares, \$11.50, exp. 2/1/26

Characters Left: 403

INCOME

Provide the amount of income produced by these options during the reporting period. ?

Note: We do not treat the receipt of stock options as income, even when taxable as ordinary income. For this reason, most filers select the "none or less than \$201" category.

Please Select

Please Select

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$1,000,000

\$1,000,001 - \$5,000,000

Over \$5,000,000

Please enter your Answer

ARRANGEMENT DESCRIPTION

Describe what will happen to your stock options.

- setting up lines of communication
- typical show stoppers for nominees (Nominee Appendix checklists)

- OGE resources:



OGE TRANSITION MATERIALS

OGE's Role in the Presidential Transition

The law requires OGE to review the financial disclosure reports of most Presidential nominees for civilian positions requiring Senate confirmation. OGE reviews these reports for potential conflicts of interest and for compliance with disclosure requirements. OGE's efforts to resolve potential conflicts help ensure that nominees will be able to perform the duties of their positions.

OGE's Guide for the Presidential Transition Team

The work of a Presidential transition is a monumental undertaking. OGE developed this Guide as a resource for the Presidential Transition Team to prepare for the upcoming transition so that top leadership positions can be filled quickly and free from conflicts of interest. This guide explains the nominee ethics process, provides strategies for establishing a strong ethical culture in the new Presidential administration, and includes useful reference materials.

OGE's Guide for Nominees

OGE developed this Guide as a resource for potential Presidentially-appointed, Senate-confirmed (PAS) nominees during the upcoming transition. The Guide contains helpful guidance for incoming PAS nominees including an introduction to the nominee process, guidance on financial disclosure, and an overview of key ethics rules and regulations.

OGE's Appendix to the Guide for Nominees

The Appendix to the Guide for Nominees contains detailed reference content, such as financial disclosure checklists, criteria for identifying excepted investment funds, and information on ongoing financial disclosure obligations.

(Unofficial) Excel workbook listing positions for which OGE reviews nominees

The official source for identifying political positions in the executive branch is the publication titled, "United States Government Policy and Supporting Positions." This publication, commonly known as the Plum Book, is published alternately by the Senate and the House committees after each Presidential election. However, the Presidential Transition Team will need to begin identifying possible nominees well before the election. To assist in this process, OGE has compiled an unofficial Excel workbook listing the civilian Presidentially appointed, Senate-confirmed positions traditionally subject to OGE's review in the nomination process.

Ways OGE Can Help in the Presidential Transition (1-page graphic)

OGE is ready to assist the Presidential Transition Team in navigating the transition and laying the groundwork for a strong ethical culture in the new administration. OGE is also ready to assist in establishing a strong White House ethics program.

OGE's Public Financial Disclosure Guide

The Public Financial Disclosure Guide is an interactive tool to assist individuals who file or review public financial disclosure reports (OGE Form 278e or OGE Form 278-T). The Guide offers helpful instructions, illustrations of sample language, definitions of terms, and plain language answers to frequently asked questions.

OGE's Nominee Ethics Agreement Guide

The ethics agreement outlines specific steps a nominee will take to avoid conflicts of interest. OGE's staff and agency ethics officials draft each ethics agreement using standardized language from this Guide that will be modified as needed to tailor the agreement to the nominee's unique circumstances.

Nominee Public Financial Disclosure Review Checklists

OGE developed this collection of public financial disclosure checklists for incoming Presidential nominees who file public financial disclosure reports, as well as for agency reviewers. The collection includes a general checklist applicable to all nominees and supplemental checklists that target incoming attorneys; corporate officers, employees, and directors; university professors and deans; and investment fund managers.

OGE's Electronic Public Financial Disclosure Filing System, *Integrity*

Presidential nominees in the executive branch file public financial disclosure reports through Integrity, the executive branch electronic financial disclosure system. The online user manual for Integrity provides useful explanations of the system's features. A user name and password is required to access both Integrity and its user manual.

Presidential Appointee & Nominee Records

Follow this link for access to public financial disclosure reports and ethics agreements, executive branch agency Ethics Pledge waivers, and the annual report on Executive Order 13490 (Ethics Pledge).

The theme of OGE's 2016 National Government Ethics Summit: Presidential Transition

The National Government Ethics Summit held this spring kicked off OGE's efforts to ensure that the more than 4,500 ethics officials throughout the executive branch are prepared to help facilitate a smooth transition between Presidential administrations. Follow this link and the links below for more information on OGE's 2016 National Government Ethics Summit and other Presidential Transition readiness efforts.

- Materials from the 2016 National Government Ethics Summit on the Presidential Transition (March 8-10, 2016)
- Agenda for the full-day Symposium on Nominee Financial Disclosure in a Presidential Transition (March 7, 2016)
- Video: Replay of selected session from the 2016 National Government Ethics Summit
- OGE and Agency Ethics Officials Train for Post-Election Readiness
- Video: Transition Readiness Series

OGE Form 278 (Public Financial Disclosure Report) and OGE Form 450 (Confidential Financial Disclosure Report)

Follow this link for access to OGE's financial disclosure forms and instructions for downloading the forms.

OGE Senior Leadership

Follow this link to learn more about OGE's Senior Leadership.

OGE Staff Contact Information

Follow this link for an OGE staff listing and contact information.

• Partnership for Public Service – Center for Presidential Transition

Incoming Administration: X

presidentialtransition.org/timeline/appointments/index.php

PARTNERSHIP FOR PUBLIC SERVICE
CENTER for PRESIDENTIAL TRANSITION

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TRANSITION WORKSTREAMS

INCOMING ADMINISTRATION

- Agency Review
- Appointments
- Operations
- Policy
- Outgoing Administration
- Federal Agencies

TASKS AND RESOURCES BY MONTH

Select Month ▼

Transition Guide
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PRESIDENTIAL TRANSITION TIMELINE

Incoming Administration: Appointments

Overview

The goal of a presidential transition team is not only to help the president-elect prepare to take office, but to fill roughly 4,000 politically appointed positions, including more than 1,000 jobs requiring Senate confirmation.

Identifying, selecting and securing Senate confirmation of presidential appointees requires a thorough understanding of the number and types of presidential appointments that will need to be made, the skills that are needed in various positions, the importance of diversity among appointees and how the leadership team that is chosen will drive the new administration's agenda for the next four years.

Filling such a large number of presidential appointments, including members of the Cabinet, the White House staff and top policy and management positions at each federal agency, requires immense capacity, organization and discretion within the transition team's presidential personnel office. The appointments team is often among the largest within a presidential transition organization. The Clinton transition team's appointments office had close to 100 members and the Romney Readiness Project had 124 people working or volunteering on the presidential appointments by Election Day.

- o **Max Stier, President and CEO**

(b) (6)

• recommendation

QUALIFIED BLIND & DIVERSIFIED TRUSTS (a few key points)

Applicable to qualified blind trusts only

- Trustee prepares and files the trust's taxes, including the taxes of any businesses in the trust (and Settlor does not receive information other than the limited information contained in the annual statement)
- Any initial asset placed in the trust is not "blind" and continues to pose conflicts of interest until it is sold down to a value of \$1,000 or less
- After obtaining OGE's approval of the written communication, Trustee will send Settlor written notice that the asset has been sold down to a value of \$1,000 or less (note: this notice is publicly available)

Applicable to qualified diversified trusts only

- Only readily marketable assets can be placed in a diversified trust (i.e., cannot place closely held businesses in the trust)
- Trustee prepares and files not only the trust's taxes but also the Settlor's personal income taxes
- With respect to initial assets placed in the trust, no more than 5% can be in any asset and no more than 20% can be in any sector
- Assets placed in the trust immediately cease to pose conflicts
- Cannot place any asset in trust that poses a significant conflict

Applicable to both:

- OGE must oversee establishment of trust from start to finish (no prior communications with prospective trustees)
- Must use OGE's model trust documents
- Trustee must be an institution and fully independent (cannot be a relative)
- A relative cannot be employed by the trust (i.e., in any businesses owned by the trust)
- Trustee must provide OGE with a relationship letter describing any relationships the trustee (including its officers, directors and principals) has with the interested parties
- Settlor must relinquish all control of assets
- Settlor must publicly disclose all assets placed in the trust

- Trustee must be provided with all information regarding businesses, including liabilities, assets and agreements
- Title must be transferred to Trustee
- Trust assets cannot be encumbered
- Liabilities, agreements, arrangements and all other entanglements with the Settlor and all interested parties must be transferred to the trustee
- There can be no restrictions as to actions the trust can take with regard to assets or liabilities (e.g., sale, liquidation, operation, destruction, settlement of lawsuits, etc.)
- Settlor cannot provide instructions, or even communicate specific preferences, as to the nature of the assets to acquire, retain, etc.
- All communications from the Settlor (and Settlor's representatives) to the trustee must be in writing
- All communications from the Trustee to the Settlor (and Settlor's representatives) must be in writing
- OGE must approve all written communications before they are transmitted
- OGE must receive another copy of the written communications after they are transmitted
- Trustee and agents of the trustee may not communicate any information about holdings, trades, etc.
- A quarterly statement is provided, but the only information in the statement is the total value of the trust
- An annual statement is provided with general tax information, but it cannot include any tax information that would reveal the nature of the assets
- When the trust is eventually dissolved (even if after the Settlor leaves government service) the holdings of the trust must be publicly disclosed
- OGE typically receives (and fulfills) requests from the public for all trust documents

GOVERNMENT ETHICS AND PRESIDENTIAL TRANSITION

working with the
U.S. OFFICE OF GOVERNMENT ETHICS

Action items

- Schedule *Integrity* training for September
- Recruit ethics expert & lead WH ethics counsel
- Notify OGE who will lead nominee ethics work
- Consult OGE regarding any ethics initiatives
- Take advantage of OGE's review options

