good morning and welcome to part one of

0:07

our legal expense fund regulation

0:09

overview training

0:11

I'm Laura Leary an associate counsel at

0:14

OGE and I have with me my colleague

0:17

Heather Jones who is our senior counsel

0:19

for financial disclosure

0:21

the purpose of this training is to

0:24

provide a big picture overview of and

0:26

context for the new legal expense fund

0:29

regulation we also will flag some

0:32

important items for you to remember if

0:34

you have an employee ask you about

0:36

setting up a legal defense fund

0:38

part two of this training will provide

0:41

details about how to accept pro bono

0:43

Services Under the new regulation

0:47

we will have an additional training on

0:50

the nuts and bolts of how to establish a

0:52

legal expense Fund in late October of

0:55

2023 as well as a Live question and

0:58

answer session on November 8th which is

1:01

shortly before the regulation goes into

1:03

effect on November 21st 2023 we also

1:08

plan additional technical trainings

1:10

later in the year and into next year

1:13

slide two please

1:17

you may have seen that OGE published the

1:21

legal expense fund regulation five CFR

1:24

2635 subpart J on May 25th 2023.

1:29

why did we take this action so I'm going

1:32

to back up a little bit and talk about

1:33

the big picture as you have likely seen

1:36

this from watching the news there are

1:39

times when executive branch employees

1:41

May face legal action arising from their

1:44

government employment and thus will need

1:46

to pay for legal expenses some examples

1:49

include times when government employees

1:52

need to testify before Congress when

1:54

they're involved in in an IG

1:55

investigation or if they're facing

1:58

Personnel or employment actions those

2:00

are just a few examples

2:02

legal counsel for actions like these can

2:05

be very costly and one method to defray

2:08

those costs is to establish a legal

2:10

expense fund that's a fund where other

2:13

people may donate money to help cover

2:15

someone else's legal expenses

2:17

slide three please

2:22

there have been established rules for

2:24

setting such legal expense funds in the

2:26

legislative branch for many years but

2:28

there was no such framework for

2:29

executive branch employees

2:31

so what if an executive branch employee

2:34

was facing legal expenses stemming from

2:37

their government job and wanted to

2:39

establish a legal expense fund to help

2:41

defray those costs

2:43

what would happen is that ode would

2:45

informally consult to help ensure that

2:49

the employee complied with the gift

2:50

rules and other ethics rules but ode did

2:53

not formally approve or disprove legal

2:56

expense funds

2:57

and reviewing these funds

3:00

ode relied on the analysis that the gift

3:02

of legal expenses was not given because

3:05

of official position but just because of

3:07

the employee facing This legal matter

3:10

now this position is counter-intuitive

3:12

because the legal matter wouldn't have

3:15

come up if it wasn't for the job that

3:17

the employee had and this led to a lot

3:20

of confusion

3:21

there were other problems with this

3:24

approach too

3:25

specifically there was no limit to the

3:28

amount any one person could donate there

3:31

was no public disclosure of donors as

3:33

there was in the legislative branch

3:34

there was no requirement for a fiduciary

3:37

duty to the beneficiary and there was no

3:41

requirement for OGE approval or

3:43

oversight

3:45

in short there were real appearance and

3:47

transparency issues with the way things

3:49

were

3:50

slide four please

3:54

well in response to those concerns in

3:56

2018 oge's director committed to

3:59

beginning the process of drafting a

4:01

legal expense fund regulation in order

4:04

to address some of those issues

4:06

and this process involved a lot of

4:08

stakeholder input

4:10

ode held a public hearing we had a

4:13

meeting with interested ethics officials

4:15

we had a stakeholder meeting with ethics

4:17

officials non-profits and Law Firm

4:19

representatives and we received a record

4:22

number of public comments in fact it was

4:24

over 7 000 comments and that final rule

4:27

was published in May of this year

4:31

Slide Five please

4:34

the new subpart Jay

4:36

creates a clear framework for employees

4:39

to establish legal expense funds which

4:41

must must comply with the rules and

4:43

restrictions laid out in the regulations

4:45

and to accept pro bono Services Under

4:49

certain circumstances we'll discuss how

4:52

both legal expense funds and pro bono

4:54

Services operate under the regulation in

4:57

more detail a little later on but just a

5:00

reminder again that this regulation goes

5:02

into effect on November 21st 2023 which

5:06

is just in time for Thanksgiving

5:08

slide six please

5:11

in addition the regulation makes a few

5:14

related updates to subpart B for one the

5:18

regulation creates a new subpart B

5:21

exception for benefits offered to an

5:23

employee from an established employee

5:25

organization

5:27

this exception is not limited to Legal

5:29

Services but it allows employees to

5:32

accept gifts of Legal Services directly

5:34

offered by unions or other employee

5:37

associations

5:38

in addition the regulation as an

5:41

explicit gift exception for legal

5:43

expense funds and pro bono under subpart

5:45

J two-step RP so it's clear that this is

5:48

a gift exception that OGE has

5:51

contemplated

5:52

so before we

5:57

read under the new regulation

5:58

I want to briefly clarify what legal

6:01

matters are eligible

6:03

these rules can only be used for legal

6:05

matters that arise in connection with an

6:08

employee's official position which can

6:10

be their current position or past

6:12

position including a pass position on a

6:15

campaign or transition team in other

6:17

words from their job

6:19

it cannot be primarily personal estate

6:22

planning or family law for example

6:25

so for example if the IRS was

6:28

investigating both the employee's misuse

6:30

of government resources and they're

6:32

misreporting personal taxes a legal

6:35

expense fund could be established for

6:37

the first matter but not the second

6:40

now I'll turn it over to my colleague

6:43

Heather Jones to talk about the basics

6:45

of how a legal expense fund trust works

6:50

hello this training will provide an

6:53

overview a high level overview regarding

6:56

legal expense fund trust we'll discuss

6:59

establishing a little a legal expense

7:02

fund trust in more detail in the second

7:05

nuts and bolts training that will come

7:07

out in the end of October and go over

7:09

how ethics officials can review those

7:12

trusts for approval

7:14

subpart J lays out the basic

7:16

requirements for establishing a legal

7:19

expense front trust which includes that

7:21

it has to be a trust not some other type

7:24

of legal entity which provides

7:27

protections to the beneficiary because

7:29

the trustee will have a fiduciary duty

7:32

to the beneficiary

7:35

the trust must be for the benefit of a

7:38

single employee you cannot have multiple

7:41

beneficiaries from the same for from the

7:45

same trust because it's harder to screen

7:47

the donations for conflicts in those

7:49

cases

7:50

each employee may also only have one

7:53

trust at a time even if they have

7:56

multiple legal matters going the trust

7:58

can cover multiple legal matters but

8:01

each employee gets one legal expense

8:03

untrust

8:05

the Deo will review most trusts for

8:09

approval and OGE will do a secondary

8:13

review for certain high-level positions

8:15

basically those for which OGE reviews

8:18

public Financial disclosure reports and

8:22

White House employees

8:24

OG serves as the first reviewer for the

8:28

reports of deos and the reports of

8:30

anonymous whistleblowers which will be

8:32

covered later and the trust documents

8:35

and all of the reports that go along

8:37

with the trust will be publicly posted

8:40

on the ogu website and that's for every

8:43

employee in the executive branch not

8:46

just those reviewed by OGE next slide

8:50

please

8:53

there are limitations on who can serve

8:56

as a trustee for these trusts and we'll

8:59

go into those more in the nuts and bolts

9:02

training however they fall into basic

9:05

categories people who can't serve as

9:08

Trustees for any legal expense trust and

9:11

those who can't serve as a trustee for

9:14

this particular beneficiary

9:17

the key is that the trustee is a

9:19

fiduciary for the ministry that that

9:22

that means they have exclusive control

9:25

of the assets of the trust and the

9:28

employee is not involved in the

9:30

management of the trust at all next

9:32

slide please

9:36

the regulation also establishes

9:38

limitations on who can donate and how

9:41

much they can donate

9:44

generally individuals are permissible

9:47

donors we also allow certain 501c3

9:51

organizations to make donations those

9:54

501 c3s must be established at least two

9:57

years prior to the time that the legal

10:00

matter starts and then Presidential

10:03

campaigns vice presidential campaigns

10:05

and the national political parties they

10:07

make donations there is a ten thousand

10:10

dollar limit

10:12

per donation per or donation total for a

10:15

calendar year which is same as the limit

10:18

for the Senate The house's limit is five

10:21

thousand dollars we chose the higher

10:23

limit because commas were generally in

10:26

favor of having a higher limit but in

10:29

favor of keeping them close in line with

10:32

the legislative branch limits in

10:34

addition trust will be required to the

10:37

employees will be required to do

10:39

quarterly reports reporting the

10:42

contributions and distributions of 250

10:45

or more to the trust that limit of

10:49

reporting is the same as the house next

10:52

slide please

10:55

this is a list of prohibited donors and

10:58

we're going to talk more about how to

10:59

figure out if someone falls into those

11:01

categories in the nuts and bolts

11:04

training at the end of October however

11:07

again it's generally two categories

11:09

those types of people who cannot donate

11:12

to anyone and those types of people who

11:14

need to be considered for the individual

11:17

employees

11:18

these the concept is different from our

11:22

prohibited Source Concept in the gift

11:24

rules we received feedback from agencies

11:28

that the prohibited Source concept would

11:30

foreclose a number of people at agencies

11:34

from receiving donations from basically

11:36

anyone particularly the Commerce

11:39

department and the justice department

11:41

instead we created the idea of that kind

11:45

of a bad prohibited Source or a more

11:47

specific

11:48

specific prohibited source that focuses

11:52

on the employees duties rather than the

11:54

duties of the agency next slide please

11:59

we received many public comments that

12:02

asked for 501c3s to be able to donate to

12:06

Legal expense funds as they are allowed

12:09

to do so but only in certain

12:10

circumstances

12:12

the 501c3 must be registered with the

12:15

IRS as a 501c3 organization it must be

12:19

established for two years before the

12:21

beginning of the legal matter and it

12:24

must not be substantially affected by

12:26

the performance of the employee's

12:28

official duties so for example if the

12:31

employee was

12:33

doing grant review for an agency the

12:36

employee could not take a donation from

12:39

a 501c3 that had applied for a grant

12:42

that they were reviewing

12:44

next slide please

12:47

there are also restrictions on what the

12:49

employee beneficiary may do after

12:51

they've established the legal expense

12:53

fund and these generally involve

12:57

um the ways that they can solicit for

12:59

contributions and the types of matters

13:01

that they need to recuse from

13:03

they must refuse from any party matter

13:07

involving a donor or the trustee for two

13:12

years after the trustee starts serving

13:15

stop serving as the trustee and the

13:17

whole time while the trustee is serving

13:19

as trustee or for two years after a

13:22

donor makes a donation so if someone if

13:25

a donor makes a donation of more than

13:28

250 dollars and the limit is only

13:31

applies to donors over 250 dollars then

13:35

they cannot if they make that donation

13:37

in January of 2024 then the person would

13:42

not be able to work on a party matter

13:44

involving that donor until January of

13:48

2026

13:49

and if the trustee were saying also a

13:55

litigant and representing someone in a

13:57

case that attorney at the doj was

14:01

Prosecuting then that

14:03

prosecutor could not participate in the

14:06

case where the trustee is representing

14:09

someone

14:10

in addition we encourage employees to be

14:13

cognizant not to violate the misuse of

14:15

position Provisions in subpart G in

14:19

particular don't use your agency seal or

14:21

agency letterhead in your solicitation

14:24

materials on your websites soliciting

14:27

donations because the agency needs not

14:30

to appear like they're soliciting on

14:32

your behalf or on behalf of the Les

14:36

next slide please

14:41

the employee will be required to fill

14:43

out quarter quarterly reports OG has

14:47

created a new form to do this it's the

14:49

ode form 601 and it will be available on

14:54

our webpage on both the foreign page and

14:57

the resource Pages or

14:59

legal expense fund trust don't worry you

15:02

don't need it now the first legal

15:04

expense fund trust reports won't be due

15:06

until January 30th

15:09

um we're going to discuss the details of

15:11

how to fill out and review these forms

15:13

in an upcoming nuts and bolts training

15:15

at the end of the year but the key point

15:18

is that employees will be reporting any

15:21

contribution or distribution that is of

15:24

more than 250 dollars including those

15:27

that total more than 250 dollars during

15:30

the year

15:31

and then all these quarterly reports

15:34

will be posted on the OGE website not

15:37

just those of the ones reviewed by OGE

15:40

in addition when an employee is leaving

15:43

the government or terminating the trust

15:45

they will also have to file one final

15:47

form 601 detailing all the information

15:50

before the trust is closed or before

15:52

they leave the government

15:54

these are generally filed with your

15:57

agency just like your financial

15:59

disclosure report but certain reports

16:01

will need second level approval by OGE

16:05

basically the report review follows the

16:09

very same approval rules as the trust

16:11

approval next slide please

16:16

we mentioned briefly terminating the

16:18

trust

16:20

um employees can do so if basically in

16:22

two ways they can voluntarily in their

16:25

trust at any time most will do this when

16:27

the purpose of the trust is fulfilled

16:29

but they have may have other reasons to

16:32

end early they can end it at any time

16:34

they choose however OGE will require the

16:38

employee to terminate the Las trust

16:40

within 90 days of the conclusion of the

16:43

legal matter that is the purpose of the

16:45

trust or 90 days of the last expense

16:48

being paid by the trust we know legal

16:50

expenses drag out sometime longer than

16:53

the legal matter so they are allowed to

16:55

pick whichever of those dates is later

16:59

next slide please

17:01

OGE has built-in Protections in the

17:05

event the employee beneficiary does not

17:07

comply with the requirements of part J

17:10

if the beneficiary receives an

17:13

impermissible contribution which Could

17:15

Happen by accident

17:17

they must return that but trustee must

17:20

return that contribution to the donor as

17:23

soon as possible but in no case later

17:25

than the next reporting date so if they

17:28

receive a contribution in February they

17:32

will need to make sure that contribution

17:34

is returned by the end of April

17:38

also OGE has the authority to stop the

17:41

trust from accepting contributions or

17:44

making distributions if there is

17:45

continuing or significant non-compliance

17:48

with the regulation or termination of

17:51

the trust all

17:52

depending on the severity of

17:54

non-compliance also if

17:57

employee beneficiaries don't file their

18:00

trust reports on time they're not

18:02

allowed to accept donations or make

18:05

distributions from the trust until they

18:07

get that quarterly report filed now I'm

18:10

going to turn the presentation back over

18:14

to Maura to talk about certain special

18:15

cases thank you

18:20

thank you Heather and next slide slide

18:22

15.

