

From: [Marcia Geotsalitis](#)
To: [OGE Strategic Plan](#)
Subject: Comments
Date: Tuesday, August 01, 2017 7:34:56 PM

As long as OGE has no enforcement capability, does not prescreen presidential candidates & IGs are political appts, the plan is worthless.

Witness the blatant ethics violations by Trump, Trump family and Whitehouse appointees. From nepotism to emoluments clause violations, misrepresentations on security & financial disclosure forms, conflicts of interest, lobbying activities, FARA violations, shameless marketing & use of own products & services and more, there has been NO accountability.

The OGE function is vital. Yet unless the executive branch including the presidency is held accountable (censored, disciplined and prosecuted), we as a country are ill-served and our international reputation harmed.

Sincerely,

Marcia Geotsalitis

Buckeye, AZ

From: [Gibson, Deborah S., OIG DoD](#)
To: [OGE Strategic Plan](#)
Subject: RE: link to strategic plan
Date: Friday, August 11, 2017 10:22:01 AM
Attachments: [GAO-15-711 Military Ethics.pdf](#)

Greetings:

I'm a 22 year Air Force veteran and nearly 20 year DoD civilian employee working in the Office of Inspector General whistleblower reprisal and senior officials misconduct investigative directorates. For our senior official administrative investigations, we often cite the Joint Ethics Regulation, Chapter 12, Ethical Values and Decision making in evaluating allegations of unethical conduct. As indicated by the GAO report (attached), the DoD (and entire Federal Government) really needs an ethical values based program to foster a culture and commitment to Chapter 12 values and decision making to undergird the traditional regulatory ethics training program (conflicts of interest, etc.).

If Federal employees received more training in ethical values and decision-making, I believe they would be less likely to violate ethics laws and regulations. We need both!

Thanks in advance for your consideration,

Deborah

Deborah S. Gibson
Special Assistant to Deputy Inspector General for
Administrative Investigations
Suite [REDACTED]
4800 Mark Center Drive
Alexandria, VA 22350
Office: [REDACTED]
BB: [REDACTED]
Cell: [REDACTED]

Integrity - Efficiency - Accountability - Excellence

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

From: OGE Strategic Plan [<mailto:ogestrategicplan@oge.gov>]
Sent: Tuesday, August 8, 2017 1:37 PM
To: Gibson, Deborah S., OIG DoD <[REDACTED]>
Subject: [Non-DoD Source] RE: link to strategic plan

A copy of the Plan is attached.

Nicole

Nicole Stein
Chief, Agency Assistance Branch
U.S. Office of Government Ethics
nstein@oge.gov
(202) 482-9255

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

From: Gibson, Deborah S., OIG DoD [mailto: [REDACTED]]
Sent: Tuesday, August 08, 2017 12:31 PM
To: OGE Strategic Plan <ogestrategicplan@oge.gov>
Subject: link to strategic plan

Greetings:

I've been unable to download or view the pdf document using the posted link with either internet explorer or google chrome.

Since the Secretary of Defense just issued a memo on ethics, we wanted to take advantage of the opportunity to comment.

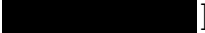
Thanks in advance//Deborah

Deborah S. Gibson
Special Assistant to Deputy Inspector General for Administrative
Investigations [REDACTED]
4800 Mark Center Drive
Alexandria, VA 22350
Office: [REDACTED]
BB: [REDACTED]
Cell: [REDACTED]

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From: [Ozar, David](#)
To: [OGE Strategic Plan](#); [Patrick Shepherd](#); [Cheryl L. Kane-Piasecki](#)
Subject: Comments on draft OGE Strategic Plan
Date: Wednesday, August 30, 2017 2:22:37 PM

Two Comments on the draft of : [OGE Strategic Plan](#) by David Ozar, PhD. Emeritus Professor of Applied and Professional Ethics, Department of Philosophy, Loyola University Chicago [email: ]

First about conflicts of interest, i.e. in Part II: Paragraph #1: On the effort to “to prevent conflicts of interest” (principally via financial disclosure forms, as subsequent Strategic Goals explain).

My Comment: People’s interests conflict all the time, and not only in relation to financial matters. People’s duties at work conflict regularly, for example, with their responsibilities to family and other persons in their private lives. So at a minimum, describing one’s effort as the prevention of conflicts of interest puts the matter very poorly (and if taken seriously would oblige OGE to prevent everyone in Federal Government service to give up all the responsibilities they have to any person or group not part of their government service responsibilities). This section should be reworded to state the matter more accurately. My own work on this topic in relation to dentists’ professional obligations identifies the questions needed to determine when a particular conflict of interests is professionally problematic/harmful/unethical (see David T. Ozar "Conflicts of Interest" in the Special Section, "Issues in Dental Ethics" in [Journal of the American College of Dentists](#), Volume 71, Number 3, Fall, 2004, pp. 30-35). But to keep this comment more brief, let me offer a (much too abstract, but informative) definition of conflict of interest that points in the proper direction: "P (whether an individual or a corporate body)...has a conflict of interest if and only if (1) P is in a relationship with another person requiring P to make judgment in the other's behalf and (2) P has a[n]...interest tending to interfere with the proper exercise of judgment in that relationship" (Michael Davis, “Conflicts of Interest,” *Encyclopedia of Applied Ethics*, vol.1, ed. R Chadwick. London: Academia Press, 585-595, 1998).

The key ethical concept here is “interest tending to interfere with the proper exercise of judgment in that relationship,” because that tells you precisely what you should be looking for (in financial disclosures or in any other aspect of a person’s situation), and it tells you what the ethical question you should be asking is: “Is this other interest **in fact** interfering with or **highly likely** to interfere with the person’s judgment in the proper exercise of their government role ?”