Critical Milestones



pre-election

post-
election

post-
inauguration

SEP

OCT

NOV

DEC

JAN

FEB

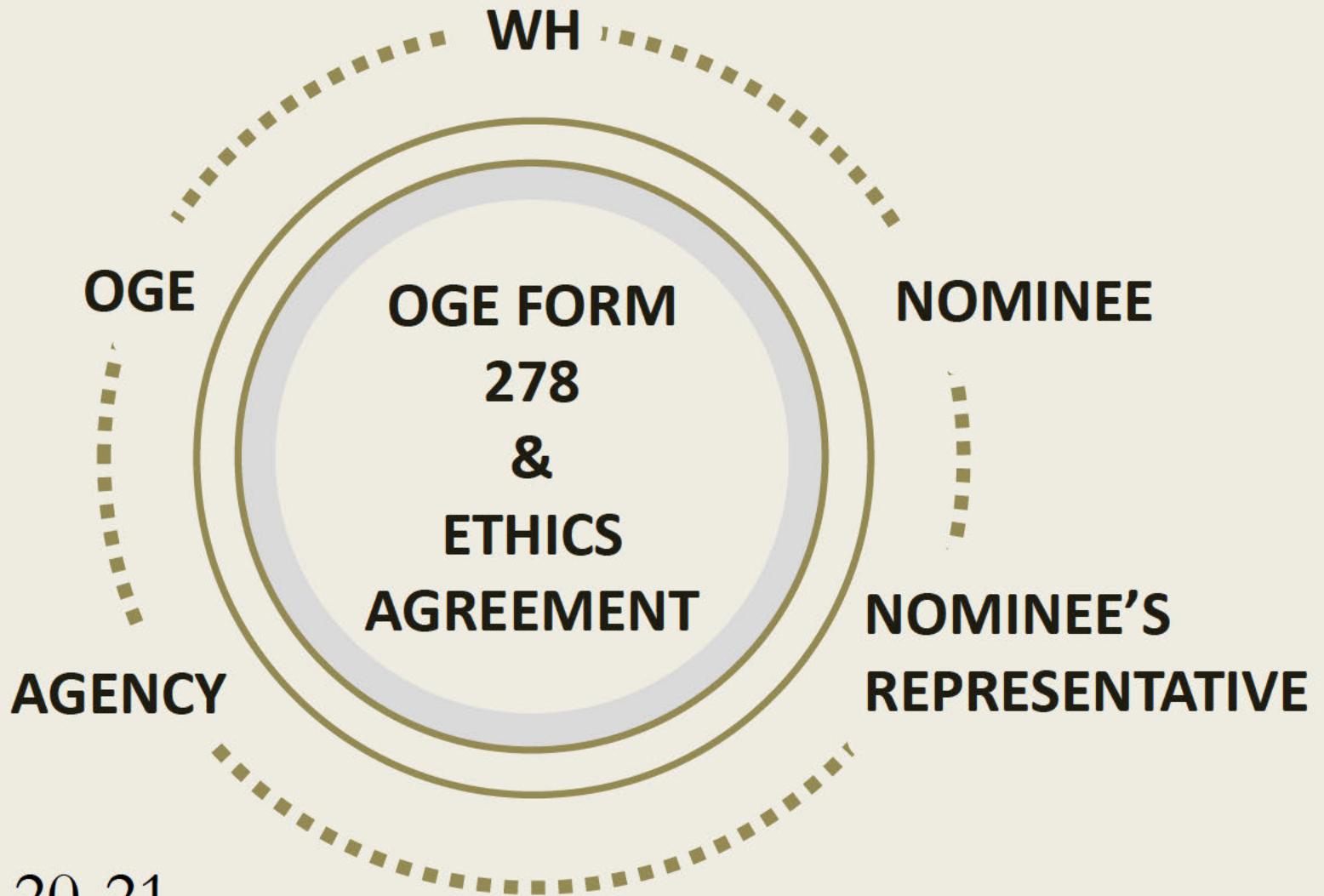
post-
inauguration

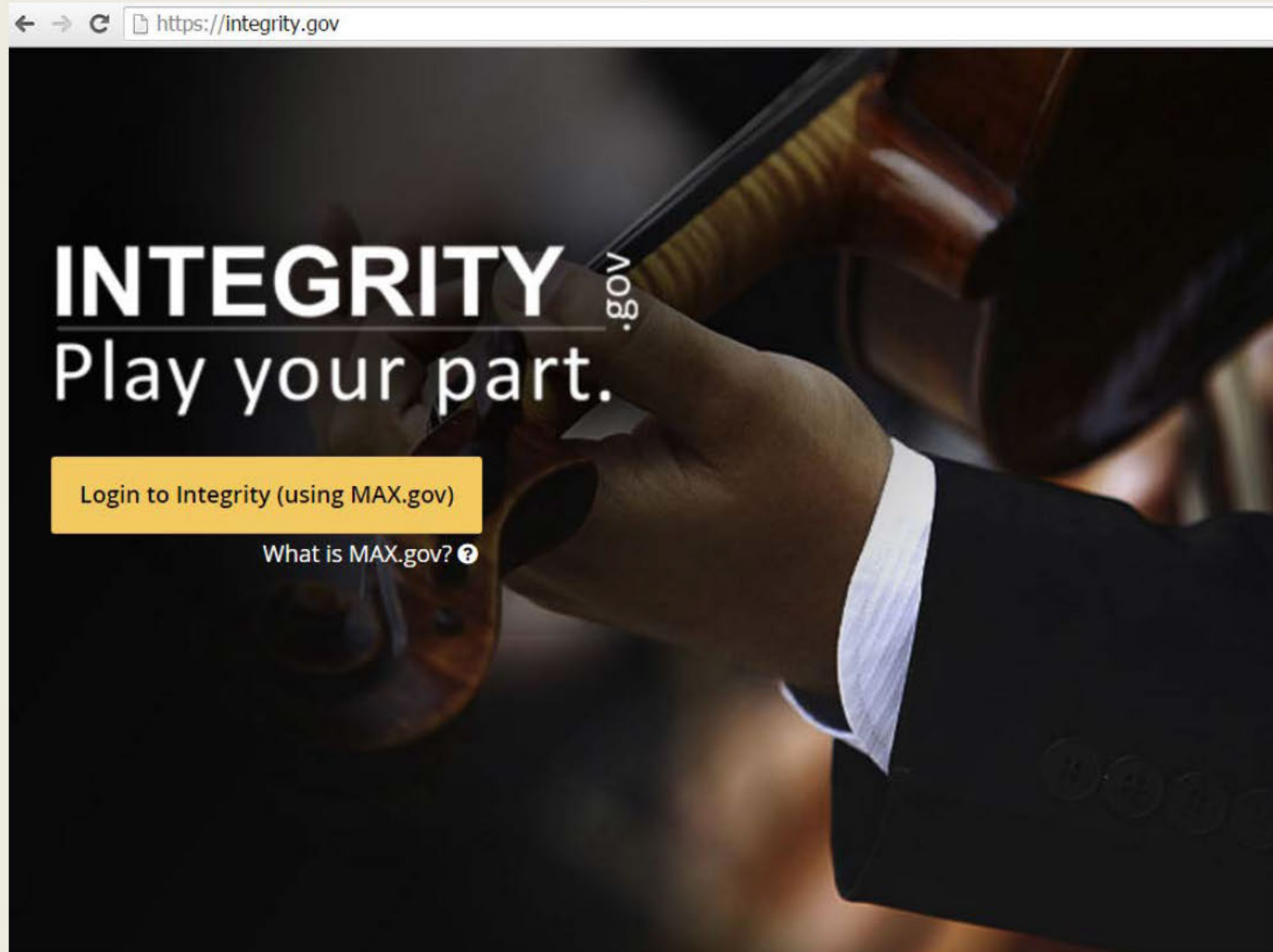
JAN

FEB

*Let's look at the normal
process first.*

Nominee Process





You indicated that you hold (or held) stock options. Answer the questions below regarding the stock options.

VALUE

Are you able to provide a value of these stock options?

- ☐ Yes
- ☒ No, a value is not readily ascertainable

DESCRIPTION IN LIEU OF A VALUE

You have indicated that a value is not readily ascertainable. In lieu of providing a value, provide the following information: (1) the number of shares of the stock for which the option was issued; (2) the strike price (e.g., "\$16.53/share"); (3) the expiration date; (4) an indication as to whether the options are vested or unvested; and (5) the date on which the options will vest (if the options are unvested).

1,000 unvested shares, \$11.75, exp. 2/1/27, vest 2/1/17
1,000 vested shares, \$11.50, exp. 2/1/26

Characters Left: 403

INCOME

Provide the amount of income produced by these options during the reporting period. ?

Note: We do not treat the receipt of stock options as income, even when taxable as ordinary income. For this reason, most filers select the "none or less than \$201" category.

Please Select

Please Select

None (or less than \$201)

\$201 - \$1,000

\$1,001 - \$2,500

\$2,501 - \$5,000

\$5,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$1,000,000

\$1,000,001 - \$5,000,000

Over \$5,000,000

ARRANGEMENT DESCRIPTION

- Each source of your earned and other non-investment income totaling more than \$200 during the reporting period for this section (e.g., salary, fees, partnership share, honoraria, scholarships, and prizes).
- Each asset related to your business, employment, or other income-generating activities if the asset had a value greater than \$1,000 at the end of the preceding calendar year or if the asset produced more than \$200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, anticipated payments such as severance, deferred compensation, and intellectual property such as book deals and patents). Click the question mark for more examples.
 - Do not include assets or income from United States federal government employment. In addition, do not include assets that were acquired separately from your business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account) because you will report these assets in a later section.

25 records per page

Search:

	#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
<input type="checkbox"/>	1	XYZ Corp, stock options (value not readily ascertainable): 1,000 unvested shares X-Corp., \$11.75, exp. 2/1/27, vest 2/1/17 1,000 vested shares X-Corp, \$11.50, exp. 2/1/23	N/A			None (or less than \$201)
<input type="checkbox"/>	2	MicroMax, Inc.	N/A	\$50,001 - \$100,000	Dividends	\$2,501 - \$5,000
<input type="checkbox"/>	3	Technology Associates, LLC	N/A	\$100,001 - \$250,000	Dividends	\$201 - \$1,000
<input type="checkbox"/>	4	ValueTime Large Cap Diversified	Yes			\$1,001 - \$2,500
<input type="checkbox"/>	5	Labeledz Global Distressed Hedging Strategies VI, LLC	No	\$500,001 - \$1,000,000	Dividends	\$5,001 - \$15,000
<input type="checkbox"/>	5.1	Corp Corp, Inc.	N/A	\$50,001 - \$100,000	Dividends	\$201 - \$1,000
<input type="checkbox"/>	5.2	Mega Watt Minerals Extraction, Inc.	N/A	\$50,001 - \$100,000		\$2,501 - \$5,000
<input type="checkbox"/>	6	EntertainZ Events Plus Corp.	N/A	\$500,001 - \$1,000,000	Dividends	\$2,501 - \$5,000

Showing 1 to 8 of 8 entries

← Previous

1

Next →

ITEM DESCRIPTION

If this is an honorarium for a speech or appearance, provide the date.

PARENT ASSET (IF APPLICABLE)

EIF

– Select a Response –

ITEM VALUE

– Choose Item Value –

INCOME TYPE

Select all that apply or one of the options below.

☐ Not applicable (less than \$201)

☐ Dividends

☐ Capital Gains

☐ Interest

☐ Rent or Royalties

☐ Other

INCOME AMOUNT

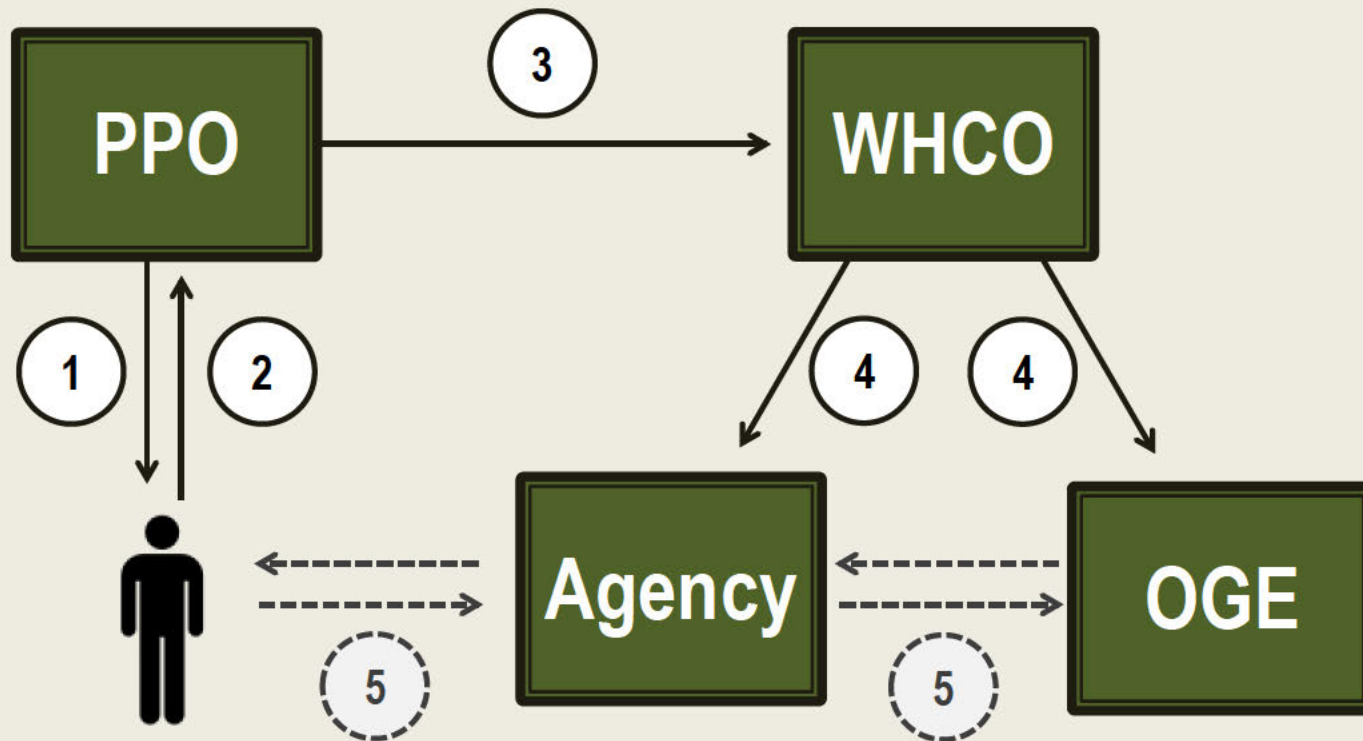
– Choose Income Amount –

OPTIONAL ENDNOTE

This will be visible to the public.