18:24

while what we've covered so far we'll

18:26

apply to the vast majority of employees

18:29

there are certain categories of

18:31

employees for whom this process that

18:33

we've just outlined is a bit different

18:35

if an employee is an anonymous

18:38

whistleblower and they wish to create a

18:40

legal expense fund then they have the

18:43

option to file either with their day out

18:45

or directly with OGE to avoid even being

18:49

associated with a specific agency

18:52

in addition their LEF documents that how

18:55

they're just discussed their trust and

18:56

their quarterly report forms will not be

18:59

posted publicly

19:00

in addition deos will file their LEF

19:04

directly with OGE since all other

19:07

employees file with their Deo and

19:10

finally the LEF documents for covert

19:12

employees will remain at their

19:15

intelligence agencies and all documents

19:18

will be handled in accordance with

19:20

existing procedures for classified

19:21

documents so for example if OGE needs to

19:25

review the Las of a covert employee we

19:29

will work through the established

19:30

processes for classified documents so

19:33

for example the OG employee will travel

19:35

to a secure agency site

19:38

next slide please

19:41

OG has a number of resources available

19:44

on the topic of legal expense funds

19:48

we have we've issued a legal advisory La

19:52

2305 which provides an over overview

19:55

similar to this training and we will

19:58

also have a number of additional

20:00

resources on our website

20:02

uh there is a handbook for LEF trustees

20:05

you'll find a guide to Legal expense

20:07

funds for employees the OGE form 601

20:11

which is the form that will be used for

20:13

the quarterly reports that we discussed

20:15

as well as model trust Provisions for

20:18

employees to use when setting up an LEF

20:21

trust hopefully you will find those

20:23

resources helpful and as we've mentioned

20:26

earlier we will be holding several nuts

20:28

and bolts training sessions focusing on

20:31

how to set up administer and terminate

20:33

legal expense fund trust

20:35

thank you very much and we will rejoin

20:38

you for the second half of this training

20:40

shortly

20:43

thank you

welcome back this is again Mora ly with

0:07

the office of government ethics in part

0:10

one of this legal expense fund overview

0:12

training we discussed the background

0:15

behind the new LEF regulation and gave a

0:18

general overview of the LEF trust

0:20

process which we will cover in more

0:22

detail in later trainings subpart J also

0:26

allows employees to accept pro bono

0:28

Legal Services Under certain specific

0:31

circumstances and that is what we'll

0:33

cover now next slide

**Employees Needing Legal Representation**

0:37

please backing up a bit employees

0:40

needing legal representation for matters

0:43

relating to their government employment

0:45

May seek pro bono representation that is

0:48

legal councel which is provided without

0:51

charge or for a reduced rate this

0:54

Arrangement generally operates as an

0:56

in-kind gift from legal service provider

0:59

so they provide the services rather than

1:01

than money such as a law firm although

1:04

there are situations where an outside

1:07

organization may want to pay a legal

1:10

services provider like a law firm to

1:12

cover an employees legal

1:14

expenses and I want to note that because

1:18

these pro bono Arrangements have a much

1:21

lower administrative burden than legal

1:23

expense funds this approach is often

1:26

preferable to the employee if it's

1:28

available slide 21

1:32

please prior to the issuance of the

1:35

legal expense fund regulation employees

1:37

seeking pro bono Legal Services could

1:40

accept them only if the firm was not a

1:43

prohibited source and the services were

1:46

not given because of official position

1:49

now this approach had a number of

1:51

practical issues many law firms

1:54

especially those in the Washington DC

1:57

area where many federal employees reside

1:59

did business with government agencies

2:02

and were therefore considered prohibited

2:04

sources Heather mentioned previously

2:06

that some big agencies that were

2:08

particularly problematic were agencies

2:10

like the Department of Commerce and

2:11

Department of Justice where almost any

2:13

law firm might be a prohibited Source in

2:17

addition as with legal expense funds the

2:21

not because of official position Concept

2:23

in this context was confusing since the

2:27

employee would not have the legal Pro

2:29

problem if it wasn't for their

2:31

government job now OG had the position

2:33

that it arose out of the legal matter

2:36

but it is a confusing concept and it's

2:38

worth

2:40

clarifying next slide

**How Pro Bono Can Be Accepted**

2:42

please so now I'm going to talk about

2:45

how prono can be accepted under subpart

2:48

J so how we've changed some of those

2:50

problems and addressed them first I want

2:53

to emphasize that this process the pro

2:56

bono process is entirely separate from

2:59

the legal expense fund trust process

3:02

there's no trust document there's no

3:04

quarterly report none of that is

3:06

required if an employee accepts pro bono

3:09

services in accordance with subpart j

3:12

instead this is a new gift exception

3:16

because the analysis for whether this

3:19

gift exception applies is somewhat

3:21

complex employees must consult with

3:24

their ethics official before they accept

3:27

prono legal services this is a

3:29

requirement in the regulation at 2635

3:34

1009c as with legal expense funds this

3:38

new pro bono gift exception is limited

3:41

to legal matters arising in connection

3:44

with the employees past or current

3:46

official position it cannot be used for

3:49

matters that are primarily personal in

3:52

nature and we discuss a lot of these

3:56

Concepts and frequently asked questions

3:58

in the legal advisory 2307 IT addresses

4:02

um Pro bonus services in a lot of detail

4:05

next slide

**Analysis Process**

4:07

please so generally I just want to walk

4:10

through this um this analysis process

4:14

generally it's a two-step process the

4:17

first step is that the ethics official

4:19

needs to determine whether the entity

4:22

offering legal services does not have

4:25

interests that might be substantially

4:27

affected by their performance or

4:29

non-performance perance of the employees

4:31

official duties again this analysis is

4:34

tailored to and focused on the what the

4:36

employee is doing rather than the

4:38

general work of the agency as with the

4:40

prohibited Source concept and we start

4:43

there with the legal services entity

4:46

like the law firm because if that entity

4:49

has interest like that the proon

4:51

services can't be accepted and the

4:54

inquiry is over so um so we stop there

4:58

if the entity does not have interest

5:01

like that we move then to step two and

5:04

the ethics official then looks at the

5:06

specific attorney or attorneys doing the

5:09

legal work and determine whether or not

5:11

they meet certain qualifications next

5:15

slide so those qualifications that the

5:18

attorney must meet is that they may not

5:20

be a foreign agent a foreign National a

5:25

lobbyist or a person who has interest G

5:29

affected by the performance or

5:31

non-performance of the employees

5:32

official duties now generally as I

5:36

mentioned if the legal services entity

5:38

like the law firm doesn't have such

5:41

interest the attorney won't either but

5:44

it is important to make sure for example

5:48

the attorney could have a personal

5:49

Social Security claim unrelated to the

5:51

attorney's work at their Law Firm before

5:54

the employee beneficiary at the social

5:57

services Administration this is an un

5:59

likely circumstance but it's important

6:01

to to confirm that this is the

6:04

case so I'm going to back up for a

6:07

minute and talk about an example so

6:09

sticking with the Social Security

6:11

Administration let's say that an

6:14

attorney at a large Law Firm offers to

6:16

represent an employee at the Social

6:18

Security Administration in proceedings

6:20

related to workplace

6:22

discrimination the ethics official needs

6:25

to First determine so again step one if

6:27

the firm has interest that would be

6:29

affected by the performance of the

6:31

employees official duties and I'm

6:34

hitting this point again but it's

6:36

important so as discussed above the fact

6:39

that if this Law Firm has litigation

6:43

generally before the Social Security

6:45

Administration as an agency as an as the

6:48

