
From: Sauer, Erin <(b)(6)>
Sent: Friday, September 13, 2024 1:55 PM
To: Diana Veilleux <djveille@oge.gov>; Renz, Brandon <(b)(6)>; Giachetti, Ryan <(b)(6)>; Hoehner, Christian <(b)(6)>; Stephenson, Mark <(b)(6)>; Solomon, Morgan <(b)(6)>; Lombardo, Lauren <(b)(6)>
Cc: Shelley K. Finlayson <skfinlay@oge.gov>
Subject: RE: Government Ethics Transparency Act (OGE Technical Assistance) 8.1.24.docx

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Hi Diana –

House Oversight has been working to make a number of changes to the bill shared earlier this year on Executive Branch Accountability and Transparency Act. One specific provision in the bill as currently written describes “cover letters” for two types of ethics documents – see highlighted text below. Can you clarify whether cover letters exist and if not, what a more appropriate term would be to reference this document?

(3) COVERED ETHICS RECORD.—

(A) INCLUSIONS.—The term “covered ethics record”—

(i) with respect to any individual, means—

(I) each approval granted pursuant to subsection (b) or subsection (c) of section 908 of title 37, United States Code; and

(II) each report to Congress required under section 908(d) of title 37, United States Code; and

(ii) with respect to a covered employee, means—

(I) each public financial disclosure report filed pursuant to section 13103 or section 13105(l) of title 5, United States Code;

(II) each amendment to a public financial disclosure report filed pursuant to section 13103 or section 13105(l) of title 5, United States Code;

(III) each waiver of—

(aa) a post-employment restriction, pursuant to subsection (c)(2)(C) or subsection (k) of section 207 of title 18, United States Code;

(bb) section 208(a) of title 18, United States Code, that has been issued pursuant to section 208(b)(1) of title 18, United States Code;

(cc) the cover letter regarding a public financial disclosure requirement, pursuant to section 13103(h)(2)(i) of title 5, United States Code;

(dd) the cover letter regarding the requirement to disclose a gift, pursuant to section 13104(a)(2)(C) of title 5, United States Code; and

I will note that we are on a very short timeline, so if you’re able to respond today or Monday at the

latest that would be greatly appreciated.

Erinn

Erinn L. Sauer

Director for Oversight and Policy

Committee on Oversight and Accountability – Democratic Staff

C: (b)(6)

From: Diana Veilleux <djveille@oge.gov>

Sent: Monday, August 5, 2024 11:32 AM

To: Renz, Brandon <(b)(6)>; Giachetti, Ryan
<(b)(6)>; Hoehner, Christian <(b)(6)>; Sauer,
Erinn <(b)(6)>; Stephenson, Mark <(b)(6)>;
Solomon, Morgan <(b)(6)>; Lombardo, Lauren
<(b)(6)>

Subject: Government Ethics Transparency Act (OGE Technical Assistance) 8.1.24.docx

Good Morning

Attached, as requested, are OGE's comments on the draft bill provided to us for review and technical assistance. Please let me know if you have further questions or would like a follow up call.

Best regards,

Diana J. Veilleux

Diana J. Veilleux (she/her/hers)

Chief

Legal, External Affairs and Performance Branch

Program Counsel Division

Office of Government Ethics

(202) 482-9203

Diana.veilleux@oge.gov

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From: [Sauer, Erinn](#)
To: [Diana Veilleux](#)
Cc: [Seth Jaffe](#); [Christopher J. Swartz](#); [Shelley K. Finlayson](#)
Subject: RE: H.R. 3642 - Executive Branch Accountability and Transparency Act of 2023
Date: Wednesday, July 24, 2024 5:03:12 PM

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That does work for me, however, since the House will be out of session next week now, we won't have the mark up until September. We can still meet, but if it's easier to do this next week, that could work also!

Erinn

From: Diana Veilleux <djveille@oge.gov>
Sent: Wednesday, July 24, 2024 4:52 PM
To: Sauer, Erinn <(b)(6)>
Cc: Seth Jaffe <sjaffe@oge.gov>; Christopher J. Swartz <cjswartz@oge.gov>; Shelley K. Finlayson <skfinlay@oge.gov>
Subject: RE: H.R. 3642 - Executive Branch Accountability and Transparency Act of 2023

Hello Erinn

Will Friday at 10 am work for you? If so, I will send you a Teams invitation.

Best,

Diana

From: Sauer, Erinn <(b)(6)>
Sent: Tuesday, July 23, 2024 5:13 PM
To: Diana Veilleux <djveille@oge.gov>
Cc: Shelley K. Finlayson <skfinlay@oge.gov>
Subject: Re: H.R. 3642 - Executive Branch Accountability and Transparency Act of 2023

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Thank you!

I'm unavailable Wednesday from 3-5pm, Thursday anytime after 10am and Friday after 11:30.

Apologies - very busy week!

On Jul 23, 2024, at 5:10 PM, Diana Veilleux <djveille@oge.gov> wrote:

Hello Erinn

Hope you are well! I will check into availability for a call this week and get back to you. I honestly don't recall whether we talked about this bill but we will be happy to share our thoughts. Are there any blackout days or times for you this week?

Best,

Diana

Diana J. Veilleux (she/her/hers)
Chief
Legal, External Affairs and Performance Branch
Program Counsel Division
Office of Government Ethics
(202) 482-9203
Diana.veilleux@oge.gov

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From: Sauer, Erinn (b)(6)
Sent: Tuesday, July 23, 2024 12:32 PM
To: Shelley K. Finlayson <skfinlay@oge.gov>; Diana Veilleux <djveille@oge.gov>; Diana Veilleux <djveille@oge.gov>
Cc: Solomon, Morgan (b)(6)
Subject: H.R. 3642 - Executive Branch Accountability and Transparency Act of 2023

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Hi Diana and Shelly -

It looks like our majority counterparts on the Oversight Committee will mark up [H.R. 3642](https://www.congress.gov/bills/118/3642). I think we connected on this bill, but it was probably over a year ago.