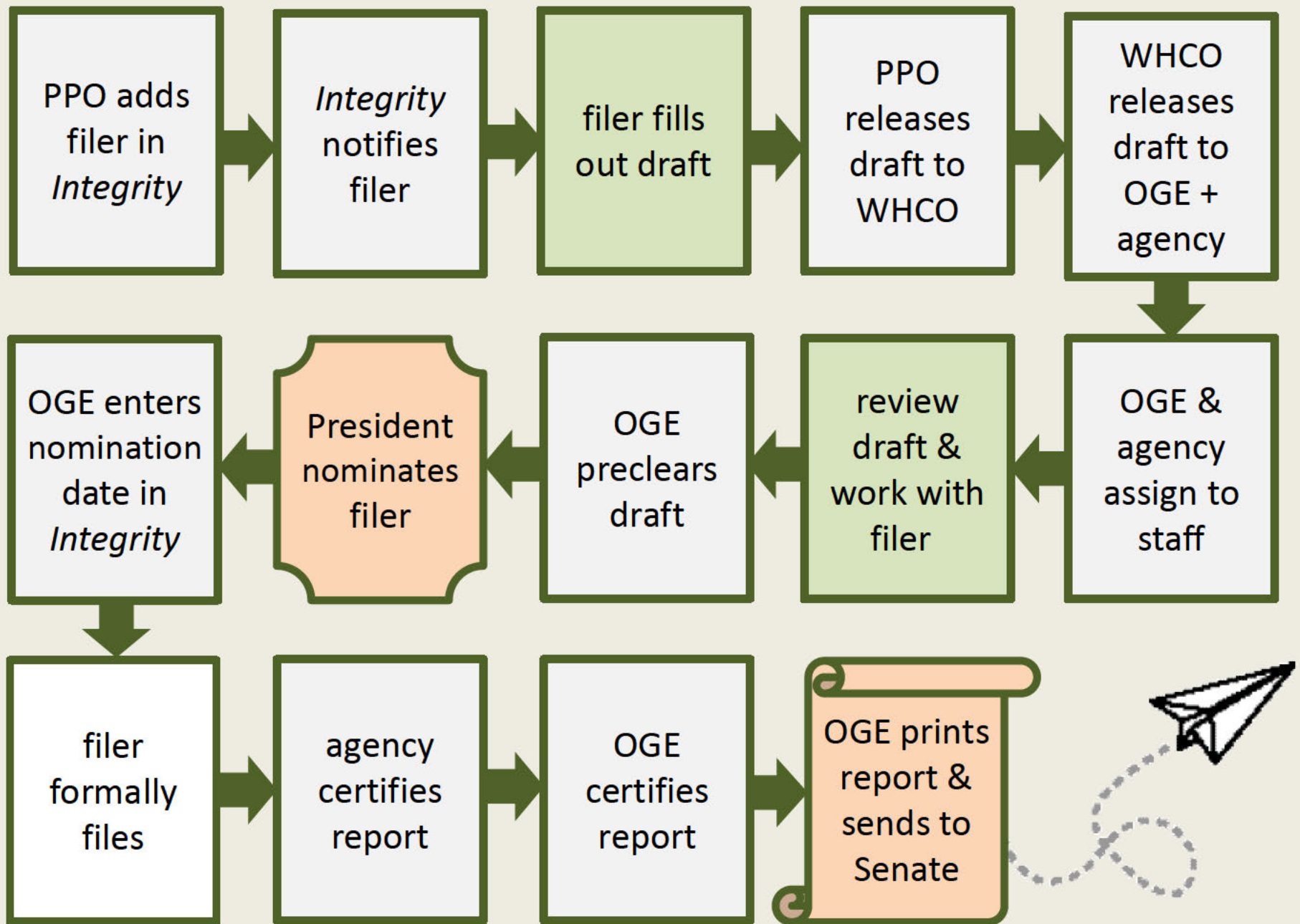
Add/Edit Endnote

Initiating Reports in *Integrity*



PRECLEARANCE is the pivotal point in the nominee process when the White House receives staff-level assurance from OGE that the nominee report is ready to be certified.

This process protects the President's constitutional authority to appoint individuals to senior leadership positions in the government.



Sequence in Depth

SEQUENCE OF THE PROCESS

The nominee process prior to inauguration flows in this sequence:

Transition Team: The transition team provides the nominee with a copy of OGE's Nominee Ethics Guide.

Transition Team: A transition team member assigned to the "PPO" role in *Integrity* registers the nominee in *Integrity* and initiates a financial disclosure report. *Integrity* automatically emails the nominee a notice with instructions.

Nominee: The nominee completes a draft financial disclosure report in *Integrity* and submits it to the transition team by clicking the "submit" button.

Transition Team: The transition team member assigned to the "PPO" role in *Integrity* releases the report to the transition team member assigned to the "WHCO" role in *Integrity*.

Transition Team: The transition team member assigned to the "WHCO" role in *Integrity* releases the report through *Integrity* to OGE and the nominee's agency.

OGE/Agency/Nominee: OGE and agency ethics officials work with the nominee to perfect the report and prepare an ethics agreement. This work takes multiple rounds. OGE then "preclears" the report in *Integrity*.

Transition Team: The transition team reviews the ethics package, the FBI's background investigation report, and other vetting materials. If a favorable decision is made, the name of the intended nominee is released publicly.

The remainder of this sequence assumes that the Senate will hold a hearing in advance of the inauguration. The Senate will likely hold advance hearings for nominees to several cabinet-level positions before January 20, 2017. For other nominees, the following steps will occur when the President makes formal nominations only after having been sworn into office.

Agency/Nominee: The agency instructs the nominee to formally file the report in *Integrity* and to sign the ethics agreement. After the nominee takes these actions, the agency certifies the report and sends the ethics agreement to OGE.

OGE: OGE's Director certifies the report in *Integrity* and then transmits both the report and the ethics agreement to the appropriate Senate committee.

Agency/Nominee: Within 5 days of the Senate hearing, the nominee provides the agency with a letter containing updated information about earned income. The agency sends copies of the letter to OGE and the Senate.

Senate/President: Committee staffers meet with the nominee. Then, the committee holds a hearing. After being sworn into office, the President makes the formal nomination. The Senate then votes on the nomination.

President: If the Senate confirms the nominee, the President can appoint the nominee.

HOW OGE CAN HELP WITH THE TRANSITION

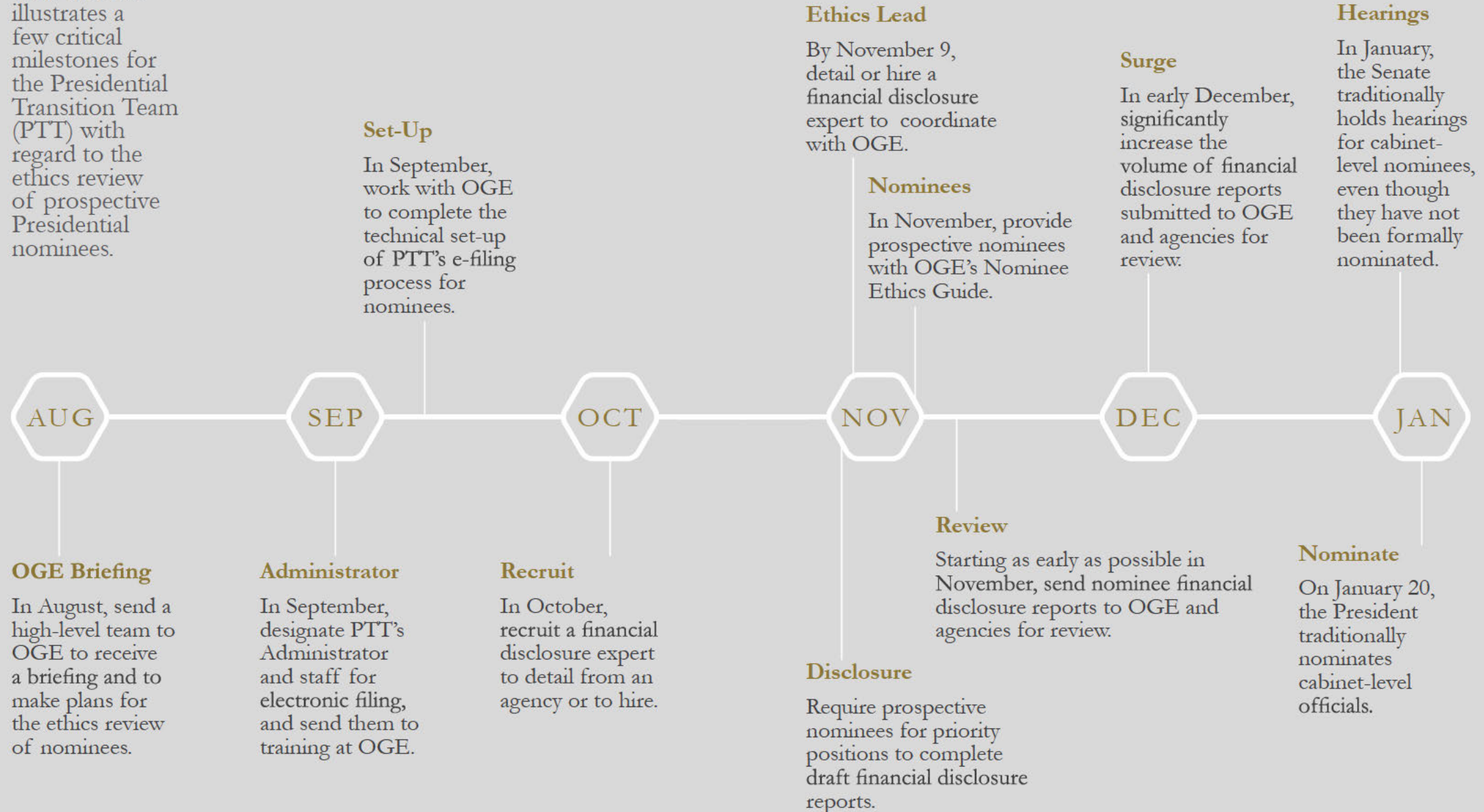
NOMINEE PROCESS

This requires skillful coordination between the Presidential Transition Team, OGE, the agency, the nominee, and in some cases the nominee's representative.



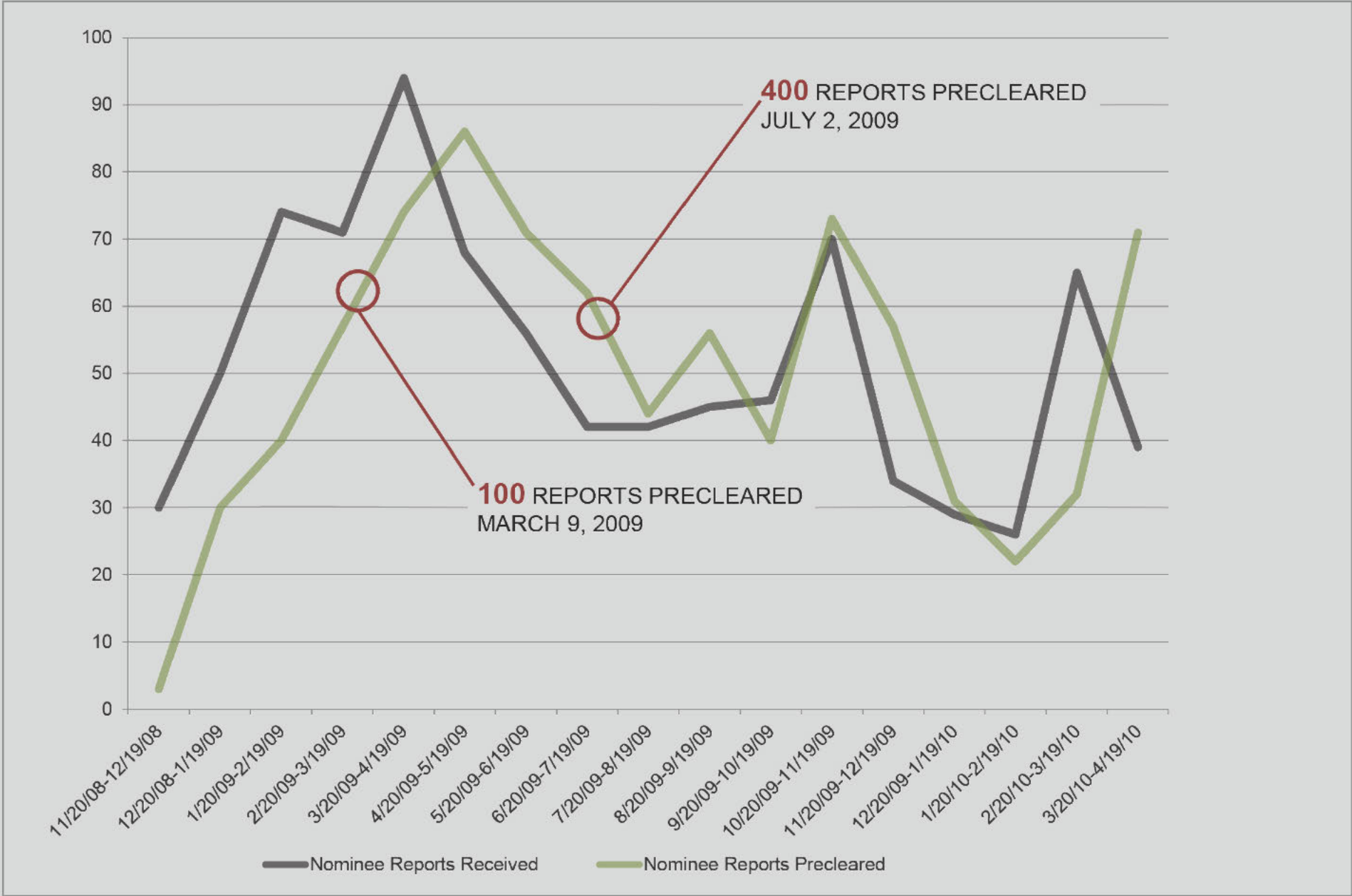
CRITICAL MILESTONES

This timeline illustrates a few critical milestones for the Presidential Transition Team (PTT) with regard to the ethics review of prospective nominees.



PRE-CLEARANCE is the pivotal point in the nominee process when the Presidential Transition Team receives staff-level assurance from OGE that the nominee report is ready to be certified.

This process protects the President in exercising the constitutional authority to nominate individuals to senior leadership positions in the government.