whole that wouldn't necessarily

6:50

disqualify The Firm from providing prono

6:52

services to the employee the key

6:55

question is whether the specific Social

6:57

Security employee that's seeking to

7:00

accept the pro bono Services worked on

7:03

any of that litigation or performed any

7:05

other duties that would affect the

7:07

firm's interests so assuming that that

7:09

is not the case then the inqu inquiry

7:12

moves more specifically to the attorney

7:15

offering the

7:17

services and again although that

7:19

individual ATT attorney generally

7:21

wouldn't have interests affected by the

7:23

performance of the employees official

7:25

duties we need to confirm that that's

7:27

the case as we just discussed and then

7:30

also confirm that the attorney is not

7:32

registered as a lobbyist a foreign

7:35

National or a

7:37

foreign if the individual attorney meets

7:40

each of these criteria then the employee

7:43

May accept the the legal

7:45

services I do want to make one final

7:48

clarifying note on this the regulation

7:52

requires only that the individual

7:54

attorney providing the pro bono services

7:57

not be registered as a lobbyist so

8:00

accordingly an employee May accept Kono

8:03

Services even if another attorney at the

8:05

law firm or the law firm itself is

8:08

registered as a lobbyist or a foreign

8:10

agent again this is not uncommon with um

8:13

Major law firms so it's an important

8:15

practical point that will help improve

8:19

access to Le to Pro bonus services for

8:23

employees slide 25

8:26

please now there's one other permutation

8:28

of this we discussed generally at the

8:30

beginning of the training an outside

8:33

organization uh may also pay Legal

8:36

Services entity to represent an employee

8:39

on a covered legal matter but only if it

8:41

again meets certain specific criteria so

8:45

as with 501c3 organizations donating to

8:49

Legal expense funds there was also a lot

8:52

of Desire from the public comments for

8:56

50123 organizations to be able to pay

8:59

for pro bono services so we've created

9:03

this um this additional layer where if a

9:07

501c3 organiz if sorry if an

9:10

organization is a 501c3 organization if

9:13

it was established as a 501c3

9:16

organization more than two years ago and

9:19

if that organization does not have

9:22

interest that might be substantially

9:24

affected by the performance or

9:25

non-performance of the employees

9:27

official duties then

9:29

that organization May pay a legal

9:32

services entity to represent an employee

9:35

if the 50123 organization doesn't meet

9:39

each of those criteria then the employee

9:42

may not accept the pro bonus services

9:44

and if they do meet that criteria then

9:47

the ethics official conducts the

9:49

analysis on the legal services entity

9:52

and the individual attorney as we

9:55

discussed in the prior few

9:58

slides

9:59

so again I'm just going to walk you

10:02

through a brief example about this let's

10:04

say that there's a 501c3 organization

10:07

that focuses on employment

10:09

discrimination and they offer to pay an

10:11

outside Law Firm to represent a DHS

10:14

employee in a legal matter relating to

10:17

an eeo complaint the ethics off official

10:20

must start with the organization so they

10:22

determine first whether the organization

10:26

is registered with the as a 501 c

10:29

with the IRS and that it has been so

10:32

registered for more than two

10:34

years then the ethics official must

10:37

determine whether the 501c3 organization

10:40

does not have interests that may be

10:42

substantially affected by the

10:43

performance or non-performance of the

10:45

employees official duties and then once

10:48

that ethics official has confirmed all

10:51

of those requirements of the 501c3

10:53

organization they move to the two-step

10:56

analysis we discussed determining that

10:59

that the firm doesn't have interest

11:00

affected by the by the employees

11:02

official duties that the attorney does

11:04

not and that the attorney is not a

11:07

lobbyist foreign agent or foreign

11:08

National so there are a long long list

11:11

of criteria that are required but if

11:14

each of those criteria are met the

11:16

employee May accept the legal

11:19

services slide 26

**Mandatory Recusal**

11:23

please and I wanted to mention also that

11:26

as with the LEF trust process there are

11:29

also mandatory recusal requirements for

11:32

employees who accept pro bono Services

11:34

Under subar so specifically any employee

11:38

accepting pro bono Services needs to

11:40

recuse from party matters in which the

11:43

employee knows that either a pro bono

11:45

legal services provider is a party or

11:47

represents a party uh from the time time

11:50

the pro bono legal services provider

11:53

begins providing Services until two

11:55

years after the date they last provided

11:58

that applies both to the law firm or

12:01

other legal services provider and the

12:03

attorney themselves and then in addition

12:07

if that 501c3 organization is paying for

12:10

employees legal expenses this recusal

12:13

applies also to that 501c3 organization

12:16

so um each one of those three would um

12:20

the employee would have a refusal

12:22

from slide 27

**Resources**

12:25

please so that covers and concludes the

12:29

substantive portion of today's training

12:32

but we did want to point out the

12:34

resources that will soon be available to

12:36

you on legal expense on the prono

12:40

service aspect of the legal expense fund

12:43

we have two legal advisories right now

12:45

le 2305 which provides a general

12:47

overview of how the regulation operates

12:51

and La 2307 which provides guidance

12:54

specific to the solicitation and

12:56

acceptance of pro bono Services we do

12:58

you expect to provide additional

13:00

training and resources on Pro bonus

13:03

Services as these um this portion of the

13:07

new regulation is used um but that will

13:10

likely be down the road but keep your

13:11

eye out for additional trainings we hope

13:13

you find these resources helpful and uh

**Outro**

13:17

next slide

13:18

please please do not hesitate to reach

13:21

out to your OG Des officer if you have

13:24

any questions about the new legal

13:26

expense fund regulation and we hope

13:28

you'll join us for these additional

13:30

trainings that we have planned thank you

13:32

very

13:34

much

uh welcome I am Heather Jones senior Council for financial disclosure at the

0:06

office of government ethics and one of the attorneys who worked on the LEF

0:11

regulation team we this is a how-to training on how

0:17

to establish a legal expense fund and how to review and approve it we will

0:23

have additional how-to trainings in the future one on completing quarterly

0:29

reports in December and one on terminating the LEF in the New Year we will also have a Live

0:36

question and answer session on November 8th which is shortly before the regulation goes into effect on November

0:43

21st 2023 I also want to note that this training is specifically regarding um

0:51

legal expense fund trust there isn't information about the acceptance of pro

0:57

botal legal services that information is provided Ed in a separate training next

1:02

slide please in the overview training we

1:08

discuss situations for which an employee may want to set up a legal expense fund

1:13

trust for the purpose of this training is to explain the steps an employee will

1:19

need to take to set up a legal expense fund trust and find a trustee and begin

1:26

the process of accepting contributions the requirements outlined for employees

1:33

in this document going forward are also the requirements that ethics officials

1:38

should look for when they're reviewing the trust for approval to ensure the

1:43

information that is needed is included in the trust documents and to ensure that the trustee meets the requirements

1:50

of the regulation this training will also explain the rules for contributions and

1:57

distributions and the employees refusal requirements for the trustee and for

2:02

donors to the trust that need to be considered as soon as the trust is

2:08

established this the information in this training is also covered in the

2:13

employees guide for legal expense funds which is available on the o website it

2:20

is the most comprehensive guide regarding the legal expense fund rules I

2:25

really recommend that you consult it um for information about this

2:30

also there's a lot of information in these slides and but everything in the

2:36

slides is also in the employee guide so if you have any questions you can go consult the employee guide or back up