Did you provide formal or informal technical assistance on the bill?

Upon my initial read, I was hoping you could provide your thoughts as to whether you think this bill is duplicative since OGE already has a public database with individuals ethics documents. Secondly, on the requirement to maintain ethics documents for 10 years, is that a particular concern for you?

The tentative date for our mark-up is next Wednesday, so if we could connect on this before the end of this week that would be particularly helpful.

Thank you -

Erinn

Erinn L. Sauer
Director for Oversight and Policy
Committee on Oversight and Accountability – Democratic Staff

C: (b)(6)

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Government-wide policy. This email, including all attachments, may constitute a Federal record or other Government property that is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this email or its contents is strictly prohibited. If you have received this email in error, please notify the sender by responding to the email and then immediately delete the email.

From: [Wilkinson, Karissa \(Warren\)](#)
To: (b)(6) OGE atty
Cc: [Smithberger, Mandy \(Warren\)](#); [Shelley K. Finlayson](#)
Subject: RE: 278 for Nominee Patricia Lee
Date: Tuesday, July 2, 2024 3:42:33 PM

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Thank you, (b)(6) OGE atty

From: (b)(6) OGE atty <(b)(6)@oge.gov>
Sent: Tuesday, July 2, 2024 3:14 PM
To: Wilkinson, Karissa (Warren) <(b)(6)>
Cc: Smithberger, Mandy (Warren) <(b)(6)> Shelley K. Finlayson <skfinlay@oge.gov>
Subject: RE: 278 for Nominee Patricia Lee

Karissa,

Thanks for reaching out – our system has had issues recently that we’re still working through.

I’ll look into your request and assist in getting a copy of the document for you.

Best,

(b)(6)
OGE atty

(b)(6) OGE atty
Assistant Counsel
Legal, External Affairs and Performance Branch
Program Counsel Division
U.S. Office of Government Ethics

(b)(6) OGE atty

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From: Wilkinson, Karissa (Warren) (b)(6)
Sent: Tuesday, July 2, 2024 10:54 AM
To: Shelley K. Finlayson <skfinlay@oge.gov>
Cc: Smithberger, Mandy (Warren) <(b)(6)>
Subject: 278 for Nominee Patricia Lee

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Hi Shelley,

I hope you're doing well. I've requested the OGE Form 278 for Patricia Lee, nominee for the Board of the Defense Nuclear Facilities Safety Board, twice through the OGE website but have not yet received it. Could you please share a copy of the document with me?

Thank you,
Karissa

Karissa Wilkinson (she/her)

Legislative Aide

Office of Senator Elizabeth Warren

309 Hart Senate Office Building

(b)(6)

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UNITED STATES OFFICE OF
GOVERNMENT ETHICS



July 30, 2024

The Honorable Tom Cole
Chairman
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable David Joyce
Chairman
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

The Honorable Steny Hoyer
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States House of Representatives
Washington, DC 20515

Dear Chairman Cole, Ranking Member DeLauro, Subcommittee Chairman Joyce, and
Subcommittee Ranking Member Hoyer:

I am pleased to transmit to you the quarterly budget report for the U.S. Office of
Government Ethics (OGE), in accordance with the Further Consolidated Appropriations Act,
2024 (Public Law No. 118-47).¹

For fiscal year 2024, OGE has only one annual appropriation. Through the third quarter
of fiscal year 2024, OGE reports \$17,377,646.22 in obligations. A table showing OGE's
expenditures and obligations is attached.

If you require additional information or have questions regarding this report, please
contact OGE's Legal, External Affairs and Performance Branch Chief, Diana J. Veilleux, at 202-
482-9203.

Sincerely,

Shelley K. Finlayson
Acting Director

Attachment

¹ "Sec. 634. Not later than 45 days after the last day of each quarter, each agency funded in this Act shall submit to the Committees on Appropriations of the House of Representatives and the Senate a quarterly budget report that includes total obligations of the Agency for that quarter for each appropriation, by the source year of the appropriation." Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47 (2024).





CONTROLLED UNCLASSIFIED INFORMATION

Per § 634 of the Further Consolidated Appropriations Act, 2024, Public Law No. 118-47, the U.S. Office of Government Ethics submits the reporting data below.

QUARTERLY OBLIGATION REPORT FOR FISCAL YEAR 2024, THIRD QUARTER

FY2024, 3rd Quarter Obligations Report - Cumulative							
Sensitive But Unclassified							
FUND	OGE1100DA2424XX	BUDGET AUTHORITY	COMMITMENTS	UNPAID OBLIGATIONS	PREPAID OBLIGATIONS	EXPENDITURES	TOTAL ACTUALS
	Grand Total	23,037,000.00	0.00	3,611,687.37	124,906.00	13,641,052.85	17,377,646.22
FUND	OGE1100RA2424XX	BUDGET AUTHORITY	COMMITMENTS	UNPAID OBLIGATIONS	PREPAID OBLIGATIONS	EXPENDITURES	TOTAL ACTUALS
	Grand Total	725,000.00	0.00	0.00	0.00	0.00	0.00



UNITED STATES OFFICE OF
GOVERNMENT ETHICS



July 30, 2024

The Honorable Patty Murray
Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Susan Collins
Vice Chair
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Chris Van Hollen
Chair
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Bill Hagerty
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chair Murray, Vice Chair Collins, Subcommittee Chair Van Hollen, and Subcommittee Ranking Member Hagerty:

I am pleased to transmit to you the quarterly budget report for the U.S. Office of Government Ethics (OGE), in accordance with the Further Consolidated Appropriations Act, 2024 (Public Law No. 118-47).¹

For fiscal year 2024, OGE has only one annual appropriation. Through the third quarter of fiscal year 2024, OGE reports \$17,377,646.22 in obligations. A table showing OGE's expenditures and obligations is attached.