INTEGRITY TRAINING

Nominees file their financial disclosure reports through the executive branch's electronic filing system, which is named *Integrity*. Before any of your potential nominees can have access to the system, OGE will need to train at least two members of your staff to serve important roles in the system.

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UNITED STATES OFFICE OF
GOVERNMENT ETHICS



Preventing Conflicts of Interest
in the Executive Branch

From: [Palatucci, William J.](#)
To: [Walter M. Shaub](#); (b) (6) Rich Bagger Email Address; (b) (6) Bill Hagerty Email Address (b) (6) Tim Petty Email Address
(b) (6) Sean Doocey Email Address
Cc: [Shelley K. Finlayson](#)
Subject: [GRAYMAIL] Re: checking in
Date: Tuesday, November 08, 2016 10:55:05 AM

Thanks, Walter. I appreciate your time and guidance regardless of the outcome. Your responsiveness has been refreshing. Bill



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From: Walter M. Shaub
Sent: Tuesday, November 8, 2016 10:51 AM
To: (b) (6) Rich Bagger Email Address; [Palatucci, William J.](#); (b) (6) Bill Hagerty Email Address
(b) (6) Tim Petty Email Address; (b) (6) Sean Doocey Email Address
Cc: Shelley K. Finlayson
Subject: checking in

Rich, Bill, Bill, Tim, and Sean,

I hope OGE has served you well in the lead up to the election, but I just wanted to check in to make sure you have everything you need from us. If there's anything more we can do for you, please don't hesitate to let me know. If your candidate prevails today, I'm looking forward to working with you. If the outcome is different, it's been a pleasure working with you and your team. It's been really great to see your folks so focused on building capacity for a smooth and effective transition.

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: [Sean Doocey](#); [Emily Mallon](#)
Cc: [Shelley K. Finlayson](#)
Subject: Re: time-sensitive issue
Date: Friday, November 18, 2016 10:02:24 AM

Sorry, I meant Emory and George.

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

From: Walter M. Shaub
Sent: Friday, November 18, 2016 10:00 AM
To: Sean Doocey; Emily Mallon
Cc: Shelley K. Finlayson
Subject: Re: time-sensitive issue

Thanks, Sean. Access is all set. We can send Emory right now if you're ready for him.

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

From: Sean Doocey
Sent: Friday, November 18, 2016 9:51 AM
To: Walter M. Shaub; Emily Mallon
Cc: Shelley K. Finlayson
Subject: Re: time-sensitive issue

Thank you both. I understand the difficulty getting in touch with counsel's office.

On the plus side, we are ready to being initiating folks in Integrity.

I'm running in and out. Would it be possible to for George to coordinate a time with Emily and we can either come to you, meet at 1717 Pennsylvania, or here at the transition hq if the access was worked out with GSA.

Thanks, Sean

On Fri, Nov 18, 2016 at 9:15 AM, Walter M. Shaub <wmshaub@oge.gov> wrote:

Sean,

I'm just dropping another quick note to remind you that OGE is here to help. We seem to have lost contact with the Trump-Pence transition since the election.

As we discussed prior to the election, announcing cabinet picks without taking OGE up on the offer to take an early look at financial disclosure picks poses the risk of embarrassment for the President-elect (and the individual candidate for nomination) in the event that the individual walks away from the nomination after learning what he or she will have to do with his or her financial interests. This is true even in the case of Senators, as Senators are not subject to conflicts of interest laws and may not fully appreciate how different life is in the executive branch. We would genuinely like to help you prevent that undesirable outcome.

As we also previously discussed, the same offer applies to possible White House appointees. The risk is even higher for them because OGE would not normally receive their financial disclosure reports until after they have been in office for weeks or even months. By that time, they run the risk of having inadvertently violated the criminal conflicts of interest restriction at 18 USC 208. If we don't get involved early to prevent problems, we won't be able to help them after the fact.

In addition, please remind people that, as we discussed, OGE needs to be involved before anyone seeks to set up a blind trust. Conversations with potential trustees before consulting to OGE could disqualify them. Also, please be sure that people realize that no asset placed in a blind trust is considered blind, and thus continues to pose conflicts of interest, until the asset has been sold off and the government official receives a letter (approved in advance by OGE) indicating that an asset has been sold down to \$1,000 or less.

I will be taking to Don McGahn as soon as I can pin him down to a time for a call, which is proving to be difficult. However, I don't have confirmation from anyone on the transition team or from OMB that he is serving in any official capacity. It would help to have confirmation that he is authorized to speak for the transition.

As you know, our goal is to help you by preventing problems before they arise. I will consider OGE successful if we get the new administration off to a great start, wholly free of conflicts of interest.

Walt

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

From: Walter M. Shaub

Sent: Thursday, November 17, 2016 2:52 PM

To: Sean Doocey

Subject: semi time-sensitive issue

Sean,

Is there a phone number where I can call you for a quick phone call today. A somewhat time sensitive issue has arisen.

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](tel:202.482.9292)

Email: walter.shaub@oge.gov

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--

Sean Doocey

Presidential Transition Team

Email: (b) (6)

Cell: (b) (6)

From: [Palatucci, William J.](#)
To: [Walter M. Shaub](#); (b) (6) Rich Bagger Email Address (b) (6) Bill Hagerty Email Address (b) (6) Tim Petty Email Address
(b) (6) Sean Doocey Email Address
Cc: [Shelley K. Finlayson](#); [David J. Apol](#); [Deborah J. Bortot](#); [Heather A. Jones](#)
Subject: [GRAYMAIL] RE: checking in
Date: Wednesday, November 09, 2016 9:07:45 AM
Attachments: [image001.jpg](#)
[logo.jpg](#)

Thank you, Walter. I'll give you a call later this morning.

William J. Palatucci, Esq.

Special Counsel

Gibbons P.C.

(b) (6)

<http://www.gibbonslaw.com>

One Gateway Center, Newark, New Jersey 07102-5310

Direct phone: (b) (6) | Cell: (b) (6)

Newark | New York | Trenton | Philadelphia | Wilmington

From: Walter M. Shaub [mailto:wmshaub@oge.gov]

Sent: Wednesday, November 09, 2016 9:02 AM

To: Palatucci, William J.; (b) (6) Rich Bagger Email Address (b) (6) Bill Hagerty Email Address
(b) (6) Tim Petty Email Address (b) (6) Sean Doocey Email Address

Cc: Shelley K. Finlayson; David J. Apol; Deborah J. Bortot; Heather A. Jones

Subject: RE: checking in

Congratulations on the campaign's victory. For your convenience here are our contact numbers, so you'll have them all in one place. We're really looking forward to getting down to work on this Presidential transition –which we're going to make the best one in history!

I'll have my blackberry with me around the clock during the transition, so that's probably the best number to call first. I remember getting calls at 10:00 p.m. on a Saturday night and on Christmas during the last transition. So please don't hesitate to call at any time. You can call any member of OGE's leadership team around the clock, too.

Walt Shaub

Director

Blackberry: (b) (6)

Desk: 202-482-9302

Shelley Finlayson

Chief of Staff and Program Counsel

Blackberry: (b) (6)

Desk: 202-482-9314

Dave Apol

General Counsel

Blackberry: (b) (6)

Desk: 202-482-9205

Deb Bortot

Chief, Presidential nominations branch

Blackberry: (b) (6)

Desk: 202-482-9227

Heather Jones

Senior Counsel for Financial Disclosure

Blackberry: (b) (6)

Desk: 202-482-9316

From: Palatucci, William J. [mailto:(b) (6)]

Sent: Tuesday, November 08, 2016 10:55 AM

To: Walter M. Shaub; (b) (6) Rich Bagger Email Address; (b) (6) Bill Hagerty Email Address
(b) (6) Tim Petty Email Address; (b) (6) Sean Doocey Email Address

Cc: Shelley K. Finlayson

Subject: [GRAYMAIL] Re: checking in

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From: [Walter M. Shaub](#)
To: (b) (6) Don McGahn email address
Subject: contact with Office of Government Ethics
Date: Friday, November 18, 2016 5:28:36 PM

Don,

Looks like we didn't manage to connect up this week. If you would prefer to talk over the weekend, I can be reached on my cell phone at (b) (6) . (It would help if we could schedule the call an hour or more in advance, so I can try to get somewhere quiet with good reception.) Otherwise, we can try again on Monday. I do think it is important that we talk in the near future, as I would like to discuss ways OGE can help you and to give you some advice based on past experiences.

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: [William J. Palatucci, Esq.](#) (b) (6)
Subject: question
Date: Tuesday, November 15, 2016 11:20:37 AM

Hi Bill,

I'm really sorry to bother you. Recent news reports have us a little confused about who we should be contacting. Could you let me know whether you, Rich Bagger, Bill Hagerty, Tim Petty, or Sean Doocey are still with the transition team?

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: [Donald F. McGahn](#)
To: [Walter M. Shaub](#)
Subject: RE: contact with Office of Government Ethics
Date: Saturday, November 19, 2016 8:41:18 PM

Can we come in Monday, say 10?

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

----- Message from "Walter M. Shaub" <wmshaub@oge.gov> on Sat, 19 Nov 2016 23:32:09 GMT -----

From: "Walter M. Shaub" <wmshaub@oge.gov>
To: (b) (6) Don McGahn email address
Subject: RE: contact with Office of Government Ethics

Don,

My staff and one of your associates tried several times this week to schedule a telephone call or a meeting to discuss your work as counsel to the Presidential transition team. I still think you would benefit from such a discussion --all the more so in light of news reports today that additional cabinet announcements are imminent. I am not sure whether you are aware that announcing the cabinet without first coordinating with OGE is unprecedented and creates unnecessary risk for both the President-elect and the prospective nominees. The same is true for prospective White House appointees. As of today, however, OGE has not been involved in the process as to any of these individuals.

In this regard, it is important to understand that OGE is not the enforcement mechanism; OGE is the prevention mechanism. OGE's role in this process protects both the President-elect and the prospective nominees. In the past, prospective nominees have quietly walked away from nominations after learning what effect the ethics rules will have on their personal finances. Candidates with illiquid investments, capital commitments, carried interests, leveraged interests, contractual arrangements, trusts, unvested interests, or entanglements with employers or businesses are particularly at risk. In addition, transition teams have quietly walked away from well-regarded prospective nominees after reviewing the FBI's background investigation report and completing extensive supplemental vetting activities.

OGE stands ready to help you with the ethics part of the process, and my staff can put you in touch with those responsible for the other parts of the process. Prior to the election, we worked with the non-partisan Partnership for Public Service and several other agency service providers to train members of the campaign's transition team. The first of many formal and informal sessions began in April and continued through October. With the reported departure of those in leadership positions, the process we put in place has broken down. At present, we have no reliable lines of communication with the transition team –a circumstance that is also unprecedented. During past transitions, OGE provided extensive support through daily communications regarding reviews, including some blind reviews, of draft financial disclosure reports of prospective nominees prior to announcement. My recommendation would be to follow this tradition by making no further announcements of intended cabinet nominees and White House appointees prior to coordinating with OGE.

This transition team is under no obligation to follow the tradition, but I would be remiss if I failed to emphasize that the tradition evolved as a result of hard lessons. Again, my goal here is to protect the President-elect, the prospective nominees, and the executive branch ethics program by preventing real and apparent ethics issues.

If you contact me (Blackberry number: (b) (6)), we can set up plans for bringing you and your team up to speed on the process and establishing reliable lines of communication. You might also want to review OGE's Transition Guide, the Nominee Ethics Guide, and the Appendix to our Nominee Ethics Guide for more background. We delivered additional hard copies to your office this week, and they are available online on OGE's website: <https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>.

Please let me help you accomplish the goals of the President-elect's transition team with regard to nominations and appointments.

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
Sent: Friday, November 18, 2016 5:29 PM
To: (b) (6) Don McGahn email address
Subject: contact with Office of Government Ethics

Don,

Looks like we didn't manage to connect up this week. If you would prefer to talk over the weekend, I can be reached on my cell phone at (b) (6). (It would help if we could schedule the call an hour or more in advance, so I can try to get somewhere quiet with good reception.) Otherwise, we can try again on Monday. I do think it is important that we talk in the near future, as I would like to discuss ways OGE can help you and to give you some advice based on past experiences.

Thanks!

Walt

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Email: walter.shaub@oge.gov

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From: [Walter M. Shaub](#)
To: (b) (6) Don McGahn email address(b) (6) Donaldson email address
Subject: report
Date: Tuesday, November 22, 2016 6:20:24 PM
Attachments: [Report of the Working Group.pdf](#)

Attached is the report I mentioned from the bipartisan Presidential working group on security clearances.

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: (b) (6) Don McGahn email address
Subject: press inquiries
Date: Wednesday, November 30, 2016 1:13:47 PM

We started receiving dozens of press calls as soon as the President-elect announced his plan to divest his assets. Here's the response our spokesperson is sending out to them:

Like everyone else, we were excited this morning to read the President-elect's twitter feed indicating that he wants to be free of conflicts of interest. OGE applauds that goal, which is consistent with an opinion OGE issued in 1983. Divestiture resolves conflicts of interest in a way that transferring control does not. We don't know the details of their plan, but we are willing and eager to help them with it.