2:43

the slides and watch again I really think of this training as an opportunity

2:49

for you to get some red flags in your mind or things you need to be thinking about but really use the guide as your

2:58

tool um to make sure that you're meeting all the requirements when you set up

3:03

your trust or you review your trust next slide

3:09

please the types of legal matters that an employee may use a legal expense fund

3:14

for are limited arising from the employees um current or Past official

3:22

position is one type of legal matter that can serve as a basis for a legal expense

3:29

fund trust for example imagine a Central Intelligence Agency employee is facing

3:36

an administrative disciplinary action due to an issue with the employees security clearance and would like to

3:43

seek financial assistance to pay for an attorney because this matter arose with

3:49

their official position the employee May establish a legal expense fund trust to

3:54

help pay for the legal expenses for that legal matter employees may also will set up

4:00

legal expense fund trust for legal matters arising from the employees prior

4:05

position on a presidential or vice presidential campaign the federal for

4:11

example if you had a Federal Election Commission investigation into the

4:16

expense payments made by a presidential campaign the Federal Election Commission

4:22

staff then seeks to interview a former campaign staff person who is now an

4:27

employee of the Executive Office of the President about their knowledge about the payments

4:33

the employee May establish a legal expense fund to pay for the legal expenses because the legal matter arose

4:39

from the employees work on the campaign employees may also pay for

4:44

legal matters arriving from their prior position on a presidential T transition

4:49

team for example an employee who now works at the state department was in a

4:55

car accident while traveling on transition team business the the transition team and the employee are

5:01

sued by the other car's driver in the accident if the employee needs to retain

5:07

their own legal counsel they may establish a legal expense fund to help pay for the legal expenses because this

5:15

matter arose in connection with the work of the transition team remember that

5:21

legal expense funds may not be used for personal legal matters so if our state

5:26

department employee in the previous example had a car accident while driving to pick up their child from soccer

5:33

practice the employee could not use the legal expense fund to defray any legal costs simply put legal expense funds are

5:41

only for legal matters that came up because of the employees government

5:47

job for purposes of our presentation today we're going to work with the

5:52

example of a singular employee Caroline Smith who works for the Department of

5:57

interior she is being investigated by the IG for misuse of government resources while on official

6:05

travel here the employee would have the option of establishing an Lam because

6:10

her legal matter arose because of her official position next slide

6:16

please our employee in the example is wondering what she needs to do to get

6:22

the process of setting up a legal expense fund started the first step OG recommends is

6:29

re reaching out to the agency's ethics office to get advice about the options

6:34

for getting help with legal expenses which aren't limited to just legal expense funds to get an explanation of

6:42

the process for setting up a legal expense fund and getting information about the resources available to help

6:49

the employee and those resources are going to be highlighted throughout this training and largely can be found on the

6:56

OG website OG recommends engaging a trust lawyer who practices in the state

7:04

where the employee lives to draft the trust document so OG encourages ethics

7:09

officials to let the employees know they should hire someone in their state we

7:15

understand that hiring a trust lawyer can be very expensive so we have created

7:20

model trust POS Provisions to assist either the trust lawyer in writing the

7:25

trust to help defray some of those costs or so the employee can use them if they

7:31

decide to use an off-the-shelf trust document when setting up the

7:37

trust the employee also should start thinking about possible trustees someone

7:43

they would trust to manage the assets of the TR trust properly and we'll explain

7:48

the requirements for being the trustee in this training shortly next slide

7:55

please this is a screenshot of the first page of our model trust provision

8:01

document it contains sample trust paragraphs for every paragraph that

8:06

OG um needs to be a part of the trust as required under subpart J or the LEF

8:13

regul the LEF regulation it do not contain every provision that the trust

8:19

will need to be legal under state law because trust laws vary from state to

8:24

state you can find this document on the OG website under resources for federal

8:31

employees and there is a tab there for resources related to Legal expense funds

8:37

ethics officials you can use this document as a checklist for the provisions that should be in the trust

8:43

document the trust document does not need to match word for word the model

8:49

Provisions but the provisions in the employees trust document should have the same legal effect as those in the model

8:56

trust document and note we do not expect ethics officials to be experts in trust

9:03

law many of us aren't we're working in the field of Ethics um that's why we've

9:09

drafted this model trust provision document and your responsibility for reviewing the trust is just to ensure

9:17

that the provisions in the model trust provision document are covered in the

9:22

trust document next slide please this slide provides a list of the

9:29

general trust Provisions that each LEF trust document must contain we're going

9:35

to walk through them with our Interior Department employee explaining what each trust provision should look like for her

9:43

the trust should indicate the Caroline Smith is the grantor and beneficiary of

9:48

the trust note that Miss Smith must be the only beneficiary of the

9:53

trust the stated purpose of the trust is to accept contributions and pay for

9:59

legal expenses in connection with the Department of interior ID investigation

10:05

into possible misuse by mismith of government funds while on official travel there must also be a provision

10:13

indicating that Miss Smith as beneficiary may not control the assets of the trust and that the only benefit

10:20

she can receive from the trust is payment of legal expenses related to the

10:25

IG investigation there is also a provision requires that indicates that the trustee

10:32

and any successor trustee must not be the beneficiary of the trust the spouse

10:38

parent or child of the beneficiary a federal employee a foreign National a

10:43

foreign agent a lobbyist or a person whose interest may be substantially

10:49

affected by the performance or non-performance of the beneficiary duties finally there is a provision

10:56

indicating which state's laws will govern govern the trust our Interior Department employee lives in Denver so

11:03

the trust should indicate the Colorado law will govern the trust next slide

11:10

please this next group of slides discusses the rules around accepting

11:16

contributions and giving out um paying expenses the provisions discussing

11:23

permissible and prohibited contributions contain the information about contributions we will discuss in the

11:30

upcoming slides I strongly encourage you to consult the model trust provision

11:35

document for this portion of the talk trust document as a checkl and as a

11:40

checklist for agency ethics officials you just need to make sure all the rules

11:45

about who can't give to a trust are included in the trust document the

11:51

provision for permissible expenses should include what is permissible under the regulation which also will be

11:58

discussed in detail until more later in this presentation and that is limited in any

12:04

way by state law that governs the trust so we have rules about proper expenses but state law may also have its own

12:11

specific rules there also must be a provision that requires the trustee to

12:17

let donors and payes know that their information will be posted on the OG

12:22

website another thing to consider when drafting the trust trust Provisions is

12:28

whether you you as an employee will pay the trustee for their work this is often called trustee fees and it is permitted

12:35

under the regulation and trustees often like to be paid because being a trustee can be a

12:42

timec consuming job next slide please finally there must be a provision

12:50

in the trust that requires the trustee provide our interior dep Department

12:55

employee with the information that she would need to fill out out quarterly reports and if she's a financial

13:02

disclosure filer the gift section of the financial disclosure report that she filed the provision should also require

13:09

the trustee to provide information to the filer so they can meet their recusal obligations which are discussed more

13:16

more in detail in this presentation the trust must require that it be improve approved by the Interior

13:23

Department and that the trustee provide a copy of the trust to the agency's ethics office

13:29

there must also be a provision discussing what will happen with any excess funds once the trust is

13:36

terminated and these are the trust Provisions that are required by subpart

13:42

J of the standards of contact next slide

13:48

please when the Interior Department employee is considering who to have as a trustee they should think about these

13:56

important trustee duties the trustee must act as a fiduciary and as a result

14:02

operate the trust in the best interest of the beneficiary the trusty has exclusive

14:08

control over the trust property meaning that the employee is not involved in the management of the trust they must be

14:15

good at managing money and keeping records of what is coming in and going out of the trust they will also be

14:22

responsible for filing the trust's tax returns the trustee must ensure that the

14:27

trust operates in compliance with subpart J the state law and the trust

14:34

document such as providing the Interior Department with the employee with the information that they need to fill out

14:41

their quarterly reports so these are very important responsibilities to

14:47

considering to consider when you're deciding who would be the best fit to be your trustee next slide

14:55

please when our employee is considering who can be their trustee there are categories of people who are

15:02

automatically disqualified by the regulation from being a

15:07

truste for example the employee their spouse child or parent may not be a

15:13

trustee of the trust any federal employee no matter what branch they work

15:18

for may not be a trustee for an LEF trust a foreign National this is someone

15:25

who is not a citizen and not a law permanent resident of the United States

15:32

a foreign agent nor a Lobby lobbyist may be a

15:37

trustee nor May someone who has interest that may be substantially affected by

15:43

the employees performance or nonperformance of their work and we'll unpack this requirement in a minute you

15:51

will see that it carries through the regulation into the contribution section as well next slide please

16:00

so the standard of a person or someone who has interests that may be

16:06

substantially affected by the employees work carries through a lot in this

16:11

regulation with regard to LEF trust both employees and agency ethics officials

16:18

will need to consider this standard for both who can be a trustee and who can

16:23

donate to a trust unlike the prohibited Source rule in the main gift rule the

16:30

bad prohibited Source standard here is a little different for subpart J the focus

16:38

is on the employees duties rather than what the agency does as a whole this is

16:46

not a new standard for ethics officials just so you know it is in other parts of

16:51

the rig it's just something we've carried into the gift rule for the first

16:56

time if for example in this case our Interior Department employee works on

17:03

contract awards for the Department she would need to consider the people and companies bidding on contracts that come

17:11

before her specifically for purposes of this standard when deciding who can be

17:16

your trustee if there was an individual who had a

17:22

sole proprietorship whose company was bidding on a project and she was reviewing that contract that person

17:30

could not serve as trustee for her trust in this case our employee has

17:35

selected her sister to be the trustee of the trust she's good with money and she

17:41

has bookkeeping experience in Colorado and there's no overlap with her

17:47

Department of interior position she meets all the requirements in the regulation so she could be approved as