So at a minimum, rather than “prevent conflicts of interest,” the initial description in Part II, paragraph #1, should say something like “identify conflicts of interest likely to interfere with a person’s proper exercise of their role. And then somewhere in the document, probably as an objective, the next steps – i.e. how this likely interference is to be evidenced and then what ought to happen when a judgment that such interference is in fact likely (or is already

happening) is made. (See my own essay if you want an example of what follows here in a health-professional setting.)

Second, about expert guidance and support, that is in the following:

Part III, Strategic Goal I, on page 5: “Provide expert guidance and support to stakeholders...to ensure that ethics officials are aware of how to interpret the ethics laws and regulations and successfully implement at their agencies.”... and also

Strategic Goal II, Strategic Objective 1.2, on page 6: “OGE Desk Officers will continue to provide agency ethics officials with instant access to expert advice in applying the ethics laws and regulations” and also

On page 6, “Evaluating Progress: Examples of potential measures and indicators for Strategic Objective 1.2. include:

- Percent of ethics officials who believe OGE timely communicates ethics-related information.
- Percent of ethics officials who believe OGE Desk Officer assistance helps them perform their job duties.
- Percent of agency administrators’ satisfied with the support provided by OGE on its electronic public financial disclosure filing system.
- The number of requests for technical assistance.”

My Comment: As a member of a hospital ethics committee for nearly 30 years and a Respondent to journalists’ ethical questions for the Ethics AdviceLine for Journalists for more than 15 years, I have had a lot of opportunities to offer advice about the ethics of important social roles (professional roles in both of these situations, but government service roles are very similar). My experience is that simply calling what is offered by OGE Desk Officers and other OGE staff “expert advice” is either inaccurate by being too narrow or misleading by being too broad. Let me explain.

No matter how detailed the ethical laws and regulations are, people in any social role will encounter situations for which stated laws and regulations do not provide a precise answer, and so some of the questions that will come to OGE Desk Officers, etc., will include situations like these. (Of course, if this happens in relation to a particular role often enough in the same area of the role’s responsibilities, those in charge may create a new regulation or law to cover that kind of situation. But this process will never eliminate situations in which the existing laws and regulations do not provide a precise answer.) It is this fact that leads me to say that the phrase “expert advice” is either inaccurate by being too narrow or misleading by being too broad.

With regard to existing laws and regulations, I am willing to assume that OGE Desk Officers, etc., are so well trained that they can reasonably be called “expert” in the help they provide to persons asking about the existing laws and regulations. But if the person seeking help is dealing with a situation about which existing laws and regulations do not provide a precise answer, then either the OGE Desk Officers, etc., ought not offer to help them (since this is beyond their announced expertise) or, if they do offer to help, their help is not properly

described as “expert advice.” Let me say a few quick words about this last claim.

There is a long-standing debate within the (large and internally very vocal) health care ethics community in the United States (and beyond) about the kind of advice provided to care givers and patients by hospitals’ institutional ethics committees when, as is usually their main task, they provide an “ethics consultation” about difficult health care decisions at bedside or in relation to hospital policies regarding recurring ethically complex situations. The details of this debate don’t need development here; but one of the few points of relative consensus is that those who give ethics advice in these situations are not properly described as being expert about what other people ought to do (except insofar as they may be expert about the existing laws and regulations that are relevant). In general, moreover, their advice is typically viewed as being genuinely helpful to the responsible parties who must make the relevant decisions and who receive this advice in order to do that better. But even so, those who provide such advice have offered a number of different, even conflicting, descriptions of what they do when they give this advice, even though none of these that has any broad measure of acceptance think that they are exercising expertise about what other persons ought to do (i.e. precisely because these are situations in which the existing laws and regulations do not provide precise answers).

Though I have not closely followed OGE activities for more than 20 years, I have little reason to think that OGE Desk Officers, etc., are any more expert in determining what other persons ought to do (i.e. in the situations in which the existing laws and regulations do not provide precise answers) than the rest of us. So I return to my point that the phrase “expert advice” is either inaccurate by being too narrow (i.e. implying that these persons will not offer to help in situations in which the existing laws or regulations do not provide precise answers) or misleading by being too broad (i.e. suggesting that they do in fact have expertise about what other persons ought to do (i.e. in situations in which the existing laws and regulations do not provide precise answers)).

One editorial solution would be to drop the word “expert” altogether; but the typical weakness of the word “advice” may then make their ability to help look very modest. An alternative would be to say something like this: “will continue to provide agency ethics officials with instant access to expert advice about the requirements of relevant laws and regulations and to assist them in addressing situations in which the existing laws and regulations do not provide precise answers.”

I can understand why there may be a hesitation to actually admit there are situations in which the existing laws and regulations do not provide precise answers; but it is, of course, a fact of life. And one other benefit of wording that admits this is that there may well be OGE Desk Officers and others who encounter questions about such situations and who know they do not have expertise about such situations, and who are there uncertain about whether they should offer to assist in such situations or not, or who do so out of a desire to be helpful, but are unsure if this is the right course for them to take, and/or who have no clear understanding of what they are doing when they do so. (In this last connection, while the above-mentioned academic debate about what such advice consists does go on among health care ethics

consultants, many of them are very skilled at being helpful and what they have learned may therefore be of value to your OGE Desk Officers, etc., who in fact ought to or at least want to help in situations in which the existing laws and regulations do not provide precise answers.)

My apologies for submitting these comments a few days late. I hope they might prove useful to your work, which – in case it is not clear from the above – I have long admired. If I can be of additional help, I am willing to be contacted about that.

David Ozar, Ph.D., Emeritus Professor

Email: 

From: [Cheryl L. Kane-Piasecki](#)
To: [OGE Strategic Plan](#)
Subject: FW: Strategic Plan of US Gov Office of Ethics
Date: Wednesday, August 30, 2017 10:26:52 AM

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

From: [REDACTED] [REDACTED]
Sent: Thursday, August 24, 2017 5:35 PM
To: Cheryl L. Kane-Piasecki
Subject: Strategic Plan of US Gov Office of Ethics

The proposed five-year plan is a good start for increasing emphasis on legal compliance within a bureaucratic context.