If you require additional information or have questions regarding this report, please contact OGE's Legal, External Affairs and Performance Branch Chief, Diana J. Veilleux, at 202-482-9203.

Sincerely,

Shelley K. Finlayson
Acting Director

Attachment

¹ "Sec. 634. Not later than 45 days after the last day of each quarter, each agency funded in this Act shall submit to the Committees on Appropriations of the House of Representatives and the Senate a quarterly budget report that includes total obligations of the Agency for that quarter for each appropriation, by the source year of the appropriation." Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47 (2024).





CONTROLLED UNCLASSIFIED INFORMATION

Per § 634 of the Further Consolidated Appropriations Act, 2024, Public Law No. 118-47, the U.S. Office of Government Ethics submits the reporting data below.

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FUND	OGE1100RA2424XX	BUDGET AUTHORITY	COMMITMENTS	UNPAID OBLIGATIONS	PREPAID OBLIGATIONS	EXPENDITURES	TOTAL ACTUALS
	Grand Total	725,000.00	0.00	0.00	0.00	0.00	0.00



From: [Shelley K. Finlayson](#)
To: [Dale A. Christopher](#)
Cc: [Seth Jaffe](#)
Subject: FW: PPT complaint
Date: Thursday, July 25, 2024 11:44:23 AM
Attachments: [PPT Ethics Complaint re David Hayes and GGRF funding.pdf](#)

Good morning –

I was just contacted by Sr Special Agent John Stanely at EPA OIG regarding this complaint. He wants to speak with us about it. Will you please call him? He can be reached at (b) (6) [REDACTED].

Thanks,
Shelley

Shelley K. Finlayson (she/her)
Acting Director
U.S. Office of Government Ethics
250 E Street SW, Suite 750
Washington, DC 20024
(202) 482-9250

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From: Shelley K. Finlayson
Sent: Monday, July 1, 2024 9:29 AM
To: Dale A. Christopher <dachrist@oge.gov>
Subject: FW: PPT complaint

Hi Chip-

Will you coordinate the IIER process with Seth on this or would you like me to forward/request?

Thanks,
Shelley

From: Contact OGE <contactoge@oge.gov>
Sent: Friday, June 28, 2024 12:13 PM
To: Director of OGE <director@oge.gov>
Cc: Shelley K. Finlayson <skfinlay@oge.gov>; Dale A. Christopher <dachrist@oge.gov>
Subject: FW: PPT complaint

Director,

This email is being forward to you for review and/or action.

Thank you,

Dawn Feick
Contact OGE

From: Morgan Yardis (b) (6)
Sent: Thursday, June 27, 2024 8:21 AM
Subject: PPT complaint

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Good morning,

Please see the attached complaint.

Thank you,
Morgan Yardis
Protect the Public's Trust



PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

June 27, 2024

TO: Shelly K. Finlayson
Acting Director, Chief of Staff and Program Counsel
U.S. Office of Government Ethics
250 E Street S.W., Suite 750
Washington, D.C. 20024

Sean W. O'Donnell
Inspector General
U.S. Environmental Protection Agency
Office of Inspector General
1200 Pennsylvania Avenue N.W. (2140T)
Washington, D.C. 20460

**Re: Former Special Assistant to the President for Climate Policy David Hayes's
Apparent Ethics Breaches Related to the Greenhouse Gas Reduction Fund.**

Dear Acting Director Finlayson and Inspector General O'Donnell,

President Thomas Jefferson stated, "When a man assumes a public trust, he should consider himself as public property." Regrettably, there are public officials who not only fail to treat themselves as public property but treat their offices and powers as private property instead.

Protect the Public's Trust (PPT) is a nonpartisan organization dedicated to promoting ethics in government and restoring the public's trust in government officials.

We call your attention to a disturbing development in a problem Inspector General O'Donnell is already familiar with: potential ethics violations in the Environmental Protection Agency's ("EPA") distribution of funds under the Greenhouse Gas Reduction Fund ("GGRF").¹

Based on recent reporting, there is reason to believe that former White House Special Assistant to the President for Climate Policy David Hayes may have breached his ethics obligations by engaging in influence peddling to funnel billions of dollars in Greenhouse Gas Reduction Fund ("GGRF") funds to an organization where he serves as board member.

To uphold the integrity of the White House and the EPA, avoid a loss of public trust in the government's mission and impartiality, and ensure tens of billions of dollars of taxpayer dollars

¹ Statement of Sean W. O'Donnell, Inspector General, U.S. Environmental Protection Agency, to House Subcommittee on Oversight and Investigations Committee on Energy and Commerce hearing titled "Follow the Money: Oversight of President Biden's Massive Spending Spree," EPA Office of the Inspector General (March 29, 2023), https://d1dth6e84htgma.cloudfront.net/O_Donnell_Testimony_OI_Spending_Hearing_3_29_23_c1d82efafa.pdf?updated_at=2023-03-27T20:07:19.729Z.



PROTECT the PUBLIC'S TRUST

are not misdirected for private gain, we request that you immediately investigate Mr. Hayes's conduct.