17:55

the trustee next slide please this slide provides the steps for

18:02

approval of an LEF trust there's a lot of steps I know it seems daunting but we'll walk through them one by one first

18:11

our employees should provide a copy of their draft test document and the information about their proposed trustee

18:18

to their agency ethics officials agencies may have their own established

18:23

process for submission of these documents so employees should check with their agents ethics official if they

18:30

have questions about their agency process second the agency ethics

18:36

official will review the trust document and the information about the trustee to see if everything is in compliance with

18:42

subpart J they should check if the legal matter qualifies as a covered legal matter they

18:49

should review the trust to see if all the required Provisions are included and they should review the trustee

18:56

information to ensure that the trustee qualifies under subpart

19:02

J third we encourage the agency ethics official to provide the trustee with an

19:07

electronic copy of the trustees handbook and the LEF trustee guide for

19:13

information comp collection compliance both of these documents are available on

19:18

the OG website employee resources page within 30 days of receiving the

19:25

trust from the employee for review the agency ethics official should let the employee know if they've identified any

19:32

issues in the trust or if they're going to approve their trust if they find no issues then the doo should approve the

19:39

trust in that 30-day period this is a short timeline so that the employee can

19:45

get legal assistance engaged as soon as possible if the trust is not approved

19:50

the employee should work to correct any identified problem and resubmit the trust documents or find a new trustee um

19:58

and give that information to the agency as soon as possible once the trust is

20:04

approved by the agency the employee should execute the trust document which usually means signing the trust document

20:11

in front of a notary public and then provide a copy of that executed trust

20:17

document to the agency at this point the employee and trustee can start raising money for the

20:24

trust agency ethics officials at this point should keep a copy of the document for

20:31

their records but also transmit a copy to OG for posting on the OG website and

20:39

in some cases for second level review of the report an an ultimate posting by Og

20:47

please send the document to LEF at o.gov and that um web address is also

20:56

available in all of the resource documents you can find it o will

21:03

complete second level review on the reports it reviews for financial disclosure and all White House employee

21:10

trusts OG will reach out if they identify any issue in the trust

21:16

documents or with the trustee and at that point employees may be asked to further revize the trust or possibly

21:23

find a new trustee but that's only for reports that OG completes second level

21:28

review for next slide please one of the first things our

21:36

Interior Department employee and her trustee will do once the trust is pro is

21:41

approved is to begin to solicit contributions for the Lees both the

21:46

employee and the trustee need to be wary of the misuse of position stand

21:52

standards in the standards of conduct for example the employee in the trustee

21:58

may not use the Interior Department seal or Interior Department letterhead in any

22:03

solicitation or on a web page seeking solicitations nor May the employee use

22:09

her government hours or computer or phone or staff at her direction or any

22:14

other resources to raise funds the solicitation that they do make

22:20

for funds can reference her position at the Interior Department and the legal action that the funds are being raised

22:28

for OG recommends that the employee consult with ethics officials about any

22:33

solicitation materials to ensure that they comply with the ethics regulations next slide

22:41

please now we're going to talk about people who can contribute to a trust

22:46

there are four categories of permissible donors to an Lees they are individuals

22:53

National Party committees like the DNC and the RNC president and vice

22:58

presidential campaigns and certain 501 cc3

23:03

organizations we will discuss each group in detail starting with individuals additionally we have a model

23:12

donation format for trustees that they could use to ask donors if they're in

23:17

one of the prohibited categories this is just something that could be used on a

23:22

website to collect information about the donors or given out if they're sending

23:28

mailings and that um model format is available on the employee resource web

23:34

page on the OG website next slide please individuals allowed to donate are

23:42

divided into two groups those who are unable to give to any federal employee

23:47

legal expense funds and those who can't give to the particular employee based on

23:53

the employes official duties so this first slide goes to those who are not able to get to any federal

24:01

employee an agent of the foreign government as defined in five USC

24:08

7342 A2 um cannot give to Lees and there is a

24:15

link to the doj website to look up foreign agents both in the employee guide and the trustee guide a lobbyist

24:23

as defined by 2 USC 16210 who is currently registered P

24:29

pursuant to 2 USC 1603a and there are links on our in both

24:36

the trustee guide and the employee guide to look up whether someone is a lobbyist

24:42

on the house Clerk's website and the Senate Secretary of the Senate's

24:47

website a foreign National may not give that is someone who is not a citizen or

24:52

a legal permanent resident nor can a person who's donating on behalf of someone else or at their

25:00

Direction This do allow Pro does not allow someone to give money to someone

25:06

else and have them give it also means you can't disguise a donation from a business that's the purpose of not

25:13

donating on someone else and you cannot be an an anonymous donor and make a donation you have to provide your name

25:22

in order to donate next slide PE please the these prohibitions are

25:29

specific to the employee or agency that the employee works for so someone who is

25:35

seeking official action from the employees agency in this case the Interior Department may not donate to

25:42

the legal expense fund someone seeking to do business or doing the business with the

25:49

agency and note this needs to be an individual seeking do to do businesses

25:54

with the agency cannot give to a legal expense fund someone who is regulated by the agency

26:01

unless the regulations affect a large and diverse group like tax all taxpayers

26:07

or all passport Seekers or all Social Security recipients again these are

26:14

individuals someone who is substantially affected by the performance or non-performance of the employees duties

26:22

and this is the very same standard we discussed about TR to use for trustees

26:28

nor May officers or directors of an entity substantially affected by the employees duties so in this case if our

26:36

interior deploy employee worked on granting contracts she could not accept

26:41

donations from the officers or directors of companies that bid on the contracts

26:47

that she's personally working on so she needs to think about all the company's

26:52

bidding and make sure her trustee is checking to make sure the officers and direct dors of those companies aren't

27:00

donating to her legal expense fund next slide

27:06

please a campaign or party can donate to a legal expense fund but they must be

27:13

qualified as a federal c campaign on the federal campaign under Federal campaign

27:19

Finance laws the FC website is a good resource for checking on the qualifications of a campaign or party

27:27

committee there are links in the employee guide to to the secc website to

27:33

find this information Additionally the campaign can't give if

27:39

the employee will if their work will be substantially affected by the performance or non-performance of the

27:46

duties of the employee in this case it's unlikely to happen for an Interior

27:51

Department employee to have to worry about a campaign or party donation finally campaign can only pay

27:58

for the legal expenses for someone who worked on the campaign the campaign can't pay for every

28:05

employee next slide please certain 5 andc organizations May

28:12

donate if they meet a specific criteria and you can look up whether an

28:17

organization is a 501c on the IRS website the link to where you can look

28:23

that information up is contained within the employee guide the 501c3 must be

28:29

established 2 years before the legal matter that is the subject matter of the trust started Additionally the

28:36

501c3 may not be substantially affected by the performance or non-performance of the employee duties if our Interior

28:45

Department employee was reviewing Grant applications rather than contracts for the department and a 501c3 was an

28:53

applicant for a grant the employee could not accept the donation from that

28:59

organization next slide please note that a single donor either

29:06

an individual or an entity may not contribute more than $10,000 in a calendar year to a legal

29:13

expense fund it's important for the employee and the trustee to keep an eye out for this limit any amount that is

29:21

accepted over $10,000 must be returned to the donor next slide

29:30

please if there is an impermissible donation to the trust it must be

29:35

returned to the donor before the next quarterly report is due if there aren't

29:41

enough funds in the trust to return the donation the employee will have to

29:46

provide the funds to the trust so the trustee can return the donation so this

29:51

is why employees it's important for you also to keep an eye on the

29:57

contributions to the trust and make sure you're not getting impermissible donations next slide

30:07

please now we're moving on to the expenses that the trust can pay for expenses related to the legal matter may

30:14

be PID legal matter that is the subject of the trust may be paid for by the legal expense fund trust here is the in

30:22

um IG investigation and this would if it were a court case include filing fees court

30:28

reporter fees expert witness fees copying in addition to any attorney's

30:34

fees that you're paying you can also pay expenses related to soliciting funds

30:40

such as setting up a website to collect donations or hosting a fundraising event

30:46

you may also use money for administering the trust expenses for administrating

30:53

administering the trust that would include trustee fees recordkeeping

30:58

software things like that and finally the trust can pay any tax liability it

31:04

has for example the trust may need to pay taxes to both the federal and the

31:09

state government next slide please our employee is required to

31:17

refuse from party matters in which the trustee is a party or represents a party

31:22

from the moment they become trustee until two years after the person and stops being trustee this is not likely

31:30

an issue for an Interior Department employee but if the employee worked on

31:36

party matters or worked with individuals um for example if our

31:41

employee was an attorney at the doj they could not work on any party matter where

31:48

the trustee was a party to the matter or was the lawyer representing the party to

31:54

the matter the employee also must refuse from two

32:00

years after the most recent donation totaling $250 or more from any party

32:08

matter in which the donor is a party or represents a party this sounds complicated but if

32:15

someone gives you $250 during the year on March the 1 you

32:21

cannot work on a party matter involving that person until March after March the

32:28

1st of the next year but also for example if a 501c3

32:34

made a donation of $55,000 in January 2024 to our Interior Department

32:41

employees Lees the employee could not work on party matters involving the 501c3 until January of

32:50

2026 if the same 501c3 gave another 5,000 donation in January 25 that

32:58

recusal obligation extends an additional year until January

33:03

2027 next slide please this covers the substantive

33:09

portion of today's training which was focused on what an employee needs to know to set up an LEF but we wanted to

33:16

report you to some resources that that are available to you um on the OG

33:22

website first the OG has issued a legal advisory addressing the new la

33:27

requirements that is La 2305 which provides an overview similar

33:33

to our overview training OG also has another number of other additional

33:38

resources there are some resources on the ethics officials page and there's some resources on the resources for

33:46

employee page there's a handbook for LEF trustees a guide to Lees for employees

33:54

then you have the OG form 601 which employees will be using for their

33:59

quarterly reporting you'll have model trust provisions and so these are all

34:05

available once again I'm just going to say the employee guide provides the most comprehensive overview of the