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
Sent: Wednesday, November 30, 2016 10:14 AM
To: (b) (6) Don McGahn email address
Subject: Can we talk today?

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

From: [Walter M. Shaub](#)
To: (b) (6) Don McGahn email address
Subject: Can we talk today?
Date: Wednesday, November 30, 2016 10:14:15 AM

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

From: [Sean Doocey](#)
To: [Walter M. Shaub](#); [Shelley K. Finlayson](#)
Subject: Re: checking in
Date: Wednesday, November 09, 2016 9:03:50 AM

Thanks! Look forward to working with you as well. OGE has been fantastic to us so far.

--Sean

On Wed, Nov 9, 2016 at 9:01 AM, Walter M. Shaub <wmschaub@oge.gov> wrote:

Congratulations on the campaign's victory. For your convenience here are our contact numbers, so you'll have them all in one place. We're really looking forward to getting down to work on this Presidential transition –which we're going to make the best one in history!

I'll have my blackberry with me around the clock during the transition, so that's probably the best number to call first. I remember getting calls at 10:00 p.m. on a Saturday night and on Christmas during the last transition. So please don't hesitate to call at any time. You can call any member of OGE's leadership team around the clock, too.

Walt Shaub

Director

Blackberry (b) (6)

Desk: [202-482-9302](tel:202-482-9302)

Shelley Finlayson

Chief of Staff and Program Counsel

Blackberry: (b) (6)

Desk: [202-482-9314](tel:202-482-9314)

Dave Apol

General Counsel

Blackberry (b) (6)

Desk: [202-482-9205](tel:202-482-9205)

Deb Bortot

Chief, Presidential nominations branch

Blackberry (b) (6)

Desk: [202-482-9227](tel:202-482-9227)

Heather Jones

Senior Counsel for Financial Disclosure

Blackberry (b) (6)

Desk: [202-482-9316](tel:202-482-9316)

From: Palatucci, William J. [mailto:WPalatucci@gibbonslaw.com]

Sent: Tuesday, November 08, 2016 10:55 AM

To: Walter M. Shaub; (b) (6) Rich Bagger Email Address (b) (6) Bill Hagerty Email Address (b) (6) Tim Petty Email Address (b) (6) Sean Doocey Email Address

Cc: Shelley K. Finlayson

Subject: [GRAYMAIL] Re: checking in

Thanks, Walter. I appreciate your time and guidance regardless of the outcome. Your responsiveness has been refreshing. Bill



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From: Walter M. Shaub

Sent: Tuesday, November 8, 2016 10:51 AM

To: (b) (6) Rich Bagger Email Address Palatucci, William J.; (b) (6) Bill Hagerty Email Address
(b) (6) Tim Petty Email Address (b) (6) Sean Doocey Email Address

Cc: Shelley K. Finlayson

Subject: checking in

Rich, Bill, Bill, Tim, and Sean,

I hope OGE has served you well in the lead up to the election, but I just wanted to check in to make sure you have everything you need from us. If there's anything more we can do for you, please don't hesitate to let me know. If your candidate prevails today, I'm looking forward to working with you. If the outcome is different, it's been a pleasure working with you and your team. It's been really great to see your folks so focused on building capacity for a smooth and effective transition.

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](tel:202.482.9292)

Email: walter.shaub@oge.gov

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Summary of Transition Training, Materials, and Services Provided or Offered by OGE – Table of Contents

1. GAO Response for 3.23 Letter
2. GAO Materials for 3.23 Letter

OGE's Responses to GAO Follow-Up Questions
March 3, 2017
(GAO, Job Code 101313)

- 1) Of the activities and services identified below, please provide a written response indicating a) if and when OGE made this service available to the PETT; and b) whether the PETT participated and/or completed the identified activity.¹

OGE Identified Services/Activities for the PETT during the Ethics Review Process (pulled from the OGE Transition Guide)	Indicate if and when OGE made this service (as applicable) available to the PETT	Indicate whether the PETT participated and/or completed this identified activity
<u>OGE Briefing</u> – send a high-level team to OGE to receive a briefing and to make plans for the ethics review of nominees.	Pre-election: 7/28/16 & 8/30/16; Post-election 11/21/16	Pre-election, both campaigns participated, but the Trump Transition staff changed post-election so another briefing was done on 11/21/16.
<u>Administrator</u> – designate PTT's Administrator and staff for electronic filing, and send them to training at OGE.	Pre-election: 9/26/16 & 9/29/16; Post-election: 11/18/16	Pre-election, both campaigns participated in training. New Trump Transition Team members were trained after the election on 11/18/16.
<u>Set-Up</u> – Work with OGE to complete the technical set-up of e-filing process for nominees	Yes. Both campaigns were ready in October 2016, prior to the election.	Yes
<u>Recruit</u> – Recruit a financial disclosure expert to detail from an agency or to hire.	OGE provided a list of qualified ethics experts from which it was anticipated the post-election Transition Team would hire or detail a financial disclosure expert. OGE also made available one of its employees as a consultative liaison following the election.	Unknown. No outside expert on the transition team worked with OGE during the transition. However, OGE's consultative liaison provided support following the election. The incoming White House ethics counsel introduced himself to OGE a few days before the Inauguration.

¹ OGE notes that items identified in this chart were originally established by OGE as milestones for providing materials, briefings and services to the staffs of both campaigns before the election, not for the President Elect's Transition Team (PETT). OGE met these milestones with respect to each campaign's staff prior to the November 2016 election. However, because most of the Trump campaign staff whom OGE trained did not remain in their roles with the Transition Team following the election, OGE offered/provided the same materials and condensed briefings to the new PETT members.

<u>Ethics Lead</u> – Detail or hire a financial disclosure expert to coordinate with OGE.	OGE provided a list of qualified ethics experts from which it was anticipated the post-election Transition Team would hire or detail a financial disclosure expert. OGE also made available one of its employees as a consultative liaison after the election.	See response in the row above.
<u>Disclosure</u> – Require prospective nominees for priority positions to complete draft financial disclosure reports.	Yes, in 10/16.	No
<u>Nominees</u> – Provide prospective nominees with OGE’s Nominee Ethics Guide.	Yes. Guides offered before the election and the day after the election. Additional boxes of the Guide were delivered on 11/18/16.	The Transition Team expressed an intent to distribute these materials, but many, possibly all, of the nominees with whom OGE has interacted do not appear to have received them.
<u>Review</u> – Send nominee financial disclosure reports to OGE and agencies for review.	Yes. First financial disclosure report received by OGE on 12/6/16.	Ongoing

- 2) How does the list of services in Question 1 above compare with the types of services that OGE made available to the transition teams in 2009 and 2001 with regards to conflicts of interest?
- Please provide a written response indicating whether OGE made each of these services (listed above) available during the 2009 and 2001 presidential transitions
 - Were there other services made available to the transition teams during the 2009 and 2001 presidential transitions that are not listed above? If yes, please provide a description of those other services.
 - If available, please provide documentation of the services OGE provided to transition teams in 2009 and 2001.

Response: Please see OGE’s Attachment to these responses, Summary of Training, Materials and Services Offered/Provided by OGE, Sections A and C.

- 3) During the entrance conference, we discussed that the following resources and information are available on OGE's website and that OGE provided some of the information as hard copies directly to the PETT. For each resource below, please provide a written response indicating a) how else (if applicable) the information was made available to the PETT; and b) whether, to your knowledge, the PETT used the information and any feedback the PETT shared on the usefulness or applicability of the information.

OGE Identified Information for 2017 Presidential Transition (pulled from OGE's website)	Indicate how else (if applicable), this information was made available to the PETT (e.g. email, training, or briefing)	Indicate whether, to your knowledge, the PETT used this information and what, if any, feedback the PETT shared on the usefulness/applicability
OGE Guide for the Presidential Transition Team	Training/briefing, hard copy and electronic	Yes
OGE Ethics Guide for Nominees and Appendix	Training/briefing, hard copy and electronic	Yes
Nominee Public Financial Disclosure Guide	Training and electronic	Yes
Nominee Ethics Agreement Guide	Briefing, hard copy and electronic	OGE distributed these in electronic form on its website and delivered hard copies to PETT. It is unclear whether PETT delivered the hard copies to nominees.
Nominee Public Financial Disclosure Review Checklist	Briefing, hard copy and electronic	Yes
Presidential Appointee & Nominee Records Database	Briefing, hard copy and electronic	Yes
Ways OGE Can Help in the Presidential Transition (one-page graphic)	Training/briefing, hard copy and electronic	Yes
Listing of Positions OGE Reviews (Excel workbook)	Briefing, hard copy and electronic	Yes
OGE Form 278 – Public Financial Disclosure Report	N/A – The paper OGE Form 278 has been replaced by OGE's electronic financial disclosure application, <i>Integrity</i> .	N/A
OGE Form 450 – Confidential Financial Disclosure Report	N/A – None of the nominees at were required to complete the OGE Form 450.	N/A
<i>Integrity</i> Materials	Training/briefing, hard copy and electronic (email and max site)	Yes

- 4) In addition to the information listed above, and as discussed during the entrance conference, we know that OGE provides other information, including: *Integrity* training materials, online links to training videos from the National Government Ethics Summit, and information relevant information via the Director's Blog and OGE's Twitter account. Is there any other information that OGE has provided directly to the PETT with regards to conflicts of interest?

Response: Please see OGE's Attachment to these responses, Summary of Training, Materials and Services Offered/Provided by OGE, Sections A and C.

- 5) How does the information listed in Question 3 compare with the types of information OGE made available to the transition teams during the 2009 and 2001 presidential transitions with regards to conflicts of interest?
- a. Please provide a written response indicating whether OGE made the information (listed in questions 3 and 4) available during the 2009 and 2001 presidential transitions.
 - b. Was there other information made available to the transition teams during the 2009 and 2001 presidential transitions that is not listed above? If yes, please provide a description of the information that was made available.
 - c. If available, please provide documentation of the information OGE provided to transition teams in 2009 and 2001.

Response: Please see OGE's Attachment to these responses, Summary of Training, Materials and Services Offered/Provided by OGE, Sections A and C.

ATTACHMENT TO OGE’S RESPONSES TO GAO’s FOLLOW-UP QUESTIONS

I. Summary of the Approach to Preparing for and Carrying Out OGE’s Unique Role In Recent Presidential Transitions

While each Presidential transition brings unique challenges, there are common elements to OGE’s general preparation. For example, in advance of a transition year, OGE normally steps-up its training program, both internally for staff and externally for ethics officials across the executive branch. OGE also typically focuses on reviewing and updating written guidance, as necessary, and providing hard copies of relevant ethics materials to stakeholders. Increasingly, OGE has made it a priority to make its guidance and reference materials available on its website. The goal of OGE’s efforts is always to ensure the executive branch ethics program is prepared to take on the daunting task of ensuring a smooth transition of power. These kinds of activities were undertaken in advance of the 2000/2001 transition.¹

Leading up to the 2008/2009 transition, from 2007 to 2008, OGE focused on regularizing the financial disclosure review process. To this end, OGE provided targeted training and created innovative tools, such as an Ethics Agreement Guide, to make the approach to the financial disclosure review and the 2009 transition, from 2007 to 2008, OGE focused on regularizing the financial disclosure review process. To this end, OGE provided targeted training and created innovative tools, such as an Ethics Agreement Guide, to make the approach to the financial disclosure review and the preparation of documents generated as a result of the financial disclosure review process more consistent across the executive branch. OGE was also successful in opening a highly effective line of communication with the incoming administration, allowing OGE to complete its reviews of financial disclosure reports and develop ethics agreements prior to announcement of nominees and efficient processing overall. Also, for the first time, OGE created a publication specifically for the PAS nominees themselves, which offered a comprehensive overview of financial disclosure in the nominee process.

OGE’s efforts to prepare for the 2016/2017 transition began more than 18 months in advance, in line with government-wide efforts to improve and institutionalize transition-related best practices. In addition to its usual focus on in-depth training, OGE also focused on communicating with other stakeholders the importance of financial disclosure in the nomination process for Presidentially appointed, senate confirmed positions. OGE reviewed and substantially revised its resource materials on financial disclosure and preparation of ethics agreements, among other topics, and added a detailed, on-line user guide for *Integrity*, OGE’s electronic financial disclosure system, which is being used for the first time during a Presidential transition. OGE also published two helpful and innovative guides, one aimed at nominees themselves and one at the President’s Transition Team, to explain the financial disclosure review process. Based on these concerted efforts, OGE was extraordinarily well-prepared for the most recent transition, even beyond its level of preparation for the 2008/2009 transition. Initially, however, establishing lines of communication with the transition team were more challenging

¹ OGE is unable to provide comprehensive responses with regard to the 2000/2001 transition due to the length of time that has passed.

than in past transitions, partly due to replacement of most of our contacts on the transition team immediately after the election. As of this date, however, OGE has successfully established clear lines of communication with the White House Counsel's office. The announcement of nominees prior to initiating the ethics review process in most cases has added an unexpected challenge, but OGE has been successful in establishing effective ethics agreement to resolve conflicts of interest and, in most cases, has been able to complete its ethics reviews of complex financial disclosure reports faster than OGE reviewed similarly complex financial disclosure reports in the past.