I. Factual Background

Mr. Hayes joined the board of the Coalition for Green Capital ("CGC"),² a "nonprofit consortium of 'green banks,'" between the Obama and Biden administrations.³ He returned to CGC's board after leaving the Biden White House.⁴

Mr. Hayes entered the Biden administration in January 2021, where he served as Special Assistant to the President for Climate Policy, where his portfolio included working "with the National Climate Advisor and the National Climate Task Force on issues ranging from reducing greenhouse gas emissions to accelerating the United States' transition to energy sources like offshore wind and other projects."⁵ As Mr. Hayes put it, one of his chief accomplishments was "establish[ing] the first-ever[] 'whole of government' effort to improve the United States' resilience in the face of climate change."⁶ Significantly, as a leader of the Biden administration's climate policy, "he assisted in developing and implementing climate-related provisions of the IRA [Inflation Reduction Act] and the IIJA [Infrastructure Investment and Jobs Act]."⁷

As a senior leader on climate issues within the White House, Mr. Hayes was at the top of the pyramid that crafted the Biden administration's climate policies and the legislative and regulatory effort that funded the GGRF with \$27 billion under the IRA and IIJA. Now, under the National Clean Investment Fund ("NCIF"), \$14 billion in GGRF funds will be granted to selected applicant organizations to "establish national clean financing institutions [in order to] deliver accessible, affordable financing for clean technology projects nationwide" by "partnering with private-sector investors, developers, community organizations, and others to deploy projects [and] mobilize private capital at scale."⁸

² David Hayes to serve as special assistant to the president for climate policy, NYU Law News (Jan. 14, 2021), <https://www.law.nyu.edu/news/david-hayes-biden-special-assistant-president-climate>.

³ Nick Pope, *Shortlist For EPA's Multi-Billion Dollar 'Green' Fund Features Groups With Deep Connections to Biden Admin, Dems*, Daily Caller News Foundation (Nov. 15, 2023), <https://dailycaller.com/2023/11/15/epa-green-fund-biden-admin-connections/>.

⁴ *Coalition for Green Capital Welcomes Four New Board Members Ahead of Greenhouse Gas Reduction Fund Application Submission*, Coalition for Green Capital (Sep. 25, 2023), <https://coalitionforgreencapital.com/coalition-for-green-capital-welcomes-four-new-board-members-ahead-of-greenhouse-gas-reduction-fund-application-submission/>.

⁵ David Hayes, *Stanford's David Hayes Advocates 'Whole Government' Approach to Promote 'Climate Resilience*, Stanford Law School (December 5, 2023), <https://law.stanford.edu/2022/12/05/stanfords-david-hayes-advocates-whole-of-government-approach-to-promote-climate-resilience/>.

⁶ *Id.*

⁷ *Make or Break: Transforming U.S. Infrastructure to Meet Climate Goals*, UCLA Law, <https://law.ucla.edu/academics/centers/emmett-institute-climate-change-environment/make-or-break-transforming-us-infrastructure-meet-climate-goals>.

⁸ *National Clean Investment Fund*, Environmental Protection Agency, <https://www.epa.gov/greenhouse-gas-reduction-fund/national-clean-investment-fund>.



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Mr. Hayes departed the White House in October 2022 and rejoined the board of CGC shortly thereafter.⁹ He also joined the Natural Resources Defense Council (“NRDC”) as a Senior Fellow.¹⁰ NRDC is a partner with CGC and is an organization with business before the EPA, including litigation against EPA over regulations, commenting on the EPA’s proposed rules, and lobbying on environmental issues within the EPA’s jurisdiction.

After Mr. Hayes left the White House, his return to CGC was announced in a press release also publicizing that CGC was applying for GGRF funds.¹¹ In addition to Mr. Hayes’s return, CGC announced that it was welcoming other notable new board members “ahead of [its] Greenhouse Gas Reduction Fund application submission.”¹²

EPA recently announced that CGC had been selected to receive \$5 billion in GGRF funds from NCIF.¹³

II. Mr. Hayes’s Ethics Obligations

As a senior adviser within the White House, Mr. Hayes was, and remains, bound by a stringent set of ethics policies designed to prevent conflicts of interest and corruption. These policies stem from statutes, executive orders, and federal regulations.

18 U.S.C. § 207 Prohibits Exploitation of Revolving Door Employment

Under federal criminal law, certain kinds of revolving door influence-peddling are prohibited. 18 U.S.C. § 207(a) prohibits former officers and employees of the executive branch from knowingly making communications to “any officer or employee of any department, agency, [or] court” with “the intent to influence” its decision in connection with matters in which 1) the United States has “a direct and substantial interest,” 2) the former officer or employee “participated personally and substantially,” and 3) “involved a specific party or specific parties” at the time of their participation.

⁹ Robin Bravender, *Senior White House climate official steps down*, E & E News (Sep. 30, 2022), <https://www.eenews.net/articles/senior-white-house-climate-official-steps-down/>; *Coalition for Green Capital Welcomes Four New Board Members Ahead of Greenhouse Gas Reduction Fund Application Submission*, Coalition for Green Capital (Sep. 25, 2023), <https://coalitionforgreencapital.com/coalition-for-green-capital-welcomes-four-new-board-members-ahead-of-greenhouse-gas-reduction-fund-application-submission/>.

¹⁰ David J. Hayes Joins NRDC as a Senior Fellow, NRDC (Jan. 12, 2023), <https://www.nrdc.org/press-releases/david-j-hayes-joins-nrdc-senior-fellow>.

¹¹ *Coalition for Green Capital Welcomes Four New Board Members Ahead of Greenhouse Gas Reduction Fund Application Submission*, Coalition for Green Capital (Sep. 25, 2023), <https://coalitionforgreencapital.com/coalition-for-green-capital-welcomes-four-new-board-members-ahead-of-greenhouse-gas-reduction-fund-application-submission/>.

¹² *Id.*

¹³ Nick Pope, *‘The Swamp Is Getting Deeper’: EPA Awards Billions From Biden’s Landmark Climate Bill To Orgs Loaded With Dem Insiders*, Daily Caller News Foundation (Apr. 4, 2024), <https://dailycaller.com/2024/04/04/biden-epa-billions-grants-green-groups-democrat-ties/>.