It importantly focuses on discouraging conflicts-of-interest, at least for non-elected appointees and employees.

It seeks to address cultural issues, but needs to provide an understanding of what is most needed to establish and maintain a genuine ethical culture in the government organizations. It should address the aspect of moral character of government officials at all levels, what personal characteristics are needed by people involved and what organizational characteristics (incl. structures, culture, incentives, and education) approaches for enhancing ethical performance (not just legal compliance) by individuals and agency activities.

This is just a brief critique. As a researcher, writer, and consultant in leadership and organizational ethics, I will be glad to discuss these and other issues further.

John Thomas Whetstone, D.Phil. (Oxford)

[REDACTED]

From: [Laura Pietrantonio](#)
To: [OGE Strategic Plan](#)
Subject: Strategic Plan Feedback
Date: Monday, August 28, 2017 5:20:23 PM

Good evening,

Thank you for the opportunity to provide feedback on OGE's strategic plan. The Partnership for Public Service values highly the important work that OGE does and the critical role that it plays in presidential transitions. In this feedback, we will highlight components of the strategic plan that we believe are essential and should be kept, as well as provide additional information for your consideration.

Goal 1: Strengthening the expertise of ethics officials across government is critical to an effective federal ethics program. Currently, the federal ethics program is fairly decentralized and relies heavily on the effectiveness of agencies' designated ethics officials. Therefore, it is important that OGE continue to empower these officials to effectively implement ethics rules and provide useful ethics guidance.

Goal 4: Transparency is also a key component of the federal ethics program, and the agency must continue to keep the public informed of ethics information and documentation. For example, during this presidential transition OGE regularly shared data on how many nomination packages they had from the president and how long it was taking to process each. This data was extremely helpful for monitoring the progress of the presidential transition and the appointments process.

Effective internal management is necessary for OGE to achieve its strategic goals. As the strategic plan does, focusing on performance management and employee engagement, as well as enhancing OGE's information systems and processes, are important steps to highlight. You may also consider adding to this section that OGE must work with Congress to get the resources and tools needed to meet its performance objectives.

We strongly encourage OGE to keep both of its objectives within the presidential transition goal. Under the first objective, "prepare for a presidential transition", we recommend that OGE add the following bullet to the list of potential milestones:

- Surge in staff in order to process higher volume of financial disclosure reports that arise during a transition

OGE needs the additional resources during times of presidential transitions when there is a surge in nominations. A surge in OGE staff during this time is critical to successfully process the high volume of nominees and get the new agency leadership teams swiftly in place. Under objective two, "provide assistance to the President and the Senate in the Presidential appointment process", we recommend adding the following two bullets to the list of potential measures:

- OGE conducts a training on *Integrity* system and the financial disclosure process pre-election for all major campaigns
- OGE provides the transition team with a detailee post-election

These are two forms of assistance that OGE offered to transition teams during this presidential transition, and the agency should strive to execute these in future transitions as well.

Our other recommendation around this second transition objective is to aim for a more aggressive timeline. It is true that the time it takes OGE to complete a financial disclosure report depends largely on the nominee's level of cooperation and the complexity of their financial holdings, but previously OGE's milestone for completing a financial disclosure report was roughly 40 days. Perhaps OGE can continue to push for that aggressive milestone of 40 days with the vast majority of nominees, while recognizing in its strategic plan that a 60-day milestone could be set for nominees with more complicated financial holdings.

We are happy to discuss further any of our recommendations. And again, thank you for the opportunity to work with OGE and provide input on its strategic plan.

Laura Pietrantonio
Associate Manager, Center for Presidential Transition
Partnership for Public Service

1100 New York Avenue, NW
Suite 200 East
Washington, DC 20005

Main: [REDACTED]

Direct: [REDACTED]

www.presidentialtransition.org

From: [Daniel Fort](#)
To: [OGE Strategic Plan](#)
Subject: Comments on Strategic Plan
Date: Friday, August 25, 2017 3:14:16 PM

General Comment: The draft strategic plan presents a clear and specific vision that continues the long history of OGE's support of the federal ethics community as well as providing leadership and oversight of the executive branch ethics programs.

Specific comments:

Strategic Objective 1.2: Provide expert guidance and support to stakeholders

Measuring progress can be a daunting task. However, several job aids that OGE has produced are extraordinarily useful, both to federal ethics officials as well as the interested public. For example, the Public Financial Disclosure Guide is one of the best products ever produced by OGE. There are other excellent OGE products such as various job aids for federal officials.

Therefore, it is recommended that OGE track statistics from its website to gauge interest in at least a few of these key products. This information, in addition to the information that OGE currently collects concerning its excellent training courses, can be a valuable tool in evaluating progress toward this strategic objective.

Strategic Objective 1.3: Strengthen the expertise of officials who are integral to the executive branch program.

OGE has made significant progress toward leveraging technology to strengthen the federal ethics community. While it is understood that OGE's primary mission is to federal employees, there is increasing public interest in ethics laws and regulations.

OGE should consider opening these opportunities to the public, but only to the extent that there is no additional staff or financial burden on OGE nor interference with OGE's primary mission to federal employees. For example, perhaps OGE could open its online training courses to the interested public on a space-available basis after all federal employees have registered.

Thank you again for the opportunity to comment on OGE's draft strategic plan.

From: [Kathryn Allen](#)
To: [OGE Strategic Plan](#)
Cc: [Lynette Lawrence](#); [Ann Gorton](#); [GAL Ethics Mailbox](#)
Subject: Comments
Date: Friday, August 25, 2017 3:11:43 PM

Comments from FERC re Draft OGE Strategic Plan:

Historically, FERC has enjoyed a productive relationship with OGE's audit team. We particularly appreciate that OGE provides audit results to the DAEO before presenting those results to the agency head. To build upon the good will that supports our collaboration, perhaps OGE could consider limiting the disclosure of those results to the agency heads and DAEOs. This would educate agencies on both the strengths and possible deficiencies in their respective programs, while not unnecessarily publicly identifying shortfalls in other agency's ethics programs.