II. Summary of Transition Training, Materials, and Services Provided or Offered by OGE (organized by transition years)

A. Campaigns/Transition Teams

1. Training

2000/2001 Transition:

- OGE provided technical assistance requested by the Bush campaign on filing forms/financial disclosure.

2008/2009 Transition:

- OGE delivered a detailed presentation and provided a roughly 30-page pamphlet for transition teams and President-elect representatives, steering them to resources and highlighting the following: the executive branch ethics program; the PAS nominee financial disclosure process; transition team codes of conduct; ethical obligations of transition team members; and potential traps for the unwary as incoming officials go through the confirmation process and begin their positions in the new Administration.
- In September 2008, OGE met with both Presidential campaigns to offer briefings on OGE's role and responsibilities in a transition, the PAS nominee financial disclosure process, and other transition-related ethics issues.

2016/2017 Transition:

- In June 2016, OGE met with representatives from the Presidential campaigns at a full-day event hosted by the Partnership for Public Services.
- July 2016, OGE had separate discussions with a representative from each of the two Presidential campaigns tasked with preparing for transition team activities. OGE discussed the support that OGE can provide each campaign and transition team as well as the need for an in-depth meeting about the nominations process and training to use *Integrity* in August and September.

- In August 2016, OGE met with representatives from the Presidential campaigns at another full-day event hosted by the Partnership for Public Services.
- In August and September 2016, OGE met with representatives of the major campaigns at OGE to discuss coordination in connection with the nominee process and gave a multi-hour presentation on the nominee financial disclosure process.
- In September 2016, OGE held orientation sessions for each major campaign on *Integrity*, OGE's electronic financial disclosure filing system. OGE set up each campaign as a separate "White House" agency and trained members of each campaign to serve as administrators of the campaign's *Integrity* account.

2. Written Resources

2000/2001 Transition:

- OGE prepared "Tips for the Transition" briefing materials covering the nomination and confirmation process, certificates of divestiture (CDs), waivers, and trusts, and the criminal conflict of interest statutes as well as post-employment issues.
- OGE compiled and provided to both campaigns binders of photocopied resource materials, consisting of transition and ethics-related laws, regulations and OGE opinions (opinions now available on OGE's website).

2008/2009 Transition:

- OGE developed and provided a 30-page pamphlet for transition teams and the President-elect's representatives steering them to resources and highlighting key information about the following: the executive branch ethics program; the PAS nominee financial disclosure process; transition team codes of conduct; ethical obligations of transition team members; and potential traps for the unwary as incoming officials go through the confirmation process and begin their positions in the new Administration.

2016/2017 Transition:

- OGE developed and published a separate, user-friendly Transition Team Guide, introducing transition team members to the nomination process, and providing guidance on administering an account in the electronic financial disclosure filing system. The guide also provides practical tips and advice based on OGE's experience in past Presidential transitions, and includes extensive pertinent resource materials.

- OGE developed and published a user-friendly Nominee Ethics Guide for Presidential nominees, introducing nominees to the ethics component of the nomination process, and providing instructions for financial disclosure, using *Integrity*, OGE's electronic financial disclosure filing system, and practical filing tips. The guide also includes a lengthy appendix with checklists, and other resource materials for nominees in an easy to understand format.
- In November 2016, OGE provided the Presidential Transition Team (PTT) with a large supply of the Nominee Ethics Guide to be given to potential nominees as they begin the nominations process. OGE also provided PTT with additional copies of the Transition Team Guide. Both publications are also available for downloading on OGE's website.
- OGE developed and provided a one-page graphic on Ways OGE Can Help in the Presidential Transition.
- OGE developed and provided a Financial Disclosure Review Checklist.
- OGE updated its popular Ethics Agreement Guide and made it available on the OGE website.
- OGE provided a one-page guide explaining the application process for certificates of divestiture (CD).
- OGE provided various video tutorials for using *Integrity* with access through OGE's YouTube channel.
- For the first time, OGE compiled an extensive sortable Excel workbook of PAS positions with terms to assist campaigns/Transition Teams. This tool is of great value for planning and prioritizing nominations to such positions.

3. Services

2000/2001 Transition:

- OGE signed an MOU with the White House identifying agency ethics contacts.
- OGE assisted in resolving the President's conflicts of interest, including the establishment of a qualified diversified trust (a type of blind trust) under the Ethics in Government Act.

2008/2009 Transition:

- OGE signed an MOU with the White House identifying agency ethics contacts.

- OGE assisted in resolving the President's conflicts of interest.
- OGE assisted the Transition Team in the development of the ethics pledge announced in Executive Order 13490.
- OGE consulted with Transition Team officials with regard the resolution of conflict of interest issues prior to entering government by several senior White House appointees.
- OGE provided the White House with a detailee.

2016/2017 Transition:

- OGE offered to assist in resolving the President's conflicts of interest, to assist in the development of the ethics pledge later announced in Executive Order 13770, and to provide training on the review of financial disclosure reports. These offers were declined.
- OGE provided an expert assignee to provide nominee financial disclosure support the Transition Team.
- OGE consulted with representatives of a senior White House appointee regarding the resolution of conflict of interest issues prior to entering government.
- OGE provided a detailee to the White House.
- OGE provided an extensive list of names of government ethics experts for consideration by the campaigns/Transition Teams as potential detailees or hires.
- In September 2016, OGE held in depth orientation and training sessions for each major campaign on *Integrity*. OGE set up each campaign as a separate "White House" agency and trained members of each campaign to serve as administrators of the campaign's *Integrity* account.
- OGE provided support to the campaigns and the Transition Team about *Integrity*, as well as Helpdesk support. OGE also conducted multiple tailored user orientations.
- Post-election, OGE offered recommendations on Presidential conflicts of interest (offer not accepted).

- OGE offered, both to the campaigns and to the Transition Team post-election, support on the then existing and potential drafting of a new Ethics Pledge (offer not accepted).
- OGE offered ethics training to the White House Counsel's office (offer not accepted).
- OGE recommended that the new administration consult/complete the ethics review process of potential nominees prior to making public appointment announcements (offer not accepted).

4. Financial Disclosure Forms/Filing Systems

2000/2001 Transition:

- OGE updated the Form 278 in 2000 and provided blank copies of the most recent version.
- OGE reviewed and certified candidate financial disclosure reports.

2008/2009 Transition:

- OGE provided blank/fillable copies of the OGE Form 278 on its website in Portable Document Format.
- OGE reviewed and certified candidate financial disclosure reports submitted in Portable Document Format.
- OGE reviewed and certified nominee financial disclosure reports submitted in Portable Document Format.

2016/2017 Transition:

- OGE provided blank/fillable copies of the OGE Form 278 on its website in Portable Document Format and in Excel.
- OGE reviewed and certified candidate financial disclosure reports submitted in Portable Document Format or in Excel.
- OGE made available to campaigns, the Transition Team and new administration elected officials an electronic financial disclosure filing system with sophisticated nominee functionality designed to improve accuracy of filing, facilitate conflicts of interest analysis and increase efficiency through electronic routing, review, signature and certification. Nominee functionality was used for the first time by the Obama administration, beginning in

December 2015. OGE issued a revised paper OGE Form 278 format called the OGE Form 278e to match the electronic 278e format rendered by *Integrity*.

- In September 2016, OGE held orientation sessions for each major campaign on *Integrity*. OGE set up each campaign as a separate “White House” agency and trained members of each campaign to serve as administrators of the campaign’s *Integrity* account.
- In November 2016, OGE was prepared for the Transition Team to start sending nominee financial disclosure reports to OGE through *Integrity*.
- OGE reviewed and certified nominee financial disclosure reports submitted through OGE’s electronic filing system, *Integrity*.

B. Ethics Officials and OGE Staff

1. Training

2000/2001 Transition:

- OGE held an ethics conference in 2000, which included a number of sessions on transition-related issues and processing nominee reports.

2008/2009 Transition:

- Throughout 2007-2009, OGE fully staffed and trained its internal pool of public financial disclosure report reviewers and increased the size and capacity of this pool to handle the increased volume of PAS reports during the transition.
- OGE communicated to other executive branch agency ethics officials the importance of filling ethics office positions and making sure their staffs are adequately trained.
- In February 2008, OGE presented a one-day training event in Washington, DC, for over 300 experienced ethics officials from more than 70 departments and agencies on financial disclosure issues related to PAS nominees.
- In September 2008, OGE featured “Transition” as the theme of its 16th National Government Ethics Conference, with three of the seven thematic tracks for the conference focused specifically on transition issues.
- In November and December of 2008, OGE conducted training on its newly published comprehensive post-Federal employment ethics regulations.

2016/2017 Transition:

- Beginning in 2015, OGE launched a formal training program for 43 of its own employees, with the objectives of increasing the number of OGE employees capable of reviewing complex nominee financial disclosure reports and increasing the skills of OGE employees who are already capable of reviewing such reports. Employees were specifically assigned to complete lists of designated activities that included: formal classroom training, specific assignments, twice monthly meetings and special issue meetings, and independent practical exercises that simulated the review of complex nominee reports and the drafting of ethics agreements. Some employees were assigned to activities that increased their expertise in the use of OGE's electronic financial disclosure system, *Integrity*. Finally, some employees were assigned to review actual nominee and annual financial disclosure reports under the supervision of assigned mentors. Some experienced employees were assigned to research and present on unfamiliar subjects related to financial disclosure in order to increase their knowledge base.
- Throughout 2015 and 2016, OGE communicated to other executive branch agency ethics officials the importance of filling positions in the ethics office and making sure their staffs are adequately trained.
- In March 2016, OGE presented its second National Government Ethics Summit. This entire event focused on ethics issues related to the Presidential transition, and included sessions lead by ethics luminaries on the topic of transition planning. OGE live-streamed many of the sessions on the internet, and recorded sessions so they would remain available on OGE's YouTube channel.
- Also in March 2016, OGE presented a full-day symposium on financial disclosure. The symposium consisted of two tracks, one each for beginner financial disclosure reviewers and advanced financial disclosure reviewers. Over 200 ethics officials attended the beginner training, and 120 ethics officials attended the advanced training.
- Throughout 2016 OGE began presenting (and continues to present) web-accessible training for agency ethics officials focusing on financial disclosure and the transition, including a Transition Readiness Series of courses and workshops. Series topics cover a range of issues that will help ethics officials to be prepared and successfully deliver on their role in the transition. These training efforts are designed to ensure that OGE staff and agency ethics officials are able to:
 - review the public financial disclosure reports of incoming nominees;
 - advise incoming employees about ethics requirements;

- counsel outgoing employees on issues related to seeking and negotiating for employment outside of government;
- educate new agency leadership on their role in supporting a strong ethical culture; and
- implement strategies to manage the increased workload in the post-election period.

2. Written Resources

2000/2001 Transition:

- OGE included guidance and information in preparation for the transition for ethics officials in its publication *Government Ethics Newsgram*.
- OGE issued updated ethics guidance on topics such as post-employment, diversified mutual funds and model ethics agreements.
- OGE redesigned and updated its website to make ethics resources more readily available.

2008/2009 Transition:

- OGE issued written guidance on key transition-related ethics issues to supplement its “Financial Disclosure: A Reviewer’s Reference” manual. Topics covered included complex financial instruments, hedge funds, seeking employment, regulations governing book deals, ethics agreements, and post-employment restrictions.
- OGE published a comprehensive post-Federal employment ethics regulations and conducted training on these regulations.
- OGE issued the first-ever comprehensive Ethics Agreement Guide, which provided model language for use in addressing specific factual situations and holdings in the preparation of ethics agreements. This Guide brought much-needed consistency in the preparation of this key ethics document executive branch-wide.
- In connection with the February 2008 intensive training session, OGE distributed a bound volume containing over 250 pages of instructional material, which included the new financial disclosure guidance, the new Ethics Agreement Guide, and contact information designed to prepare executive branch ethics officials for the upcoming transition.

2016/2017 Transition:

- OGE published a comprehensive, updated financial disclosure guide, which replaced the paper manual previously in use. The new guide incorporates past issuances, describes existing practices, covers new subjects, clarifies positions, and explains a number of policy changes designed to streamline the financial disclosure review process without compromising the quality of reviews. This new guide is presented as an electronic module that is easier to navigate than the previous Portable Document Format.
- OGE issued updated written guidance on inaugural events and post-employment.
- OGE issued a one-page graphic on Ways OGE Can Help in the Presidential Transition.
- OGE issued a Financial Disclosure Review Checklist.
- OGE updated its popular Ethics Agreement Guide and made it available on the OGE website. OGE also distributed the guide during the National Government Ethics Summit in March 2016.
- OGE issued a new pamphlet on blind trusts.
- OGE provided a one-page guide explaining the application process for certificates of divestiture (CDs).
- OGE developed and provided a one-page graphic on Ways OGE Can Help in the Presidential Transition.
- OGE developed and provided a Financial Disclosure Review Checklist.
- OGE provided various video tutorials for using *Integrity*, accessible through OGE's YouTube channel and the *Integrity* page on Max.gov, aimed at filers, and agency reviewers and administrators. OGE also issued a comprehensive *Integrity* user guide, available on the OGE website.