34:11

requirements and can really serve as sort of a reference manual for you in

34:17

reviewing trust and in setting trust up hopefully you'll find these resources

34:23

helpful we'll be holding future nuts and bolts training sessions focused on how to fill out and review the form 601 the

34:30

first of those are due until January 30th so that training will be in

34:35

December and how to terminate an LEF after the first of the

34:41

year next slide please thank you very much for reaching or reviewing this

34:47

training today if you're an employee and you have questions you should reach out to your agency ethics official if you're

34:54

an Ethics official feel free send questions to LEF at o.gov or to contact your desk officer

35:03

thank you so much again for your time today

thank you for joining us today for a

0:06

training on the new legal expense fund

0:09

I'm Leah Stromberg associate counsel in

0:12

the ethics law and policy Branch at the

0:14

US office of government ethics or

0:17

OG I'm excited to be here with you today

0:20

to share some information about the

0:22

legal expense fund regulation which was

0:25

recently established by o and can be

0:27

found in a new subpart to the standards

0:29

of ethical conduct for employees of the

0:32

executive branch at 5 CFR

0:36

2635 subpart J this training is one in a

0:40

series of trainings that OG will be

0:43

conducting about the new legal expense

0:45

fund today is focused on how to

0:48

administer lefs with a focus on the LEF

0:51

quarterly reports which are filed on the

0:54

OG form

0:56

601 we will look at these reports both

0:58

from the employee benefici sh's

1:00

perspective what to file how to file

1:03

when to file and the agency ethics

1:06

officials perspective how to review

1:08

these reports and what you are looking

1:10

for next slide

1:16

please first let's do a quick overview

1:18

of what an LEF trust is and how you

1:21

establish one how to establish an LEF

1:24

trust is covered in more detail in a

1:26

separate training under the new subpar J

1:29

an employee May establish an LEF for

1:32

certain covered legal matters these

1:35

covered legal matters are ones that

1:37

arise in connection with the employees

1:39

past or current official position prior

1:42

position on a campaign of a candidate

1:44

for president or vice president or the

1:47

employes prior position on a

1:49

presidential transition team an employee

1:52

who establishes an LEF must create a

1:55

trust that conforms to both the new LEF

1:57

regulation and governing state law in

2:01

setting up the trust the employee must

2:03

select a trustee who will exercise

2:05

exclusive control of the trust property

2:09

then the trust documents get submitted

2:11

for approval to the designated agency

2:14

ethics official or Deo of the employees

2:18

agency in certain limited cases

2:20

involving Anonymous whistleblowers and

2:22

deos such employees will submit their

2:25

trust documents to OG for approval if

2:28

the trust and the truste satisfy the

2:31

requirements of the regulation the LEF

2:33

trust must be approved at this point the

2:36

trust May begin to accept contributions

2:39

for those covered legal

2:41

matters following approval of the LEF

2:44

trust the Deo must transmit the trust

2:46

documents to OG OG also conducts second

2:51

level review for certain

2:53

employees once the LEF is established

2:56

employee beneficiaries must file

2:58

quarterly reports

3:00

those quarterly reports are the subject

3:02

of today's training next slide

3:06

please so before we dive into the filing

3:09

requirements let's consider the policy

3:12

reasons behind why OG created this

3:14

quarterly filing

3:16

requirement o believes that the required

3:19

quarterly reporting is necessary for

3:21

transparency so members of the public

3:23

can have insight into who has

3:25

established an LEF and how the money is

3:28

flowing in and out of the

3:30

LEF this need for transparency is

3:33

balanced against the employees privacy

3:35

interests such as maintaining attorney

3:38

client privilege and donor's privacy

3:40

interests it is also balanced against

3:43

the harm that an undue burden might

3:45

discourage federal employees from

3:47

establishing LEF

3:49

trusts Additionally the quarterly

3:51

reports help ethics officials advise

3:53

employees on managing their recusal

3:56

obligations both those recusals as

3:58

required by subart J and also any

4:01

recusals that might be required under 5

4:04

CFR 26

4:07

35502 the impartiality

4:09

regulation next slide

4:12

please so who should file these

4:15

quarterly reports an employee

4:17

beneficiary is required to file

4:19

quarterly reports until the trust

4:21

terminate the trust is terminated or an

4:24

employment termination report is filed

4:27

the reporting requirement applies even

4:29

if the employee has no contributions or

4:32

expenses to report the trustee or a

4:36

representative of the employee

4:37

beneficiary May file the report on the

4:40

employees behalf but the employee is

4:43

required to sign it Anonymous

4:45

whistleblowers may choose to file

4:47

reports anonymously through the trustee

4:49

or other

4:51

representative one important thing to

4:53

keep in mind this training is focused on

4:56

the LEF quarterly reporting requirements

4:59

however if an employee beneficiary is

5:02

also a confidential Financial disclosure

5:05

filer a 450 filer or a public Financial

5:09

disclosure filer a 278 filer then the

5:12

employee beneficiary will need to report

5:15

these donations on the gift section of

5:17

their financial disclosure reports if a

5:19

donation or a series of donations from a

5:22

single donor meet the gifts threshold

5:25

which is currently set at more than

5:27

$480 aggregate from One

5:30

Source next slide

5:33

please so let's just spend a moment on

5:36

that Financial disclosure requirement

5:39

for reportable donations to a filer's

5:41

LEF the filer May provide hyperlinks to

5:45

their LEF quarterly reports which will

5:47

be made available on the OG website

5:50

instead of reporting each Source whose

5:52

donations aggregate to more than

5:55

$480 o 278 filers report these gifts in

5:59

part nine and OG 450 filers would report

6:03

these gifts in part five note that

6:06

Anonymous whistleblowers who have an LEF

6:09

are not required to report donations to

6:12

their LEF on their 450 forms however

6:15

Anonymous whistleblowers are required to

6:18

report donations to their LEF on their

6:20

278 reports next slide

6:25

please okay back to the LEF quarterly

6:28

reporting requirement where do these

6:30

reports get filed well most employees

6:33

will file these quarterly reports with

6:35

the Deo at the agency where the employee

6:38

beneficiary is employed in instances

6:41

where an employee beneficiary is a Deo

6:43

the doo will file with

6:45

OG Anonymous whistleblowers will also

6:48

file with OG and can do so either

6:51

through their trustee or other

6:54

representative OG will not receive

6:56

reports containing classified material

6:59

if needed an OG employee with a security

7:02

clearance will review any classified

7:05

documents in a secure agency space

7:07

consistent with OG's current practice

7:10

for other ethics documents containing

7:12

classified

7:13

materials next slide

7:17

please when to file the OG form 601 must

7:21

be completed on a quarterly basis until

7:24

the trust is terminated or until an

7:27

employment termination report is filed

7:30

quarterly reports must cover the

7:32

reporting periods seen on this slide and

7:34

must comply with these due dates if the

7:38

scheduled due date falls on a Saturday

7:40

Sunday or federal holiday the report

7:43

will instead be due the next business

7:45

day for each quarterly report a single

7:48

extension of 30 calendar days may be

7:51

granted by the employee beneficiaries

7:53

Deo for good cause upon written requests

7:56

by the employee beneficiary or their

7:58

trustee

8:00

for those filing with OG o also has the

8:04

authority to Grant a 30-day extension

8:06

for good cause next slide

8:12

please so now that we have established

8:15

some of the basics let's turn to page

8:17

one of the new LEF quarterly report the

8:20

OG form

8:22

601 the first boxes of the form require

8:25

the employee to complete the quarter and

8:27

the year up at the top are also three

8:30

Fields about trust termination asking

8:33

the filer to indicate whether this is a

8:36

trust termination report an employment

8:38

termination report or if the trust will

8:41

continue after employment

8:43

termination terminating a trust will be

8:46

discussed in Greater detail in the next

8:48

OG training the next several boxes ask

8:52

for the employee beneficiaries

8:53

information and certification as well as

8:56

the certification of the agency ethics

8:59

official an additional reviewer such as

9:02

a supervisor or an intermediate reviewer

9:04

in the ethics office and the

9:06

certification of OG if required next

9:10

slide

9:13

please so as a threshold matter

9:16

contributions to the LEF should have

9:18

already been screened to ensure they are

9:21

from permissible donors in accordance

9:23

with the new

9:25

26351

9:27

006b we will discuss this standard later

9:30

in the

9:31

presentation for now let's just talk

9:33

about the mechanics of completing part

9:36

one for contributions of

9:38

$250 or more as you can see here the

9:42

contribution section requires you to

9:44

complete the donor's name city and state

9:47

of the primary address of the donor if

9:50

the donor is an individual provide the

9:52

name of the donor's employer provide the

9:54

date or dates of the

9:56

contributions and provide the total

9:58

amount of contributions from the donor

10:01

that have not previously been reported

10:04

if you do not have anything to report

10:06

you can write none in the contribution

10:09

section employee beneficiaries should

10:11

report contributions of

10:13

$250 or more made during the reporting

10:16

period you also must report

10:18

contributions from a single donor of 250

10:21

or more in a single calendar year on the

10:24

report filed on January 30th of the

10:27

following year unless they have been

10:29

disclosed on a prior quarterly

10:32

report to illustrate here's one example

10:35

which appears on the form itself if

10:37

donor a gives you $125 in the first

10:40

quarter and 150 in the second quarter

10:43

you are not required to disclose the

10:45

contribution on the reports due on April

10:48

30th or July 30th but you must disclose

10:53

donor A's total

10:55

$275 in contributions on your report due

10:59

on January

11:01

30th next slide

11:04

please part two is the distribution

11:07

section again as a threshold matter

11:10

funds may only be used in accordance

11:12

with the new

11:14

26351

11:16

06d which we will discuss in Greater

11:19

detail

11:20

shortly as you can see here you want to

11:23

report the pay name the date or dates of

11:26

distributions the total amount of

11:28

distribution to the paye that have not

11:30

previously been reported and a brief