The FERC ethics staff appreciates OGE's guidance and support in our efforts to improve and sustain a strong ethics program, and the opportunity to review OGE's Strategic Plan. The draft appears to build upon recent improvements in OGE's ethics oversight and cooperative work with executive branch agencies. We look forward to strengthening that type of relationship with the new OGE leadership.

Thank you,

Kathryn Allen
Acting Alternate DAEO

Kathryn B. Allen
Office of the General Counsel -
General and Administrative Law
Federal Energy Regulatory Commission
[REDACTED]

From: [Dobosh, William J Jr CIV USARMY HODA AAA \(US\)](#)
To: [OGE Strategic Plan](#)
Subject: Comments on OGE Strategic Plan, FY18-22
Date: Friday, August 25, 2017 1:49:25 PM
Attachments: [Comments to the OGE Strategic Plan, FY18-22 \(25AUG17\).pdf](#)

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Ms. Stein:

Attached please find my comments for your consideration.

Sincerely,

WILLIAM J. DOBOSH, JR.
Deputy Counsel (Audits), USAAA
Phone: [REDACTED] [REDACTED]
Mailing Address: 6000 6th St, Bldg 1464, Ft Belvoir, VA 22060

From: [Jacqueline 1](#)
To: [OGE Strategic Plan](#)
Subject: Strategic Plan
Date: Friday, August 25, 2017 11:53:18 AM

The strategic plan is clearly well thought out and from my perspective outstanding.

I would like to see the OGE have enforcement abilities.

I would like to see more in the engagement section. Is there a means for citizens to become involved?

Is there a citizens advisory committee?

The Department of Energy sends videos via twitter. The videos have changed significantly under the current administration so I will focus on the previous administration. One video was a tour of a wind turbine. It was educational and entertaining. Could the OGE do a friendly video?

Respectfully,
Jacqueline Rodkewich

From: [Tyler Cole](#)
To: [OGE Strategic Plan](#)
Subject: Re: Solicitation of Input from Stakeholders Regarding the U.S. Office of Government Ethics Strategic Plan (FY 2018 — 2022)
Date: Thursday, August 24, 2017 3:27:39 PM
Attachments: [IO Comments OGE Strategic Plan FY2018-2022.pdf](#)

Dear Ms. Stein,

Please find attached Issue One's comments on the U.S. Office of Government Ethics Draft Strategic Plan (FY 2018 — 2022).

Regards,
Tyler Cole
Legislative Affairs Manager & Policy Counsel
[Issue One](#)
Mobile: [REDACTED]
Office: [REDACTED]

From: [Pat Harned](#)
To: [OGE Strategic Plan](#)
Subject: Comment Letter re Strategic Plan
Date: Thursday, August 24, 2017 1:56:25 PM
Attachments: [ECI Comment Letter on OGE Strategic Plan.pdf](#)

Dear Sir or Madam,

Thank you for allowing members of the public to review OGE's Strategic Plan for the period of 2018 to 2022. On behalf of the Ethics & Compliance Initiative (ECI), I am pleased to submit the attached letter.

Please do not hesitate to contact me if I can answer any questions or provide additional information.

Regards,

Pat

PATRICIA J. HARNED, Ph.D., LPEC

Chief Executive Officer

Ethics & Compliance Initiative

2345 Crystal Drive, Suite 201

Arlington, VA 22202

Phone [REDACTED]

Direct [REDACTED]

[REDACTED]

[REDACTED]

www.ethics.org

From: [Lynn McDill](#)
To: [OGE Strategic Plan](#)
Subject: Plan
Date: Thursday, August 24, 2017 12:23:07 PM
Attachments: [RESUME.doc](#)

There doesn't appear to be any statement on how the OGE plans to promote its plan granularly in the field. Nor is there any mention of how the plan plans to recruit a diversity of subject matter experts for recruiting collaborative trainers and training in the field. Brilliantly conceived and written plans routinely fail 'twixt the cup and the lip for lack of finely detailed execution details. Great ideas turn to dust - great idea, no execution. Brilliant surgical plan, brilliant surgeon, patient died. Interested in participating remotely in Kern County California. Attached is my resume.

From: [Norvell, Kathleen J](#)
To: [OGE Strategic Plan](#)
Subject: Office of Ethics reorganization
Date: Tuesday, August 22, 2017 3:23:18 PM

Given this Administration's shocking lack of ethics, I hope you continue with enforcement.

Kathleen Norvell

ORRIN G. HATCH, UTAH, CHAIRMAN

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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

A. JAY KHOSLA, STAFF DIRECTOR
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

August 25, 2017

Shelley K. Finlayson
Chief of Staff and Program Counsel
U.S. Office of Government Ethics
1201 New York Avenue NW, Suite 500
Washington, D.C. 20005-3917

Dear Ms. Finlayson:

I write to submit comments regarding the U.S. Office of Government Ethics' (OGE) draft Strategic Plan for Fiscal Years 2018–2022. As the Finance Committee is charged with processing dozens of executive branch nominations, I feel it appropriate to raise a couple points as OGE finalizes its strategic objectives.

On page 4 of the draft plan, the fourth strategic goal is “Engagement.” The Finance Committee takes this word quite seriously. Whether the issue is financial disclosure forms for nominees in the vetting process, or conflicts of interest matters for senior officials post-confirmation, the Committee wants to maintain proactive engagement with OGE when such situations arise.

The first point relates to timely notification of nominees carrying out the terms in their ethics agreements following Senate confirmation. On April 27, 2017, I wrote to Director Shaub regarding this matter. It came to my attention that OGE published a proposed rule in the Federal Register on October 5, 2016, specifically proposing changes to 5 CFR Part 2634 governing “Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture.”¹ In conforming the regulation’s language to the Ethics in Government Act, we note that OGE—in Subpart H, Ethics Agreements, § 2634.804 Evidence of Compliance—has proposed to eliminate notification of an executive branch nominee’s completing the terms of his or her ethics agreement to the relevant Senate committees of jurisdiction. As OGE seeks to achieve a “high level of public confidence in the integrity of executive branch programs and operations,” eliminating such notification to Senate committees of jurisdiction would be detrimental to this effort. It is important that Senate committees continue to be notified that confirmed nominees have complied with their ethical obligations.