3. Services

2000/2001 Transition:

- OGE redesigned and updated its website to make ethics advice and resources more available.

2008/2009 Transition:

- In 2008, OGE redesigned and updated its website to make ethics advice and resources more available.
- In 2008, OGE submitted to the 110th Congress draft legislation amending the Ethics in Government Act to streamline and simplify the public financial disclosure requirements applicable to senior officials in all three branches of government.
- OGE launched an initiative of conducting focused reviews at select agencies to evaluate their processes and procedures for collecting, reviewing, and certifying financial disclosure reports, including those reports filed by PAS officials.
- OGE continued outreach efforts to meet regularly with agency leadership to promote the importance of the executive branch ethics program and to help ensure personal commitment to the program by agency leadership, as well as to define and allocate sufficient agency resources for the program.

2016/2017 Transition:

- In fiscal years 2015 and 2016, OGE focused on staffing up for the Presidential transition. OGE used its limited resources to concentrate on filling vacancies with cross-functional responsibilities for both nominee financial disclosure and other mission critical functions. OGE increased the size of its nominee team and its electronic financial disclosure team, and staffed-up its *Integrity* Help Desk.
- From 2013 through 2016, OGE significantly expanded its training program for agency ethics officials. In 2015 and 2016, OGE received a record-breaking number of registrations for its training, exceeding 7,000 registrations in each year compared to 1,200 registrations in 2012.
- Through 2015 and 2016, OGE conducted internal “Issue Forum” sessions and “Nominee Team” meetings to expand the expertise of its own staff.

4. Financial Disclosure Forms/Filing Systems

2000/2001 Transition:

- In December 2000, OGE issued a DAEOgram on nominee financial disclosure processing.
- In March 2000, OGE announced a revised Form 278 and made it available on its website.

2008/2009 Transition:

- OGE provided blank/fillable copies of the OGE Form 278 on its website.

2016/2017 Transition:

- OGE launched its electronic financial disclosure filing system, *Integrity*, on January 1, 2015, and launched nominee functionality in November 2015. By January 2016, all executive branch agencies were required to begin using the system unless eligible for an exemption by OGE.
- In March 2015, OGE issued guidance on *Integrity* that includes an introduction to the new OGE Form 278e, with a crosswalk guide comparing it to the prior version of the 278.

C. Other Stakeholders

1. Collaboration

2000/2001 Transition:

- OGE held an ethics conference in September 2000, which included outside speakers.
- OGE redesigned and updated its website in 2001, to make ethics information and resources more available.

2008/2009 Transition:

- OGE redesigned and updated its website to make ethics advice and resources more available.
- OGE met with the OMB Deputy Director for Management to identify ways to expedite and improve the transition process. In addition, OGE has met with key personnel who will be involved in transition activities at the Department of State, the Department of Defense, and the Department of Homeland Security.
- In 2011/2012, in anticipation of the 2012 transition, OGE updated its website to include an on-line system enabling requestors to obtain access to the public financial disclosure reports of officials whose reports are processed at OGE. For the first time, requestors are able to complete the access form (OGE Form 201) on-line and upon submission, get nearly immediate access to reports.

2016/2017 Transition:

- Beginning in August 2015 through 2016, OGE leadership (the Director, the Chief of Staff, and one Branch Chief) actively participated in the council of Presidential Transition Service Providers convened by the Partnership for Public Service. These meetings facilitated coordination between OGE, GSA, OPM, DOJ, and NARA in preparation for the Presidential transition.
- OGE conducted briefings for more than a dozen Senate committees on the new OGE Form 278e report format and the use of *Integrity* by nominees. These briefings were intended to facilitate the transition to the new form and the Senate's acceptance of reports filed electronically through *Integrity*.
- OGE provided extensive technical assistance to BENS on the report to improve the PAS confirmation process.
- OGE provided hours of in-depth briefings and meetings regarding the transition to stakeholders, including for Congressional staff and NGOs.
- OGE participated as an active statutory member of the Agency Transition Director's Council created by Presidential Transitions Improvement Act of 2015, attending monthly meetings.
- OGE participated in monthly executive branch transition service provider meetings held by OMB and GSA.
- OGE presented/participated in monthly small agency transition meetings.
- OGE contributed substantive content to congressional reports on transition preparation.
- OGE contributed to the General Services Administration Presidential Transition website and coordinated extensively with GSA regarding support to campaigns and the Transition Team.
- OGE participated in the Working Group on Streamlining Paperwork for Executive Nominations, and reviewed/commented on and provided pages of substantive comment to reports issued to the President and Congress by the Working Group in November 2012 and May 2012.

2. Training

2000/2001 Transition:

- OGE held an ethics conference in 2000, which included outside speakers.

- In the fall of 2000, OGE included guidance and information to ethics officials in its publication *Government Ethics Newsgram*, which was available to the public on OGE's website.

2008/2009 Transition:

- OGE conducted training for several hundred senior White House staff on post-Government employment.

2016/2017 Transition:

- OGE presented training on post-employment restrictions for outgoing White House officials.
- OGE served as a point of contact for former White House officials seeking guidance on post-employment restrictions applicable to them.
- OGE invited stakeholders to attend its National Government Ethics Summit training event in March 2016, which focused on the Presidential Transition and included panels with ethics luminaries and others presenting on transition-related topics. Selected sessions were live-streamed and then posted on OGE's YouTube channel to allow greater access.

3. Written Resources

2000/2001 Transition:

- OGE updated and redesigned its website in 2001 to provide greater access to ethics information and materials of interest to the general public.

2008/2009 Transition:

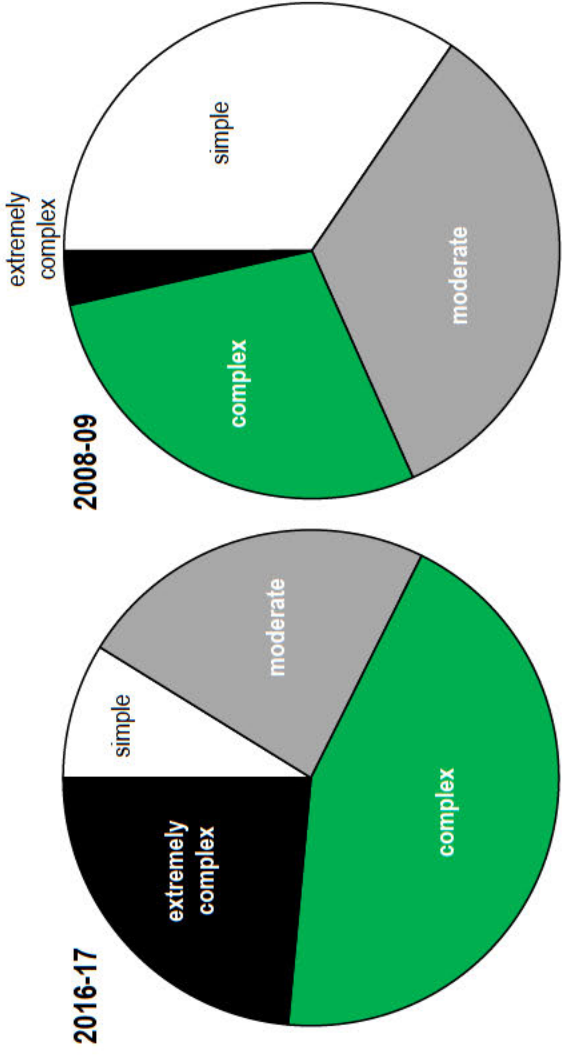
- OGE updated and redesigned its website in 2008 to provide greater access to ethics information and materials of interest to the general public.
- OGE issued a new sample format for expediting requests for certificates of divestiture, which are commonly requested when appointees must sell assets to avoid potential conflicts of interest.
- OGE published comprehensive post-Federal employment ethics regulations and conducted training on those regulations.
- OGE met with the OMB Deputy Director for Management to identify ways to expedite and improve the transition process. In addition, OGE met with key personnel involved in transition activities at the Department of State, the Department of Defense, and the Department of Homeland Security.

- OGE issued guidance on the heightened scrutiny of PAS nominee reports and the need for agency ethics officials to seek additional information, rather than relying on standard review assumptions, when reviewing these reports.

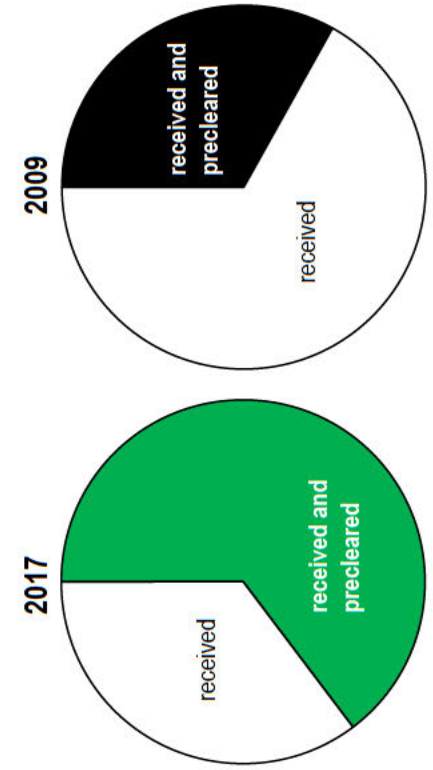
2016/2017 Transition:

- OGE posted its new Transition Team Guide and its new Nominee Ethics Guide on its website.
- OGE contributed to a Presidential transition guide published by the Partnership for Public Service.
- OGE posted training materials from the National Government Ethics Summit, which took place in March 2016 and focused on the Presidential Transition, on its website.
- In 2016/2017, OGE increased its use of social media to foster greater understanding of OGE's role in the Presidential Transition.
- OGE created a Transition Page on its website, which includes downloadable versions of many of its transition-related publications (e.g., Nominee Ethics Guide and Transition Team Guide). Other updated financial disclosure guidance (e.g., updated Nominee Public Financial Review Checklist) is also accessible on the OGE website and is available to stakeholders and the general public.

Distribution of Reports by Complexity Level

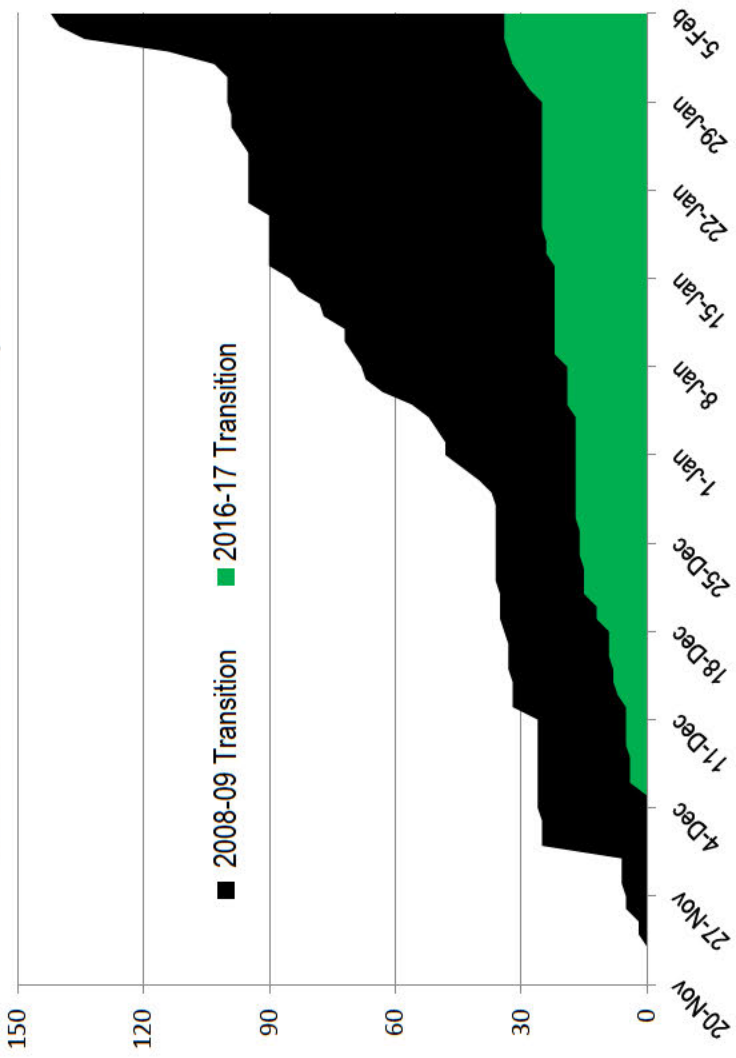


Percentage of Received Reports Precleared* as of February 5

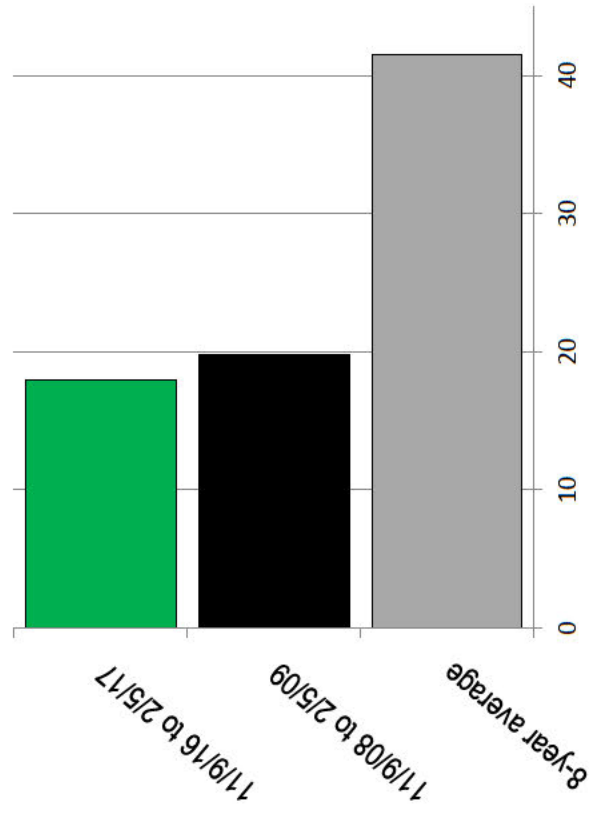


*Note: A nominee's ethics package is "precleared" when all substantive ethics work has been completed (i.e., all information has been received and corrected, the financial disclosure report has been reviewed, and all identified conflicts of interest are addressed in an ethics agreement). Thereafter, the ethics package can be submitted for final review and certification before its transmission to the Senate.