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18 U.S.C. 207(c) further restricts influence peddling by placing a one-year restriction on former executive branch officers and employees prohibiting them from knowingly making communications to officers and employees of their former department or agency with the intent to influence “official action” by any of its officers or employees.

The Biden Administration’s Executive Order on Ethics Commitments by Executive Branch Personnel

On the very day President Biden assumed power, his administration announced its Executive Order on Ethics Commitments by Executive Branch Personnel (hereinafter, the “Pledge”), which required “every appointee in every executive agency” in the Biden administration to sign a pledge committing them to avoid certain ethics violations.¹⁴ Among these commitments were prohibitions on revolving door influence peddling.¹⁵

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

...

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

Executive Orders 12674 and 12731 Prohibit Conflict of Interests

Executive Orders 12674 and 12731 establish a set of “Principles of Ethical Conduct for Government Officers and Employees,”¹⁶ including the following:¹⁷

- Employees shall not use public office for private gain.¹⁸
- Employees shall act impartially and not give preferential treatment to any private organization or individual.¹⁹

¹⁴ *Executive Order on Ethics Commitments by Executive Branch Personnel*, The White House (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ethics-commitments-by-executive-branch-personnel/>.

¹⁵ *Id.*

¹⁶ Exec. Order No. 12674.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*



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- Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.²⁰
- Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.²¹

Regulatory Restrictions on Gifts and Conflicts of Interest

Federal ethics regulations prohibit an employee from using “his public office for his own private gain . . . or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.”²² The regulation establishes the following prohibitions:²³

- An official may not use his position, title, or any authority associated with his office in a manner that “could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another.”
- An official may not use his position, title, or any authority associated with his office to endorse any products, service, or enterprise, with limited exceptions for conduct directly related to his agency’s work.
- An official must recuse himself or seek approval from relevant ethics authorities when performance of his duties would affect the financial interests of a friend, relative, or person with whom he is affiliated in a nongovernmental capacity.

III. Mr. Hayes Appears to Have Violated His Ethical Obligations

There is reason to investigate whether Mr. Hayes violated some or all of his ethical duties.

The optics of Mr. Hayes’s entrance into the Biden administration and departure from it are troubling. Mr. Hayes left CGC’s board for a relatively brief stint in the White House and presumably worked at the highest level on the very GGRF program from which CGC sought funding upon his return. This timing is suspect considering CGC itself publicly announced his return to its board as part of its effort to obtain GGRF funding.²⁴

In doing so, Mr. Hayes appears to have violated several of his ethics obligations.

²⁰ *Id.*

²¹ Exec. Order No. 12731.

²² 5 C.F.R. § 2635.702

²³ 5 C.F.R. § 2635.702(b)-(d)

²⁴ *Coalition for Green Capital Welcomes Four New Board Members Ahead of Greenhouse Gas Reduction Fund Application Submission*, Coalition for Green Capital News (Sep. 25, 2023), <https://coalitionforgreencapital.com/coalition-for-green-capital-welcomes-four-new-board-members-ahead-of-greenhouse-gas-reduction-fund-application-submission/>.



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First, Mr. Hayes appears to have violated the Pledge by leaving CGC's board to work on creating the GGRF. The second provision of the Pledge prohibited Mr. Hayes from participating in "any particular matter involving specific parties that is directly and substantially related to" his former employment with CGC within 2 years from the date of his appointment.²⁵ Considering that his tenure at the White House lasted less than 2 years and he directly worked on creating a funding program to which CGC would be applying for funding, Mr. Hayes's work may have violated this restriction

Second, Mr. Hayes's work on climate policy and creating the GGRF during his time in the White House appears to have violated restrictions on using public service for private gain. Mr. Hayes left CGC's board to work in the White House on matters directly pertaining to CGC's billion-dollar interests in GGRF funds and left the White House to rejoin CGC just in time for it to apply for billions in GGRF funds. This situation raises concerns that Mr. Hayes misused his public service for CGC's private gain. The "Principles of Ethical Conduct for Government Officers and Employees" prohibited Mr. Hayes from using his public office for CGC's benefit, giving preferential treatment to CGC, or using nonpublic government information to further CGC's private interest. A reasonable inference that can be drawn from Mr. Hayes's seamless move from setting up GGRF funding to re-joining CGC as it applied for that funding is that Mr. Hayes may have violated these restrictions.

Third, Mr. Hayes may have violated the prohibitions on peddling influence after public service if he had contact with government officials. Under 18 U.S.C. 207(a) and (c), Mr. Hayes was prohibited from contacting officials and employees within the administration to influence its decisions on any matter, including the GGRF's funding awards. Section 4 of the Pledge extends these restrictions in both duration and scope, further prohibiting Mr. Hayes from trying to influence senior White House staff.²⁶ Mr. Hayes's senior position at the White House and immediate return to CGC raises serious concerns that he may have violated these restrictions by using his connections to influence the GGRF application process in CGC's favor if he had any contact with government officials.

Similar influence peddling concerns apply to Mr. Hayes's role as a senior fellow at NRDC. Mr. Hayes joined NRDC within three months of leaving the White House. As an organization with business before the EPA and a mission and interests affected by the kind of White House climate policies that Mr. Hayes helped lead, there is a distinct possibility that Mr. Hayes may have used his connections to the Biden administration on NRDC's behalf.

²⁵ See the Pledge.

²⁶ See the Pledge.



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IV. Conclusion

As outlined above, the nature and circumstances of Mr. Hayes's roles with CGC, NRDC, and the Biden White House raise obvious and serious questions about his conduct.

Accordingly, we call for an immediate and comprehensive investigation into Mr. Hayes's potential ethics violations and the GGRF funding process.