Secondly, as noted in the draft Strategic Plan, OGE is integral to the confirmation process for Presidential appointees. While the Finance Committee fully considers the OGE approved and reviewed financial disclosures and ethics agreements, the Committee has an independent obligation to ensure that nominees have fully disclosed any direct or potential conflicts and any such conflicts are being adequately addressed. In this regard, I would strongly encourage OGE to provide more detailed responses to Senate Committees when specific issues involving a nominee arise. This Congress, my staff have encountered numerous questions with respect to nominees’ ethics agreements, divestitures, and items not included on OGE Form 278. As the Finance Committee keeps a nominee’s paperwork confidential throughout the process, it would be helpful to have OGE staff comment directly on a specific nominee’s circumstance as opposed to a general hypothetical. Finance Committee Members have the responsibility to thoroughly and

¹ “OGE Proposes to Revise the Provisions of 5 CFR Part 2634 Governing “Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture,” U.S. Office of Government Ethics. Available at: <https://oge.gov/Web/OGE.nsf/News%20Releases/F939E3F099B81A3D8525804300644529?opendocument>.

sufficiently vet a nominee's qualifications before casting their vote and ultimately to inform our colleagues in the Senate about a nominee's qualifications. To that end, it would be helpful for Committee staff to have a full understanding on why OGE or agency ethics officials made certain determinations regarding those nominees.

Thank you for your prompt attention to this matter. Please direct any questions or responses to Ian Nicholson [REDACTED] on the Senate Finance Committee, or by phone at [REDACTED]

Sincerely,

A handwritten signature in blue ink that reads "Ron Wyden". The signature is written in a cursive style and is positioned above a horizontal line.

Ron Wyden
Ranking Member



DEPARTMENT OF THE ARMY
UNITED STATES ARMY AUDIT AGENCY
6000 6TH STREET, BUILDING 1464
FORT BELVOIR, VIRGINIA 22060

SAAG-GC

25 August 2017

MEMORANDUM FOR U.S. Office of Government Ethics (Attention: Nicole Stein), Suite 500,
1201 New York Avenue NW, Washington, DC 20005-3917

SUBJECT: Comments on OGE Strategic Plan, Fiscal Years 2018 – 2022

1. Disclaimer. This memorandum contains my comments to the OGE Strategic Plan for Fiscal Years 2018–2022 pursuant to the public request for comments published on 14 August 2017 at 82 Fed. Reg. 37,858. Although I am offering comments in light of my official duties as an Ethics Counselor, the comments are my personal views and do not necessarily reflect the views of the Department of Defense, Department of the Army, or the U.S. Army Audit Agency.

2. Substantive recommendations.

a. Add a single chart to the plan that lists, at a glance, OGE’s strategic goals and the corresponding strategic and management objectives.

b. On page 2, Part II, change “fair competition in procurement” to “full and open competition in procurement” to better reflect the Competition in Contracting Act of 1984 (CICA) and FAR Subpart 6.2.

c. On page 4, first full paragraph, change “80 authorized full-time equivalents” to “80 authorized full-time employees.” “Full-time equivalents” is generally used to describe the number of contractor employees performing a task.

d. On page 4, Part III, add a transition sentence at the end of the first full paragraph that describes (and perhaps lists) the strategic and management objectives. For example, “OGE accomplishes its strategic goals by performing its strategic and management objectives.”

e. On page 8, add a measure of progress for Strategic Objective 2.2 concerning the percentage of required ethics commitments that are signed within established timeframes.

f. On page 9, make the second measure for Strategic Objective 3.1 more concrete. Recommend specifying a time by which transition-related resources must be updated (e.g., 90 days before a presidential election) or a percentage of resources that must be updated by this suspense.

g. On page 11, change the 3rd indicator for Strategic Objective 4.1 from “number of accurate media articles” to “percentage of accurate media articles or other products.” First, the

percentage of accurate pieces is a more meaningful standard than the number. Second, “media articles” is too narrow a term in light of present technologies.

h. On page 11, Strategic Objectives 4.1 (Inform the public about OGE and the executive branch ethics program) and 4.2 (Make government ethics information publicly available) seem to overlap considerably. Recommend making Strategic Objective 4.1 concern information about OGE and Objective 4.2 concern information about the ethics program, including ethics laws and regulations. Also recommend a broad measure concerning “emerging social media platforms” to prevent the strategic guidance from becoming obsolete as the presently dominant platforms fade from popularity.

3. Administrative/editorial recommendations. In the following comments, text recommended for removal is listed in red strikethrough font. Text recommended for addition is listed bold, underlined font.

a. On page 6, Strategic Objective 1.2, 1st paragraph, change the 1st sentence as follows: “OGE provides expert guidance and support to stakeholders to promote consistent interpretation and application of ethics laws and regulations across the executive branch in support of **its** prevention mission.”

b. On page 6, Strategic Objective 1.2, 1st paragraph, change the final sentence as follows: “This support, in turn, ~~enables~~ **will enable** ethics officials to better serve the employees of their own agencies.”

c. On page 6, Strategic Objective 1.3, 1st paragraph, change the 2nd sentence as follows: “In addition to agency ethics officials on whom employees rely ~~on~~ for ethics advice and counsel, other officials such as Inspectors General, human resources professionals, and agency leadership play a significant part in carrying out an effective ethics program.”

d. On page 8, Strategic Objective 2.2., 1st paragraph, change the 2nd sentence as follows: “Written ethics agreements are created as part of the new entrant financial disclosure process for ~~Presidentially appointed, Senate Confirmed~~ **President-appointed, Senate-confirmed** nominees and reflect actions agreed upon to address conflicts of interest.”