11:33

description of the reason for payment

11:35

for example legal services or trustee

11:39

fees report any distribution of

11:42

$250 or more made during the reporting

11:45

period you also must report

11:47

distributions made to a single source of

11:50

$250 or more in a single calendar year

11:54

on the report filed on January 30th of

11:57

the following year unless they have been

11:59

disclosed on a prior quarterly report if

12:02

you do not have anything to report you

12:05

can simply write none here's one example

12:08

which also appears on the

12:10

form if you pay ABC Law Firm $200 in the

12:14

third quarter and $5,000 in the fourth

12:17

quarter you must disclose the Total

12:20

$5,200 distribution to ABC Law Firm on

12:24

your report due on January

12:26

30th next slide please

12:32

this slide shows samples that were taken

12:34

from page 17 of the employee LEF guide

12:37

which can be found on the OG

12:40

website on the contribution sample I

12:43

want to draw your attention to line

12:45

three which is an example of how to

12:48

report multiple donations from a single

12:51

donor on the distribution sample notice

12:54

how the purpose listed here is web

12:58

design lead legal services or trustee

13:00

fees these descriptions are not very

13:03

detailed in part to avoid disclosing any

13:06

information that could be privileged

13:08

under the attorney client privilege OG

13:12

advises that the report purpose be

13:15

non-specific similar to the examples on

13:17

this

13:18

slide once the report has been completed

13:21

the employee beneficiary should file it

13:23

with their Doo for deos and Anonymous

13:26

whistleblowers who will be submitting

13:28

the reform to OG for review please send

13:31

it to LEF

13:34

o.gov next slide

13:38

please up to this point we have

13:40

discussed how an employee or a trustee

13:42

completes the form 601 the remainder of

13:45

the training will be focused on how

13:47

ethics officials review the reports and

13:50

manage the program the ethics office

13:53

should know which trusts will be filing

13:55

quarterly reports because the DEA would

13:57

have approved the the establishment of

13:59

the LEF trust as a best practice the

14:03

ethics office should keep track of what

14:05

reports they are expecting to receive if

14:08

a report is not received on time the

14:11

ethics official should be prepared to

14:13

advise the trust that they are required

14:16

to cease accepting contributions and

14:18

making payments until the report is

14:20

received we will discuss non-compliance

14:23

in Greater detail later on in the

14:25

presentation upon receiving a quarterly

14:28

report the doo is required to review the

14:31

report within 30 calendar days of

14:34

filing deos are required to review the

14:37

report to make sure it has been

14:39

completed to confirm that the LEF has

14:42

only accepted contributions from

14:44

permissible donors to confirm that the

14:47

LEF is in compliance with contribution

14:49

limits and to make sure that LEF funds

14:52

are being used for purposes permitted by

14:55

the

14:56

regulations next slide please

15:00

for purposes of the LEF a permissible

15:03

donor is defined in five CFR

15:08

26351

15:11

06b as noted on this Slide the following

15:14

are not permissible donors to an

15:17

LEF I won't go through each one listed

15:19

here but I do want to highlight that

15:21

donations are not prohibited from

15:24

individuals seeking action from the

15:26

agency on something that affects a large

15:29

and diverse group of people such as a

15:31

tax return or applying for a

15:34

passport however the employee

15:37

beneficiary could not participate in the

15:39

particular matter where the donor is an

15:41

identifiable party such as the donor's

15:44

tax

15:45

audit the employee LEF guide has some

15:48

really helpful information to help you

15:51

figure out who is and who is not a

15:53

permissible donor next slide

15:57

please additionally a permissible donor

16:01

is a National Committee of a political

16:03

party or for former members of a

16:06

campaign of a candidate for president or

16:09

vice president the campaign provided

16:12

that the donation is not otherwise

16:14

prohibited and the entity is not

16:16

substantially affected by the

16:17

performance or non-performance of the

16:20

employee beneficiary's official

16:22

duties what that means is for former

16:25

members of a campaign of a candidate for

16:28

president or vice president if a party

16:31

or a campaign is affected by your work

16:34

then it may not donate to your

16:36

LEF this does not mean that the party or

16:40

campaign has positions on the issues

16:43

that are the focus of your agency but

16:45

rather that your work affects campaigns

16:47

and parties for example an employee who

16:50

reviews campaign filings for the FEC

16:54

likely would not be able to accept

16:55

donations from a campaign or political

16:59

parties a permissible donor is also an

17:02

organization established as a

17:05

501c3 nonprofit for more than two years

17:09

and is not substantially affected by the

17:11

performance or non-performance of an

17:13

employee beneficiaries official duties

17:16

remember no other entity including

17:19

for-profit businesses are permitted to

17:22

donate next slide

17:26

please turning to permissible purposes

17:29

LEF payments must be used only for

17:32

certain purposes described in the

17:34

regulation and listed here on this slide

17:38

permissible purposes are an employee

17:40

beneficiary's expenses related to those

17:42

legal proceedings arising in connection

17:45

with the employees's past or current

17:47

official position the employees prior

17:50

position on a campaign of a candidate

17:52

for president or vice president or the

17:55

employees prior position on a

17:57

presidential transition team permissible

18:00

purposes are also expenses incurred in

18:03

soliciting or administering the fund and

18:07

expenses for the discharge of federal

18:10

state and local tax liabilities that are

18:13

incurred as a result of the creation

18:15

operation or administration of the fund

18:19

the regulation provides us with this

18:21

example an employee beneficiary's

18:23

attorney determines that it is necessary

18:26

to employ an expert witness

18:28

related to a legal proceeding arising in

18:31

connection with the employee

18:33

beneficiary's official position funds

18:36

may be distributed from the legal

18:37

expense fund to pay fees and expenses

18:41

for the expert

18:42

witness some examples of purposes that

18:45

would not be permissible include

18:47

anything that does not arise in

18:49

connection with your official position

18:51

such as a personal Family Matter next

18:55

slide

18:57

please during during your review of the

18:59

report if you identify that the legal

19:01

expense fund has received an

19:03

impermissible contribution the

19:06

contribution must be returned to the

19:07

donor as soon as practicable but no

19:11

later than the next reporting due date

19:14

if the donation cannot be returned due

19:16

to the donor's death or the trustees

19:18

inability to locate the donor the

19:21

contribution must be donated to certain

19:23

nonprofit organizations described in the

19:26

regulation additionally if a quarterly

19:29

report is filed after the due date the

19:31

employee forfeits the ability to accept

19:34

contributions or make distributions

19:36

through the trust until the report is

19:39

filed in the case of significant

19:41

non-compliance OG has the authority to

19:44

determine that the employee beneficiary

19:46

may not accept contributions and make

19:49

distributions through the trust or may

19:52

require the termination of the

19:54

trust next slide

19:57

please

19:59

once the Deo has completed their review

20:02

all quarterly reports must be forwarded

20:04

to OG within S calendar days in addition

20:09

OG will also serve as the primary

20:11

reviewer of all quarterly reports for

20:13

anonimous whistleblowers and deos

20:16

meaning the agency deos should not

20:18

review these reports and they should

20:20

come straight to

20:22

OG OG will also conduct a secondary

20:25

review of certain reports to include

20:28

employees of the White House and vice

20:29

president and reports of those employees

20:32

whose 278 go through OG for

20:35

review as the second level reviewer OG

20:39

will review the report to determine

20:41

whether it conforms to the requirements

20:43

in the

20:44

regulations if OG identifies any defects

20:47

OG will bring them to the attention of

20:50

the reviewing agency and the employee

20:52

beneficiary will have 30 calendar days

20:55

to take corrective action next slide

21:00

please all quarterly reports not just

21:04

those reviewed by Og will be made

21:06

available by Og to the public on its

21:09

website within 30 calendar days of

21:12

receipt the reports will be sortable by

21:15

employee beneficiaries name agency and

21:18

position as well as the type of document

21:21

and document date any reports that are

21:24

made available will not include

21:26

information that would ID identify

21:28

individuals whose names or identities

21:31

are otherwise protected from public

21:33

Disclosure by law reports filed by

21:37

Anonymous whistleblowers also will not

21:39

be made available to the public next

21:42

slide

21:43

please this concludes our presentation

21:46

on the LEF quarterly report the OG form

21:50

601 however we have lots of additional

21:53

resources available to you on our

21:55

website

21:56

o.gov on the resources for employees and

22:00

resources for ethics officials both of

22:02

which have specific LEF

22:05

pages I also want to point out that we

22:07

will have this training video and all

22:10

LEF training videos available on the LEF

22:13

web pages thank you again for your time

22:16

and please reach out to your agency

22:18

ethics official or OG desk officer with

22:21

any

22:25

questions

hello my name is Jenna Mella and I'm an

0:07

assistant Council in the office of

0:09

government ethics in the ethics law and

0:11

policy Branch today we'll be discussing

0:14

the nuts and bolts of terminating a

0:16

legal expense fund trust next slide

0:21

please in this training we will cover

0:24

one the timing of an LEF trust

0:27

termination two the steps invol D in

0:30

terminating LEF trust including the

0:32

permissible manner of distribution BR

0:35

remaining trust

0:36

assets three recusal obligations arising

0:40

from the LEF trust four employment

0:43

termination and five reporting an LEF

0:46

trust termination or employment

0:49

termination next slide

0:52

please so when is an LEF trust

0:56

terminated the LEF regulation allows an

0:59

employee benefici

1:00

to voluntarily terminate an LEF trust at

1:03

any time in accordance with state law

1:06

and the governing trust

1:08

document the LEF trust regulation

1:10

requires an LEF trust to be terminated

1:14

when the purpose of the trust is

1:15

fulfilled or no longer

1:17

exists therefore an employee beneficiary

1:21