Sincerely,

Michael Chamberlain
Director
Protect the Public's Trust

From: [Shelley K. Finlayson](#)
To: [Dale A. Christopher](#); [Seth Jaffe](#); [David J. Apol](#)
Subject: FW: Congressional Letter to Request Ethics and Hatch Act Investigation into FCC Commissioner Brendan Carr
Date: Wednesday, July 17, 2024 1:39:14 PM
Attachments: [image001.png](#)
[Ethics Investigation re FCC Commissioner Brendan Carr - 07-17-2024 @ 09-24 AM.pdf](#)

From: Grant Anderson <ganderso@oge.gov>
Sent: Wednesday, July 17, 2024 1:15 PM
To: Shelley K. Finlayson <skfinlay@oge.gov>; Diana Veilleux <djveille@oge.gov>
Subject: FW: Congressional Letter to Request Ethics and Hatch Act Investigation into FCC Commissioner Brendan Carr

From: Dupouy, Quentin (b) (6)
Sent: Wednesday, July 17, 2024 1:03 PM
To: Milsaps email (b)(6); Diana Veilleux <djveille@oge.gov>; hotline@fcc.gov
Cc: (b) (6); Grant Anderson <ganderso@oge.gov>; Fulp email (b)(6); Northrop email (b)(6)
Subject: Congressional Letter to Request Ethics and Hatch Act Investigation into FCC Commissioner Brendan Carr

CAUTION: This email originated from outside OGE. Use caution before clicking on links, opening attachments, or responding. If you believe this email is suspicious, please forward it to spam@oge.gov for additional analysis.

Attached is a letter from Congressman Jared Huffman and fifteen other Members of Congress to respectfully request that the Office of Special Counsel, Office of Government Ethics, and Office of the Inspector General of the Federal Communications Commission (FCC) investigate possible ethics violations by Federal Communications Commissioner Brendan Carr and make a determination as to whether Commissioner Carr complied with the Hatch Act and other federal ethics laws and regulations.

The Members request that if during your investigation you encounter evidence of misconduct beyond your agency's remit, you promptly refer it to the appropriate authority and notify us. Since we are already deep into the presidential election season, the Members also would appreciate your prompt attention to this matter, interim updates on the status of your investigation, and a briefing on your findings.

Please let me know when this letter has been received and forwarded to the appropriate contacts within each of your offices.

Best,
Quentin



Quentin Dupouy (He/Him)
Legislative Assistant
Office of Rep. Jared Huffman
2445 Rayburn House Office Building
Washington, DC 20515

(b) (6)

(b) (6)

Congress of the United States
House of Representatives
Washington, DC 20515–0502

July 17, 2024

The Honorable Henry J. Kerner
Special Counsel
Office of Special Counsel
1730 M Street, NW Suite 218
Washington, D.C. 20036-4505

The Honorable Shelley Finlayson
Acting Director
Office of Government Ethics
250 E Street, SW., Suite 750
Washington, DC 20024

The Honorable Fara Damelin
Inspector General
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Special Counsel Kerner, Acting Director Finlayson, and Inspector General Damelin:

We respectfully request that the Office of Special Counsel, Office of Government Ethics, and Office of the Inspector General of the Federal Communications Commission (FCC) investigate possible ethics violations by Federal Communications Commissioner Brendan Carr. We are concerned that Commissioner Carr may be misusing his official position as an executive-level employee of the FCC to craft and advance a political playbook to influence the presidential election in favor of Donald Trump, in violation of the Hatch Act (5 U.S.C. §§ 7321-7326) and the Standards of Ethical Conduct for Employees of the Executive Branch (5 U.S.C. § 2635).

In April 2023, a network of former Trump officials and archconservative organizations came together under the leadership of the Heritage Foundation to produce the 2025 Presidential Transition Project (Project 2025) with the self-declared “goal of shaping policy decisions among presidential candidates.”¹ Project 2025 lays out a detailed roadmap for a conservative presidential administration to consolidate power in the presidency and gut checks and balances. The President of the Heritage Foundation, Kevin Roberts, claims that Project 2025 is “institutionalizing Trumpism.”² Paul Dans, the Director of Project 2025 and Trump’s former Director of the Office of Management and Budget (OMB), also noted during the Republican primary that his affiliates expect and “and hope” that Trump will ultimately end up in office again.³

¹ The Heritage Foundation, “Project 2025 Publishes Comprehensive Policy Guide, ‘Mandate for Leadership: The Conservative Promise,’” April 21, 2023, <https://www.heritage.org/press/project-2025-publishes-comprehensive-policy-guide-mandate-leadership-the-conservative-promise>.

² Lulu Garcia-Navarro, “Inside the Heritage Foundation’s Plans for ‘Institutionalizing Trumpism,’” *New York Times*, January 21, 2024, <https://www.nytimes.com/2024/01/21/magazine/heritage-foundation-kevin-roberts.html>.

³ Shelby Talcott, “The Heritage Foundation Recruits an Army to Build a Trump Presidency Playbook,” *Semafor*, February 20, 2024, <https://www.semafor.com/article/02/20/2024/heritage-recruits-an-army-to-build-a-trump-presidency-playbook>.