e. On page 9, Strategic Objective 3.2, 1st paragraph, change the 2nd sentence as follows: “OGE provides an independent review of the financial disclosure reports of individuals being considered for the highest level positions in the executive branch: ~~Presidential appointed~~ **President-appointed**, Senate-confirmed nominees, and candidates for the Offices of the President and Vice President.”

f. On page 11, Strategic Goal IV, change the 1st paragraph as follows: “OGE’s prevention mission involves engaging the public both to inform them about the systems in place **and** to

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SUBJECT: Comments on OGE Strategic Plan, Fiscal Years 2018 – 2022

build confidence so that they may actively detect and resolve conflicts of interest of their government leader's decision making.”

g. On page 13, Part IV, 2nd paragraph, change the semicolon in the 2nd sentence to a colon as follows: “In fiscal year 2021, OGE will carry out one of its most crucial ~~roles;~~ roles: supporting the transition during a Presidential election year.”

4. I am the point of contact at [REDACTED] or at [REDACTED]



WILLIAM J. DOBOSH, JR.
Ethics Counselor

VIA EMAIL

OGESTrategicPlan@oge.gov
Attn: Nicole Stein, Chief, Agency Assistance Branch
U.S. Office of Government Ethics
1201 New York Avenue NW, Suite 500
Washington, DC 20005-3917

August 24, 2017

Re: Solicitation of Input from Stakeholders Regarding the U.S. Office of Government Ethics Strategic Plan (FY 2018 — 2022), 82 Fed. Reg. 37858 (Aug. 14, 2017)

Dear Ms. Stein,

On behalf of Issue One, I am submitting comments on the U.S. Office of Government Ethics (“OGE”) Strategic Plan (FY 2018-2022) (the “Strategic Plan”) published in the Federal Register on August 14, 2017. Issue One is a nonpartisan, nonprofit advocacy organization dedicated to political reform and government ethics in order to strengthen democracy and return government to the American people. We are home to the ReFormers Caucus, the largest bipartisan coalition of former members of Congress, governors and cabinet officials ever assembled to advocate for solutions to fix our democracy.

Issue One strongly believes it is vital to the health of our democratic system that government officials live up to high ethical standards. OGE, as the supervising ethics office for the federal government’s executive branch, has an incredibly important role to play in that effort. We are pleased to see some elements of the strategic plan; in particular, an emphasis on advancing a “strong, uniform executive branch ethics program” and “holding the executive branch accountable for carrying out an effective ethics program.”¹ However, since its inception, OGE has struggled to find the appropriate balance between its compliance role and its obligation to promote high ethical standards.

Despite some recent examples to the contrary, the agency has routinely, under both Democratic and Republican administrations, failed to robustly interpret its statutory authority to conduct investigations and its inherent authority to publicly denounce ethical lapses by government officials or the shortcomings of agency ethics programs.

¹ U.S. OFFICE OF GOVERNMENT ETHICS, U.S. OFFICE OF GOVERNMENT ETHICS DRAFT STRATEGIC PLAN, FISCAL YEARS 2018 — 2022 (July 25, 2017), at 5, 9, available at [https://oge.gov/web/OGE.nsf/Resources/OGE's+Draft+Strategic+Plan+\(FY+2018+-+2022\)](https://oge.gov/web/OGE.nsf/Resources/OGE's+Draft+Strategic+Plan+(FY+2018+-+2022)).

Although OGE does not have the power to issue penalties or sanctions, that does not mean it has no power whatsoever. The agency is clearly enabled to “conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.”²

Furthermore, the agency can clearly offer public comments in an effort to ensure that proper deference is paid to ethical standards. Yet OGE has almost never exercised these powers. Perhaps the only notable example is from nearly 30 years ago, when it issued a public memorandum concerning ethical lapses of then-Attorney General Edwin Meese III in order to provide guidance and to “remind and inform that simply avoiding criminal conduct is not the mark of public service.”³

It is critical that OGE be willing to stand up for government integrity even when that requires delivering bad news to high-ranking officials about conflicts of interest, their need to divest a financial conflict of interest or the need to recuse themselves from a government duty.

Additionally, OGE should not be content with implementing the ethics system as it currently exists. Rather, the agency should promote reforms to improve itself and the entire federal ethics system. Issue One has publicly recommended several changes to OGE that can serve as a model. Those recommendations, which seek to better empower the agency to carry out its mission, are listed below.⁴

INDEPENDENCE

- Specify in legislation that the Director of OGE may only be terminated for cause

Currently, the Ethics in Government Act states that the Director of OGE serves a five-year term, but does not define when and how he or she may be removed. Clarifying that the Director can only be removed “for cause” would help ensure the agency’s independence and was recommended as early as 1983.

TRANSPARENCY AND CONSISTENCY

- Authorize OGE to serve as a central clearinghouse for all ethics actions taken by designated agency ethics officials (DAEOs)

² 5 U.S.C. app. § 402(f)(2)(B)(i) (2012).

³ U.S. OFFICE OF GOVERNMENT ETHICS, MEMORANDUM FROM THE DIRECTOR OF THE OFFICE OF GOVERNMENT ETHICS TO DESIGNATED AGENCY ETHICS OFFICIALS, GENERAL COUNSELS, INSPECTORS GENERAL AND OTHER INTERESTED PERSONS CONCERNING GUIDANCE ON ETHICS PROGRAM ISSUES RAISED IN THE REPORT OF THE INDEPENDENT COUNSEL DATED JULY 5, 1988 (Sept. 12, 1988) at 17, available at <https://www.oge.gov/web/oge.nsf/All%20Advisories>.

⁴ A memorandum regarding these recommendations is available at <https://www.issueone.org/policy-advocacy/>.

As the central agency in the ethics process, it makes sense to have OGE serve as a clearinghouse for ethics actions taken by DAEOs and their subordinates. Having decisions from various agencies side by side would promote transparency and consistency. Given modern technology, this would be a relatively low burden for OGE.