Cumulative Total Number of Nominee Reports Received



Mean Average Days From Receipt to Preclearance*

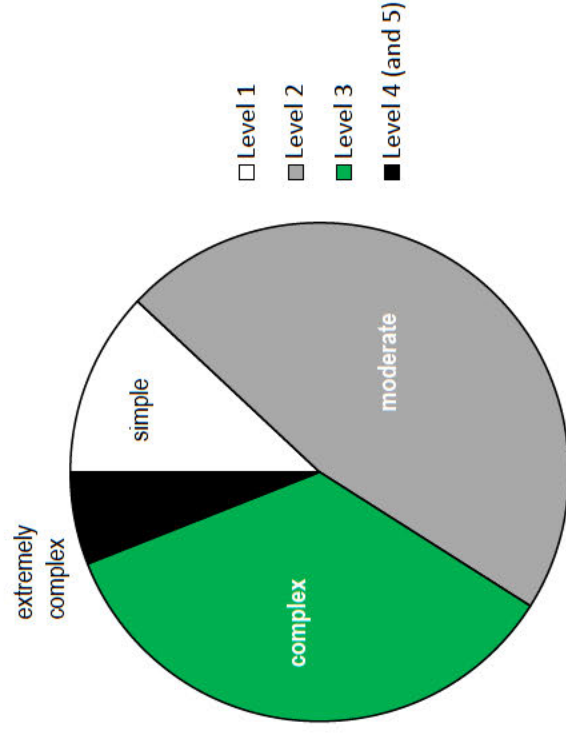


Definition of Complexity Levels

- **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:



<https://www.oge.gov/web/oge.nsf/Resources/PRESIDENTIAL+TRANSITION>

Frequently Requested Documents including communications between OGE and the White House.

[https://www.oge.gov/Web/OGE.nsf/Freedom%20of%20Information%20Act%20\(FOIA\)/B9B880B7B93AF8EF85257EF5006DAAB6?opendocument](https://www.oge.gov/Web/OGE.nsf/Freedom%20of%20Information%20Act%20(FOIA)/B9B880B7B93AF8EF85257EF5006DAAB6?opendocument)

OGE provided the following information to the General Accountability Office on March 3, 2017 in response to GAO Job Code 10131.

Ethics Training or Guidance

3) During the entrance conference, we discussed that the following resources and information are available on OGE's website and that OGE provided some of the information as hard copies directly to the PETT. For each resource below, please provide a written response indicating a) how else (if applicable) the information was made available to the PETT; and b) whether, to your knowledge, the PETT used the information and any feedback the PETT shared on the usefulness or applicability of the information.

OGE Identified Information for 2017 Presidential Transition (pulled from OGE's website)	Indicate how else (if applicable), this information was made available to the PETT (e.g. email, training, or briefing)	Indicate whether, to your knowledge, the PETT used this information and what, if any, feedback the PETT shared on the usefulness/applicability
OGE Guide for the Presidential Transition Team	Training/briefing, hard copy and electronic	Yes
OGE Ethics Guide for Nominees and Appendix	Training/briefing, hard copy and electronic	Yes
Nominee Public Financial Disclosure Guide	Training and electronic	Yes
Nominee Ethics Agreement Guide	Briefing, hard copy and electronic	OGE distributed these in electronic form on its website and delivered hard copies to PETT. It is unclear whether PETT delivered the hard copies to nominees.
Nominee Public Financial Disclosure Review Checklist	Briefing, hard copy and electronic	Yes
Presidential Appointee & Nominee Records Database	Briefing, hard copy and electronic	Yes
Ways OGE Can Help in the Presidential Transition (one-page graphic)	Training/briefing, hard copy and electronic	Yes
Listing of Positions OGE Reviews (Excel workbook)	Briefing, hard copy and electronic	Yes

OGE Form 278 – Public Financial Disclosure Report	N/A – The paper OGE Form 278 has been replaced by OGE’s electronic financial disclosure application, <i>Integrity</i> .	N/A
OGE Form 450 – Confidential Financial Disclosure Report	N/A – None of the nominees at were required to complete the OGE Form 450.	N/A
<i>Integrity</i> Materials	Training/briefing, hard copy and electronic (email and max site)	Yes

Summary of Transition Training, Materials, and Services Provided or Offered by OGE to Campaigns/Transition Teams

Training

- In June 2016, OGE met with representatives from the Presidential campaigns at a full-day event hosted by the Partnership for Public Services.
- July 2016, OGE had separate discussions with a representative from each of the two Presidential campaigns tasked with preparing for transition team activities. OGE discussed the support that OGE can provide each campaign and transition team as well as the need for an in-depth meeting about the nominations process and training to use *Integrity* in August and September.
- In August 2016, OGE met with representatives from the Presidential campaigns at another full-day event hosted by the Partnership for Public Services.
- In August and September 2016, OGE met with representatives of the major campaigns at OGE to discuss coordination in connection with the nominee process and gave a multi-hour presentation on the nominee financial disclosure process.
- In September 2016, OGE held orientation sessions for each major campaign on *Integrity*, OGE’s electronic financial disclosure filing system. OGE set up each campaign as a separate “White House” agency and trained members of each campaign to serve as administrators of the campaign’s *Integrity* account.

Written Resources

- OGE developed and published a separate, user-friendly Transition Team Guide, introducing transition team members to the nomination process, and providing guidance on administering an account in the electronic financial disclosure filing system. The guide also provides practical tips and advice based on OGE’s experience in past Presidential transitions, and includes extensive pertinent resource materials.

- OGE developed and published a user-friendly Nominee Ethics Guide for Presidential nominees, introducing nominees to the ethics component of the nomination process, and providing instructions for financial disclosure, using *Integrity*, OGE's electronic financial disclosure filing system, and practical filing tips. The guide also includes a lengthy appendix with checklists, and other resource materials for nominees in an easy to understand format.
- In November 2016, OGE provided the Presidential Transition Team (PTT) with a large supply of the Nominee Ethics Guide to be given to potential nominees as they begin the nominations process. OGE also provided PTT with additional copies of the Transition Team Guide. Both publications are also available for downloading on OGE's website.
- OGE developed and provided a one-page graphic on Ways OGE Can Help in the Presidential Transition.
- OGE developed and provided a Financial Disclosure Review Checklist.
- OGE updated its popular Ethics Agreement Guide and made it available on the OGE website.
- OGE provided a one-page guide explaining the application process for certificates of divestiture (CD).
- OGE provided various video tutorials for using *Integrity* with access through OGE's YouTube channel.
- For the first time, OGE compiled an extensive sortable Excel workbook of PAS positions with terms to assist campaigns/Transition Teams. This tool is of great value for planning and prioritizing nominations to such positions.

Services

- OGE offered to assist in resolving the President's conflicts of interest, to assist in the development of the ethics pledge later announced in Executive Order 13770, and to provide training on the review of financial disclosure reports. These offers were declined.
- OGE provided an expert assignee to provide nominee financial disclosure support the Transition Team.
- OGE consulted with representatives of a senior White House appointee regarding the resolution of conflict of interest issues prior to entering government.
- OGE provided a detailee to the White House.
- OGE provided an extensive list of names of government ethics experts for consideration by the campaigns/Transition Teams as potential detailees or hires.
- In September 2016, OGE held in depth orientation and training sessions for each major campaign on *Integrity*. OGE set up each campaign as a separate "White House" agency and trained members of each campaign to serve as administrators of the campaign's *Integrity* account.

- OGE provided support to the campaigns and the Transition Team about *Integrity*, as well as Helpdesk support. OGE also conducted multiple tailored user orientations.
- Post-election, OGE offered recommendations on Presidential conflicts of interest (offer not accepted).
- OGE offered, both to the campaigns and to the Transition Team post-election, support on the then existing and potential drafting of a new Ethics Pledge (offer not accepted).
- OGE offered ethics training to the White House Counsel's office (offer not accepted).
- OGE recommended that the new administration consult/complete the ethics review process of potential nominees prior to making public appointment announcements (offer not accepted).

Financial Disclosure Forms/Filing Systems

- OGE provided blank/fillable copies of the OGE Form 278 on its website in Portable Document Format and in Excel.
- OGE reviewed and certified candidate financial disclosure reports submitted in Portable Document Format or in Excel.
- OGE made available to campaigns, the Transition Team and new administration elected officials an electronic financial disclosure filing system with sophisticated nominee functionality designed to improve accuracy of filing, facilitate conflicts of interest analysis and increase efficiency through electronic routing, review, signature and certification. Nominee functionality was used for the first time by the Obama administration, beginning in December 2015. OGE issued a revised paper OGE Form 278 format called the OGE Form 278e to match the electronic 278e format rendered by *Integrity*.
- In September 2016, OGE held orientation sessions for each major campaign on *Integrity*. OGE set up each campaign as a separate "White House" agency and trained members of each campaign to serve as administrators of the campaign's *Integrity* account.
- In November 2016, OGE was prepared for the Transition Team to start sending nominee financial disclosure reports to OGE through *Integrity*.
- OGE reviewed and certified nominee financial disclosure reports submitted through OGE's electronic filing system, *Integrity*.

Congressional Correspondence – Table of Contents

1. Letter to Senators Warren and Carper

OGE's response to Senators Warren and Carper.

2. OGE Response to Ranking Member Cummings

OGE's response to Ranking Member Cummings' letter dated April 7, 2017.

3. Letter to Senator Wyden

OGE 's response to Response to Senator Wyden's letter of March 27, 2017

4. Letter to 18 Members of the Senate

Letter to 18 Senators in response to their questions posed to OGE.

5. Letter to Senator Casey

Letter to Senator Casey in response to his questions posed to OGE.

6. Letter to Congressman Ted W. Lieu

OGE's follow-up letter to Congressman Lieu.

7. Letter to Congressman Pocan and other Members of Congress

OGE's follow-up letter to Congressman Pocan and other Members of Congress

8. Letter to HOCR Chairman and Ranking Member 9 Mar 2017

Letter to HOCR Chairman and Ranking Member 9 Mar 2017.

9. Letter to Congressman Ted W. Lieu

Letter to Congressman Ted W. Lieu in response to his February 9, 2017, letter.

10. Letter to the Honorable Mark Pocan and other Members of Congress

Letter to The Honorable Mark Pocan and other Members of Congress.

11. Letter to Chairman and Ranking Member of the House Committee on Oversight and Government Reform

Letter to Chairman and Ranking Member of the House Committee on Oversight and Government Reform.

12. Letter to Members of the Senate Committee on Environment and Public Works

Letter to Members of the Senate Committee on Environment and Public Works in response to questions posed to OGE.

13. Letter to Chairman of the House Committee on Oversight and Government Reform

Letter to Chairman of the House Committee on Oversight and Government Reform.

14. Letter to Ranking Member of the Senate Committee on Health, Education, Labor and Pensions

Letter to the Ranking Member of the Senate Committee on Health, Education, Labor and Pensions in response to questions posed to OGE.

15. Letter to Senators Schumer and Warren

Letter to Senators Schumer and Warren in response to questions posed to OGE.

16. Letter to the Ranking Member of the Senate Homeland Security and Governmental Affairs Committee

Letter to the Ranking Member of the Senate Homeland Security and Governmental Affairs Committee transmitting OGE's response to Senator Carper's letter dated November 20, 2016, regarding the role of OGE in preventing conflicts of interest.