It is alarming that Commissioner Carr was one of many Trump appointees to participate in this endeavor. Although federal employees may certainly express their private opinions or engage in political activity in their personal capacity, they may not do so in their official capacity.⁴ Despite this requirement, Commissioner Carr used his official title to author the chapter of Project 2025 about the FCC.⁵

The Misuse of Position Rule clearly prohibits federal employees from using their government positions, titles, or authority to sign letters, write op-eds, speak in their personal capacity, or—as it were—draft the blueprint for archconservatives to take over their agency.⁶ Nevertheless, Project 2025 unambiguously identifies Commissioner Carr as the sole author of the chapter about the FCC, referring to him as “FCC Commissioner Brendan Carr.”⁷ Commissioner Carr’s official title is included again in the authors section, which describes him as “the senior Republican on the Federal Communications Commission.”⁸

This potential misuse of title raises serious questions about Commissioner Carr’s commitment to keeping his private political activities separate from his official duties. Therefore, we ask the relevant authorities to determine to what extent Commissioner Carr violated the Misuse of Position Rule or leveraged his government office in other ways to enhance his personal standing or advance the private and political interests of Project 2025. This includes any efforts to give an appearance of government sanction to Project 2025, favor partisan allies, utilize information learned by virtue of his position, accept gifts or compensation for writing about the FCC, or misuse official time and government property to contribute to Project 2025.⁹

To verify if Commissioner Carr assented to the use of his official title or otherwise violated the Standards of Conduct, we ask you to question him, review his ethics disclosures, and request access to his government devices and correspondence with any Project 2025 affiliates.

Additionally, we urge the Office of Special Counsel to determine if Commissioner Carr violated the Hatch Act, which prohibits federal employees from “using their official authority or influence to interfere with or affect the result of an election by, for example, using their official titles or positions while engaged in political activity.”¹⁰

While there is no Hatch Act prohibition against Commissioner Carr engaging in political activity in his personal capacity, he may not use his government title, office, or computer nor may he rely

⁴ 5 U.S.C. §§ 2635.702, 7323(a) and 7324(a).

⁵ The Heritage Foundation, *Project 2025: Mandate for Leadership*, April 2023, https://archive.org/details/2025_MandateForLeadership_FULL.

⁶ Office of Government Ethics, “Standards of Ethical Conduct,” [https://www.oge.gov/web/oge.nsf/0/86D5B4F72AF0FBCB852585B6005A1A22/\\$FILE/Standards%20of%20Ethical%20Conduct%20508.pdf](https://www.oge.gov/web/oge.nsf/0/86D5B4F72AF0FBCB852585B6005A1A22/$FILE/Standards%20of%20Ethical%20Conduct%20508.pdf). Based in 5 U.S.C. § 2635 Subpart G.

⁷ Heritage Foundation, *Project 2025*, p. 825. See the full chapter at pp. 845-857. The Author’s Note at the end of Commissioner Carr’s chapter states that “the author alone assumes responsibility for the content of this chapter, and no views expressed herein should be attributed to any other individual,” making clear that Commissioner Carr is solely responsible for this chapter.

⁸ *Ibid.*, 15.

⁹ Office of Government Ethics, “Standards of Ethical Conduct.”

¹⁰ Office of Special Counsel, “Federal Employee Hatch Act Information,” <https://osc.gov/Services/Pages/HatchAct-Federal.aspx#tabGroup12>.

on the official time and resources of other federal employees. As to the secondary question of whether contributing to Project 2025 constitutes political activity, there is ample evidence that Project 2025 is a partisan effort to support a conservative candidate and influence the election.

Project 2025 speaks openly about supporting the “next conservative President.” Inasmuch as the conservative party is the Republican Party, it would not be a stretch to say that Project 2025 supports the Republican Party and the election of a new GOP President.

For instance, the landing page for the playbook states that Project 2025 is “building now for a conservative victory.”¹¹ It reads further: “The time is short, and conservatives need a plan. The project will create a playbook of actions to be taken in the first 180 days of the new Administration to bring quick relief to Americans suffering from the Left’s devastating policies.”¹² The group’s mission statement declares: “It is not enough for conservatives to win elections. If we are going to rescue the country from the grip of the radical Left, we need both a governing agenda and the right people in place, ready to carry this agenda out on day one of the next conservative administration.” It adds: “The project is the effort of a broad coalition of conservative organizations that have come together to ensure a successful administration begins in January 2025. With the right conservative policy recommendations and properly vetted and trained personnel to implement them, we will take back our government.”¹³

In addition to its blatant support for the Republican Party, Project 2025 openly touts its ties to candidate Trump. The entire leadership team of Project 2025 served in Trump’s White House, and most of its authors are former Trump aides and officials who are likely to serve in any future potential Trump administration. That includes Russ Vought, a self-described Christian Nationalist who authored part of Project 2025 and served as Trump’s Director of the Office of Management and Budget (OMB).¹⁴ Earlier this year, the Trump Campaign and the Republican National Committee (RNC) also named Vought as the Policy Director of the RNC committee crafting the party platform.¹⁵ The Trump Campaign’s National Press Secretary, Karoline Leavitt, also appeared in a Heritage Foundation video alongside other former Trump administration staffers to promote Project 2025’s training program for potential future political appointees.¹⁶ Earlier this year, John McEntee – a former director of the White House Presidential Personnel Office for Trump and a senior advisor for Project 2025 – told *The Daily Wire* that the Trump Campaign and Project 2025 would “integrate a lot of our work” after the summer.¹⁷

¹¹ Heritage Foundation, “Project 2025,” <https://www.project2025.org/>.

¹² *Ibid.*

¹³ Heritage Foundation, “About Project 2025,” <https://www.project2025.org/about/about-project-2025/>.

¹⁴ Beth Reinhard, “Trump Loyalist Pushes ‘post-Constitutional’ Vision for Second Term,” *Washington Post*, June 8, 2024, <https://www.washingtonpost.com/politics/2024/06/08/russ-vought-trump-second-term-radical-constitutional/>.

¹⁵ *Ibid.* See Republican National Committee, “RNC, Trump Campaign Announce Leadership for 2024 Republican National Convention’s Platform Committee,” <https://gop.com/press-release/rnc-trump-campaign-announce-leadership-for-2024-republican-national-conventions-platform-committee/>.