- Authorize OGE to publish recusal agreements of high-ranking Senior Executive Service (SES) employees

When an executive branch agency grants an employee a waiver regarding a situation that raises criminal conflict of interest (CCOI) concerns, the agency makes the waiver public. The same should apply for when SES employees establish recusal agreements, detailing what government matters they will not participate in. Those agreements should be published by OGE as part of the central clearinghouse function noted above.

- Authorize OGE to impose specific standards for ethics training and mandate ethics training for all high-level executive branch officials within a certain amount of time after joining an administration

OGE has the authority to require that executive branch agencies offer ethics trainings (see 5 C.F.R. § 2638, subpart C) and sets very general requirements, but it does not detail specific standards for those trainings. Doing so would help ensure that all employees across the entire executive branch are receiving appropriate ethics training. Also, high-level officials wield more power and have higher public visibility, and thus have an even greater need for ethics training.

ENFORCEMENT POWERS

- Authorize OGE to investigate allegations of ethics violations for high-ranking employees (Presidential appointments with and without Senate confirmation, SES and Schedule C)

Since DAEOs are usually General Counsels, they are subordinate to some high-ranking agency officials — and are often themselves political appointees — raising concerns about political pressure affecting the effectiveness of any investigation they may conduct into high-ranking employees. Giving OGE the authority and responsibility to conduct those investigations would reduce the threat of political pressure and increase the chances that investigations are thorough.

- Clarify that the Director of OGE has the authority to conduct investigations, subpoena witnesses, compel production of documents and issue civil penalties for violations for high-ranking officials

To effectively conduct investigations and discipline high-ranking officials, OGE would need to be given several powers that it does not currently have. While OGE would be able to initiate investigations on its own, the agency should have the authority to respond to allegations brought by outside groups and a statutory duty to issue a public response to the complaint within a certain time frame. Furthermore, OGE's decision not to open an investigation should provide a private cause of action to appeal that decision in court, reviewable under the standards of the Administrative Procedure Act. However, to ensure appropriate protections for the federal workforce, employees who are subject to discipline imposed by OGE should be able to appeal the decision to the Merit Systems Protection Board.

- Authorize OGE to conduct random audits of public and confidential financial disclosures to ensure the accuracy of the document

OGE is generally considered to have a compliance mentality — the agency will ensure that the proper forms are filed, but does not check the accuracy of the data. This raises the specter that some financial disclosure will be incomplete or inaccurate. As a deterrent, OGE should have the authority to audit financial disclosures for cause and the responsibility to randomly and routinely audit a certain limited number of disclosures.

- Authorize OGE to conduct random reviews of decisions by ethics officials for each agency

Agency ethics officials often consult OGE about ethics issues, but those officials have the authority to issue final decisions concerning many ethics matters. To ensure that agencies are applying the highest standards and coming to the best decisions, OGE should randomly audit agency ethics decisions.

- Require OGE to approve waivers concerning CCOI laws

When offering a waiver exempting an employee from the application of CCOI laws in a specific situation, agency ethics officials must consult with OGE, but the ultimate decision remains with the agency official. To ensure that waivers are appropriate, and that agencies are not cutting corners, the law should require OGE to approve the waiver.

- Require congressional review of current OGE decisions on “compartmentalization” and require congressional approval for any future decisions

OGE has the authority to “compartmentalize” agencies for the purpose of post-employment restrictions, meaning that high-ranking officials in a compartmentalized sub-agency or agency component may be able to lobby officials in other sub-agency or agency components. Given the potential for undermining congressional intent in

establishing these post-employment provisions, Congress should have a role in reviewing and approving compartmentalization.

We urge OGE to fully live up to the ideas espoused in the strategic plan and work to ensure that government officials live up to the high ethical standards that the American people demand.

Meredith McGehee
Chief of Policy, Programs and Strategy
Issue One



August 24, 2017

David J. Apol
Acting Director & General Counsel
U.S. Office of Government Ethics
1201 New York Avenue, NW
Suite 500
Washington, DC 20005

Re: Comments on the United States Office of Government Ethics Strategic Plan, FY18 – FY22

Dear David:

The Ethics and Compliance Initiative (ECI) is pleased to provide the United States Office of Government Ethics (OGE) with comments on its Draft Strategic Plan for FY18 through FY22. ECI is the United States' oldest nonprofit organization devoted to research and the empowerment of high quality ethics & compliance programs in public and private sector organizations. Since 1922, we have served as a thought leader and resource to organizations that are committed to strong ethical cultures.

ECI regularly conducts independent research to help inform the public dialogue on ethics and ethical behavior. Our *National Business Ethics Survey (NBES)* is considered one of the leading benchmarks on workplace ethics and compliance. We have also provided guidance to organizations of all types through our *Principles & Practices of High Quality Ethics & Compliance Programs* framework.

Through our research, ECI has provided business and government leaders with a snapshot of trends in workplace ethics and an identification of the drivers that improve ethical workforce behavior. Several federal agencies have benchmarked against our data, collected primarily through the NBES, and we have found that many of the patterns we find in the private sector apply to the public sector as well. We believe that fact-based analysis is an essential element to the establishment of an effective ethics program, and we appreciate the opportunity to share a few recommendations for the strategy that OGE intends to pursue.

Broaden the Scope of Ethics Programs to Include a Focus on Values and Culture

The establishment of a strong organization-wide *culture* is critical to the success of any ethics program. While we acknowledge the importance of OGE's role in developing strong tactical ethics initiatives to address specific issues like conflicts of interest, the effectiveness of these efforts will still depend on the strength the organizational culture in the agency where it is applied. Our research has also shown that organizations (including government workplaces)

with strong ethics cultures reduce conflicts of interest and other acts of misconduct by half and virtually eliminate retaliation for reporting misconduct at all levels.