must terminate their trust at the later

1:24

of either one 90 days after the

1:27

resolution of the underlying legal

1:28

matter or two 90 days after the last

1:32

expenditure for the underlying legal

1:35

matter to illustrate this concept let's

1:38

imagine a Department of Transportation

1:40

employee who established an

1:43

LEF the purpose of their LEF trust was

1:46

to assist the employee with legal

1:48

expenses arising from An Inspector

1:51

General investigation into the employees

1:54

potential misuse of government resources

1:56

while on official travel this employee

1:59

can the trust at any time in accordance

2:02

with state law but when must the

2:04

employee terminate the Trust In This

2:07

hypothetical example let's imagine that

2:10

on February 1st 2024 the Inspector

2:13

General concludes that there was no

2:15

misuse of resources and no further

2:18

action will be taken against the

2:20

employee if there are no outstanding

2:22

legal expenses when the Inspector

2:25

General investigation concludes on

2:27

February 1st the employee will be

2:29

required to terminate the LEF trust by

2:31

May 1st 2024 90 days after the

2:35

resolution of the legal

2:37

matter if however the employee still has

2:40

outstanding attorney fees on February

2:43

1st and the employee doesn't pay those

2:45

outstanding attorney fees until March

2:48

1st the employeer will have until May

2:50

30th 90 days after the last expenditure

2:54

for the legal matter to terminate the

2:56

trust next slide

2:58

please

3:00

so how is an LEF trust

3:03

terminated an LEF trust must be

3:06

terminated in compliance with the

3:08

governing trust document as well as

3:10

state law as the requirements for

3:13

termination will vary by state employees

3:16

should consult with their trustee or a

3:18

trust attorney barred in the relevant

3:20

state to ensure that they're

3:22

appropriately termining the Trust In All

3:25

cases however all assets remaining in

3:27

the trust must be distributed

3:30

meaning there should be no assets

3:32

remaining in the trust in order for the

3:34

trust to terminate next slide

3:38

please that raises the question if there

3:41

are assets remaining in an LEF trust

3:44

after all covered expenditures have been

3:46

made how can those remaining assets be

3:50

distributed under the LEF regulation the

3:53

trustee of an LEF trust must determine

3:57

how to distribute any remaining funds

4:00

the LEF regulation requires that

4:02

remaining funds be distributed within 90

4:05

days of terminating the LEF and provides

4:08

two options for trustees in distributing

4:11

remaining

4:12

funds as one option the trustee can

4:16

elect to return funds to donors in

4:19

proportion to their original

4:21

donation to illustrate imagine our

4:24

Department of Transportation employee

4:27

has

4:28

$100 remaining in their LEF trust at the

4:31

time of

4:32

termination their trustee reviews the

4:35

donations and finds that the LEF which

4:38

had received $1,000 in total received

4:41

donations from three

4:43

donors donor a gave

4:46

$600 donor B gave

4:50

$350 and donor C gave

4:54

$50 if the trustee decides to return the

4:57

remaining $100 to donors when the trust

5:01

terminates the donors will receive their

5:03

prus share of the remaining

5:06

funds donor a will receive

5:09

$60 donor B will receive

5:13

$35 and donor c will receive

5:17

$5 now alternatively the trustee could

5:21

choose to donate the remaining funds to

5:24

a qualifying 501 C3

5:28

organization this can be a good option

5:30

particularly when trustees find it's not

5:33

practical to return very small amounts

5:36

pennies at times to donors or when it's

5:39

simply not possible to track down all

5:41

donors next slide

5:44

please the trustee of an LEF has sole

5:47

discretion to select a qualifying 501 C3

5:51

organization to receive any remaining

5:54

funds what is a qualifying 501c3

5:58

organization

6:00

well in order to qualify the

6:03

501c3 organization cannot be an

6:07

organization that was established by the

6:09

employee or the

6:11

trustee it also cannot be an

6:14

organization in which the employee the

6:17

employes spouse or the employees child

6:20

is an officer director or

6:23

employee finally the organization cannot

6:26

be one with which the employee has a

6:28

covered relationship

6:30

under 5 CFR

6:33

2635

6:35

502 thinking again of our Department of

6:37

Transportation employee if the trustee

6:40

elects to donate the remaining

6:42

$100 to a

6:45

501c3

6:46

organization they have discretion to

6:48

choose that

6:50

organization however as the employee

6:53

spouse is on the board of directors of

6:55

Charity a the trustee cannot choose to

6:58

donate those those funds to charity

7:01

a the trustee also cannot donate the

7:04

funds to the

7:06

501c3 organization established by the

7:09

trustee themselves Charity

7:12

B but the employee May donate the funds

7:15

to charity C which is an organization

7:18

that does not have any connection with

7:20

the trustee the employee beneficiary or

7:23

the employee beneficiary's spouse or

7:26

child next slide

7:28

please

7:30

now as a reminder employee beneficiaries

7:33

have recusal obligations arising from

7:36

their LEF

7:37

trust this recusal obligation is

7:40

discussed in more detail in the how-to

7:43

training on establishing and approving

7:45

an LEF trust but as a summary employee

7:49

beneficiaries must recuse from any

7:52

particular matter involving specific

7:54

parties if they're trustee or a donor

7:57

who contributed at least

8:00

$250 in a given calendar year to the LEF

8:05

is or represents a party the recusal

8:08

period is 2 years and continues to apply

8:11

even after the LEF trust is

8:14

terminated for trustees the recusal

8:17

period runs from the time they begin

8:19

serving as trustee and for two years

8:22

following either their resignation or

8:25

the termination of the trust for donors

8:28

the us period runs for 2 years following

8:32

their most recent

8:33

donation for example imagine our

8:36

Department of Transportation employee

8:39

received a $300 donation from Tom Jones

8:43

on March 1st

8:45

2024 the employee beneficiary will be

8:48

required to recuse from any particular

8:50

matter involving specific parties where

8:53

Tom Jones is or represents a party

8:57

through March 1st 2026 six but imagine

9:01

that Tom Jones makes another donation to

9:03

the employees LEF on January 1st

9:08

20125 the recusal obligation for Tom

9:11

Jones would then extend to January 1st

9:14

2027 two years after their most recent

9:18

donation this remains true even if the

9:21

employee terminates their LEF trust in

9:25

2026 next slide

9:28

please

9:29

so up until now we've been discussing

9:32

trust

9:33

termination however I also want to take

9:35

a moment to address employment

9:38

termination if an employee beneficiary

9:40

leaves their executive branch position

9:43

they may maintain their LEF trust the

9:45

trust does not need to terminate however

9:49

the employee must file an employment

9:51

termination report on or before their

9:54

last day of

9:55

employment this employment termination

9:58

report is filed filed on the o form 601

10:02

the same form used for quarterly and

10:04

annual reporting but when filing their

10:07

employment termination report employees

10:09

must indicate whether the trust will

10:11

terminate or will continue after the

10:14

employee leaves executive branch

10:16

service note however that after the

10:19

employee files their employment

10:21

termination report the trust may not

10:23

receive additional contributions or make

10:26

any distributions until the employee

10:29

terminates their executive branch

10:31

service to illustrate if the Department

10:34

of Transportation employee is leaving

10:36

their executive branch position on May

10:38

15th

10:40

2024 and they file their employment

10:42

termination report on May 1st

10:45

2024 the LEF trust cannot accept

10:48

donations or make expenditures in the

10:51

period between May 1st and May

10:54

15th employees can avoid pausing

10:57

contributions and distributions by

10:59

filing their report on their last day of

11:02

employment next slide

11:05

please so as mentioned for both trust

11:08

termination and employment termination

11:11

employees must file a termination report

11:14

and for both termination reports this

11:17

report is made on the OG form 601 again

11:21

this is the same form that employees use

11:23

to file their quarterly and annual

11:26

reports for a detailed discussion about

11:29

about how to fill in these forms please

11:31

refer to the howto nuts and bolt

11:33

training on LEF quarterly reporting next

11:37

slide

11:39

please so when filing a termination

11:42

report on the OG form 601 the employee

11:46

beneficiary is functionally filing their

11:48

final quarterly report this report must

11:51

contain information about contributions

11:54

to and distributions from the trust

11:57

since the end of the last quarter

12:00

through the termination date in the case

12:02

of trust terminations the date the trust

12:05

terminates or for employment

12:07

terminations the date when the employee

12:09

terminates their executive branch

12:11

service to indicate a report is a

12:14

termination report the employee must

12:16

check the appropriate box on the top

12:18

left hand corner on the cover page of

12:20

the form for employment termination

12:23

reports employees must also indicate on

12:25

the cover page whether the trust will

12:28

continue to operate after the employees

12:31

termination for termination reports in

12:34

addition to checking the appropriate box

12:35

on the cover page employees must also

12:38

report the relevant entities that

12:40

receive distributions of excess funds

12:43

from the trust whether that is a 501c3

12:46

organization chosen by the trustee or

12:49

donors receiving a proed distribution of

12:52

the remaining

12:53

funds information regarding

12:55

distributions including the distribution

12:57

of exess funds is reported on part two

13:00

of the form next slide

13:04

please so that covers everything we

13:06

wanted to address regarding LEF trust

13:10

terminations resources that discuss

13:12

everything mentioned today are available

13:15

on OG's web page there you'll find La

13:19

23-05 which provides an overview of the

13:21

LEF regulation and there are Al also

13:24

additional how-to trainings which focus

13:27

on setting up an LEF trust and filing

13:30

quarterly reports the web page also has

13:32

handbooks for LEF trustees and for

13:34

employees the OG form 601 and model

13:38

trust Provisions for establishing an LEF

13:41

trust you can find all these resources

13:43

on our web page under the resources for

13:46

ethics officials and resources for

13:48

employees both of which have specific

13:50

Pages relating to the LEF regulation

13:54

next slide

13:56

please thank you so much for attending

13:58

the training today it has been a

14:00

pleasure discussing this portion of the

14:02

LEF regulation with

14:05

you