¹⁶ Patrick Svitek, “Trump Tries to Distance Himself From Project 2025 Plan,” *Washington Post*, July 6, 2024, <https://www.washingtonpost.com/politics/2024/07/05/trump-project-2025-disavowal/>. See also Heritage Foundation, “Project 2025 Presidential Administration Academy” (Video), <https://www.youtube.com/watch?v=ITw6SNI3SR4>.

¹⁷ Adriana Gomez Licon, “Biden Assails Project 2025, Trump Denies Knowing About It | AP News,” AP News, July 7, 2024, <https://apnews.com/article/trump-project-2025-biden-9d372469033d23e1e3aef5cf0470a2e6>.

Additionally, the leading pro-Trump Super PAC (MAGA Inc.) is running ads to promote “Trump’s Project 2025” with a website titled [TrumpProject2025.com](https://trumpproject2025.com).¹⁸ Project 2025 also boasts that “the Trump administration relied heavily on Heritage’s “Mandate” for policy guidance, embracing nearly two-thirds of Heritage’s proposals within just one year in office.”¹⁹ And Trump campaign officials acknowledge that Project 2025 aligns well with their own “Agenda 47” program, which in some cases even cites the work of the Heritage Foundation.²⁰

For his part, Trump has said that he “needs” the Heritage Foundation to enact his agenda, and he has gone out of his way to praise its leaders.²¹ Earlier this year, Trump praised Roberts as “the highly respected president of the Heritage Foundation” and urged him to “keep going” and “get the word out.”²² Just a month later, Trump was shaking hands with Roberts in front of the National Religious Broadcasters and publicly praising him again, saying that the “Heritage Foundation president is somebody else doing an unbelievable job; he’s bringing it back at level it’s never seen.”²³ At the same event, Roberts laid out additional information about Project 2025 and declared: “We want no credit, we want the American people if President Trump is elected again, President Trump and his administration to take credit for that.”²⁴

Given the close ties between Project 2025, Trump, and his re-election campaign, it is deeply troubling that Commissioner Carr would use his official title and position to author part of the political playbook for a Republican presidential candidate. At the very least, it creates an appearance of impropriety.

For all the aforementioned reasons, we ask you to investigate and make a determination as to whether Commissioner Carr complied with the Hatch Act and other federal ethics laws and regulations. Since we are already deep into the presidential election season, we would appreciate your prompt attention to this matter, interim updates on the status of your investigation, and a briefing on your findings.

We trust you will coordinate appropriately with the Department of Justice to preserve the ability to prosecute any criminal Hatch Act violations. We also request that if during your investigation you encounter evidence of misconduct beyond your agency’s remit, you promptly refer it to the appropriate authority and notify us.

¹⁸ Media Matters Staff, “Project 2025 Advisor Says the Initiative Will ‘Integrate a Lot of Our Work’ With the Trump Campaign Later This Year,” Media Matters for America, April 22, 2024, <https://www.mediamatters.org/project-2025/project-2025-advisor-says-initiative-will-integrate-lot-our-work-trump-campaign-later>.

¹⁹ The Heritage Foundation, “Trump Administration Embraces Heritage Foundation Policy Recommendations,” <https://www.heritage.org/impact/trump-administration-embraces-heritage-foundation-policy-recommendations>.

²⁰ Michael Hirsh, “Inside the Next Republican Revolution,” *POLITICO*, September 19, 2023, <https://www.politico.com/news/magazine/2023/09/19/project-2025-trump-reagan-00115811>.

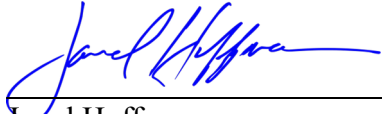
²¹ Rachel Dobkin, “Donald Trump’s Project 2025 Post Met With Skepticism,” *Newsweek*, July 6, 2024, <https://www.newsweek.com/donald-trump-project-2025-heritage-foundation-1921773>.

²² J.D. Wolf, “Trump Praised President of Project 2025 Parent Group by Name Twice This Year,” *Meidas Touch News*, July 5, 2024, <https://meidasnews.com/news/trump-praised-president-of-project-2025-parent-group-by-name-twice-this-year>.

²³ *Ibid.*

²⁴ Kate Plummer, “Donald Trump Allies’ Project 2025 Comments Resurface After He Denies Role,” *Newsweek*, July 6, 2024, <https://newsweek.com/project-2025-donald-trump-heritage-foundation-1921824>.

Sincerely,



Jared Huffman
Member of Congress



Ted W. Lieu
Member of Congress



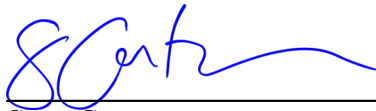
Henry C. "Hank" Johnson, Jr.
Member of Congress



Dan Goldman
Member of Congress




Ayanna Pressley
Member of Congress



Sean Casten
Member of Congress



Pramila Jayapal
Member of Congress



Jasmine Crockett
Member of Congress



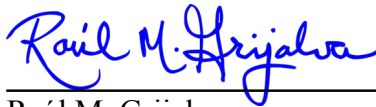
Barbara Lee
Member of Congress



Delia C. Ramirez
Member of Congress



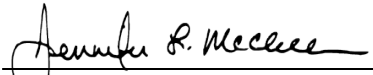
Nanette Diaz Barragán
Member of Congress



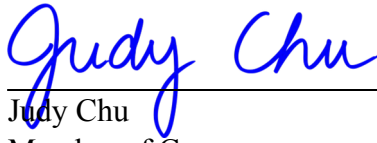
Raúl M. Grijalva
Member of Congress



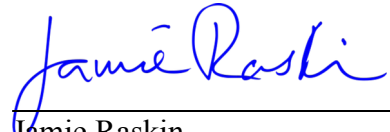
Eleanor Holmes Norton
Member of Congress



Jennifer L. McClellan
Member of Congress



Judy Chu
Member of Congress



Jamie Raskin
Member of Congress