In looking at the OGE's vision and mission statement in today's context and with the knowledge gathered through our research, it appears that the OGE has defined its role to strengthen the public's confidence in the government's integrity, and it is emphasizing principled behavior and consistent, disciplined leadership. Yet a prioritization of ethical culture building is noticeably absent. While we recognize that there are other ways to express "culture," the term is only used three times in OGE's strategic plan, and only once in the context we describe above. We suggest that simple inclusion of cultural impact to your four strategic goals – Uniformity; Accountability; Continuity; and Engagement – would be a worthy endeavor.

The OGE can also readily enhance its ability to uphold conflict-of-interest rules and regulations by broadening its expectations of federal agencies to include embedding an *ethical culture* as part of their ethics program priorities. This can most effectively be accomplished by insisting on the establishment of "values-based" ethics programs. To that end, we believe that Strategic Goal 1: *Advance a Strong, Uniform Executive Branch Ethics Program* should be expanded. As a part of Strategic Goal 1, OGE should insist that executive branch ethics programs be expanded to:

- Contain elements of an effective compliance and ethics program as outlined by Federal Sentencing Guidelines for Organizations (FSGO) ¹;
- Organize all communications and activities around a set of core ethical values that reflect the unique priorities and culture of the entire agency;
- Annually train all employees on agency core values, ethical decision-making, and how to report concerns;
- Prioritize building an ethical culture;
- Encourage employees to report misconduct and protect whistleblowers from retaliation;
- Implement performance goals on ethical leadership for managers;

¹ While initially intended for use by federal judges in the sentencing of corporations, Chapter 8 of the US Federal Sentencing Guidelines (referred to as FSGO) have become the de facto standard for the establishment of values-based ethics & compliance programs in the private sector. ECI's research has shown that even though these programs satisfy only the minimum standard, they are still effective in reducing misconduct. For more information about the FSGO, see www.ussc.gov.

- Designate a Chief Integrity and Compliance Officer (or the equivalent) with a direct reporting relationship to the highest-ranking senior official in each agency;
- Provide incentives to employees who uphold the agency's standards of integrity; and
- Hold employees accountable for violating the standards of conduct.

Sadly, to date, only one office in a federal government agency has implemented a values-based program that aligns with these priorities, even though many agencies insist on implementation of these efforts in their sanctions against private sector organizations.

Establish Metrics and Benchmarks for Culture in the Executive Branch

Effective agency ethics and compliance programs are dynamic; as a result they must reflect changes in organizational priorities, leadership, and culture. In order to keep programs attuned to the evolving needs of agencies, it is important to understand the ethics challenges that executive branch employees are facing. OGE should, therefore, undertake an effort to periodically ask and answer the following questions:

- What difference have agency programs made in the workforce?
- Are employees sufficiently aware of the resources that agency programs provide?
- To what extent have employees' perceptions about the culture of their agency improved?
- Are agency programs reducing misconduct and increasing employee reporting?
- Are agency programs reducing compliance risks?

This type of measurement should be accomplished through a periodic survey of employees throughout the executive branch. The metrics should include:

- Employee perception of their agency as having a culture of integrity;
- Pressure to commit misconduct;
- Observed misconduct (extending beyond mere conflicts of interest);
- Actual reporting of observed misconduct;
- Perceived experiences of retaliation for having reported misconduct; and
- Extent to which employees are rewarded for upholding the core values.

The OGE should also broaden the activities associated with Strategic Goal #1 to include the implementation of programmatic efforts to address any challenges that are identified through the executive branch culture assessment. ECI has extensive experience in this area, and we believe that conducting a survey of executive branch employees to measure outcomes is necessary for the establishment of meaningful priorities for agency ethics programs.

Other Steps

As a departure point for further discussion, the OGE might also consider undertaking the following steps if it pursues this broader mission of establishing values-based ethics programs:

- Conducting an inventory of best practices used by agencies to establish ethical cultures as well as compliance with rules and regulations.
- Establishing a non-partisan blue-ribbon advisory committee under the auspices of the OGE, comprising leaders from across all levels of government, the private sector and public interest representatives – to share their ideas and solicit expert advice and perspectives, resulting in a public report that highlights the key issues and makes recommendations about how the OGE might enhance fulfillment of its public mandate going forward.

Further Resources

We wish to commend the OGE for its ongoing efforts to seek input in its efforts to successfully implement effective executive branch ethics programs. We would be pleased to provide the OGE with any additional information, research or other assistance to support its efforts. The ECI stands ready to be part of this continuing discussion and we hope that our perspective is helpful to the OGE as it looks forward. These are important matters, because the result of success is a government constantly worthy of its citizens' trust.

Should you have questions or need additional information, please do not hesitate to contact me at [REDACTED]

Sincerely,

A handwritten signature in blue ink, appearing to read 'PJH', with a stylized flourish at the end.

Patricia J. Harned, Ph.D., LPEC
Chief Executive Officer

From: [Nicholson, Ian \(Finance\)](#)
To: [OGE Strategic Plan](#)
Cc: [Shelley K. Finlayson](#); [Jennifer Matis](#)
Subject: Comment Letter from Senator Wyden - OGE Draft Strategic Plan
Date: Friday, August 25, 2017 4:32:47 PM
Attachments: [082517 Wyden Comments to OGE - Draft Strategic Plan FINAL.pdf](#)

Please see the attached letter from Ranking Member Wyden, per the August 3rd e-mail from Ms. Finlayson. Please let us know if you have questions.

Thanks a lot.

Ian

Ian Nicholson

Investigator

U.S. Senate Committee on Finance

219 Dirksen Senate Building

Washington, D.C. 20510

Main: [REDACTED]

Direct: [REDACTED]

From: [Matt Winfrey](#)
To: [OGE Strategic Plan](#)
Subject: Suggestion
Date: Thursday, August 03, 2017 7:09:02 PM

Hello,

Please consider making it explicit in your strategic vision that you also provide ethical oversight of the President and not just the President's appointees.

Thank you,

Matt Winfrey