



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

August 7, 2013

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

Dear Mr. Chairman:

Thank you for your letter of July 24, 2013, requesting information from the U.S. Office of Government Ethics (OGE) regarding the rules governing special Government employees and the outside employment of executive branch employees.

In response to your request, OGE is providing the enclosed flash drive/electronic storage device containing 514 responsive documents that are indexed by topic. For your convenience, please find attached to this letter a high-level summary of the key provisions of the documents provided, which include relevant laws, regulations, legal advisories, and other guidance documents. This summary is not intended to be comprehensive, but rather to provide an overview of the most significant rules. Also please find included a summary of findings from OGE reviews of agency ethics programs since 2009 related to special Government employees and outside activities of executive branch employees as well as a summary of related survey results from OGE's annual questionnaire to agency ethics officials.

Because of the decentralized nature of the Executive Branch ethics program, OGE is unable to provide those records for which OGE does not have legal authority, including documents prepared by a separate executive branch agency authorizing an employee to accept private, paid consulting work.

I hope you find these documents responsive to your inquiry. Please do not hesitate to contact me at (202) 482-9314 should you have any questions about the materials provided or require any additional information.

Sincerely,

A handwritten signature in blue ink that reads "Shelley K. Finlayson".

Shelley K. Finlayson  
Program Counsel

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

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1. Overview of OGE’s Mission and Responsibilities
2. 5 CFR § 2635.107: Agency Responsibility for Ethics Advice
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[OGE Financial Disclosure Guide](#) \*
2. OGE’s 2004 Reviewer’s Guide (relevant portions)
  - a. Schedule A – Assets & Income, p. 3-7, 3-9, 3-13, 3-14

\*: Indicates that the document is noteworthy.

†: Indicates that the document discusses the honoraria prohibition under 5 U.S.C. app § 501(b), which was deemed unconstitutional by the Supreme Court in *United States v. National Treasury Employees Union*, 513 U.S. 454 (1995).

- b. Schedule C, Part II – Agreements & Arrangements, p. 3-27, 3-28
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## II. LAWS LIMITING FEDERAL EMPLOYEES' OUTSIDE EMPLOYMENT & CONSULTING ACTIVITIES

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2. 18 USC § 203: Bar on Receiving Compensation for Certain Representational Services
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7. 5 USC app. §§ 501-505: Limitations on Outside Earned Income & Employment
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### B. Executive Orders Related to Federal Employee Ethics

1. EO 11222: Prescribing Standards of Ethical Conduct for Government Officers and Employees (May, 1965)
2. EO 12674: Principles of Ethical Conduct for Government Officers and Employees (Apr. 1989) \*

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3. EO 12731: Principles of Ethical Conduct for Government Officers and Employees,  
Modified EO 12674 (Oct. 1990) \*
4. EO 13490: Ethics Pledge for Full-Time Political Appointees (Jan. 2009) \*

### **C. OGE Executive Branch-Wide Standards of Conduct Regulations**

1. Overview of the Standards of Conduct for Employees of the Executive Branch.
2. 5 CFR § 2635.101: Fourteen Principles/Basic Obligations of Public Service
3. 5 CFR § 2635.102: General Definitions
4. 5 CFR § 2635.105: Provisions for Agency Supplemental Regulations
5. 5 CFR § 2635.107: Responsibility for Ethics Advice
6. 5 CFR §§ 2635.501-503: Subpart E Impartiality in Performing Official Duties
7. 5 CFR §§ 2635.601-606: Subpart F Seeking Other Employment
8. 5 CFR §§ 2635.701-705: Subpart G Misuse of Position \*
9. 5 CFR §§ 2635.801-809: Subpart H Outside Activities
10. 5 CFR §§ 2636.301-307: Overview of Limitations on Outside Earned Income and  
Employment for Certain Non-Career Employees \*
11. 5 CFR § §2636.307-307: Text of Regulation

### **D. Supplemental Agency-Specific Regulations**

1. Overview of Agency Supplemental Regulations
2. LA 11-07: The OGE Supplemental Agency Regulation Process \*
3. 5 CFR § 2635.105: Provision for Agency Supplemental Regulations

#### **Department Level:**

4. Department of Agriculture: 5 C.F.R. § 8301.102-107
5. Department of Defense: 5 C.F.R. § 3601.107, 108
6. Department of Education: 5 C.F.R. § 6301.102
7. Department of Energy: 5 C.F.R. § 3301.103
8. Dept. Health & Human Serv.: 5 C.F.R. §§ 5501.106-110, 5502, 102-103

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9. Department of Homeland Security: No Applicable Supplemental Regulation
10. Department of Housing & Urban Development: 5 C.F.R. § 7501.105
11. Department of Interior: 5 C.F.R. § 3501.105
12. Department of Justice: 5 C.F.R. § 3801.106
13. Department of Labor: 5 C.F.R. § 5201.101, 104, 105
14. Department of the Treasury: 5 C.F.R. § 3101.104-111
15. Department of State: No Applicable Supplemental Regulation
16. Department of Transportation: No Applicable Supplemental Regulation

**Other Agencies:**

17. Board of Govs. of the Federal Reserve System: 5 C.F.R. § 6801.109
18. Bureau of Consumer Financial Protection: 5 CFR § 9401.10
19. Commodity Futures Trading Commission: 5 C.F.R. § 5101.103
20. Commission on Civil Rights: 5 C.F.R. § 7801.102
21. Consumer Product Safety Commission: 5 C.F.R. § 8101.10
22. Court Services & Offender Supervision Agency: 5 CFR § 8001.102
23. Environmental Protection Agency: 5 C.F.R. § 6401.103
24. Equal Employment Opportunity Comm.: 5 C.F.R. § 7201.102, 103
25. Export-Import Bank of the United States: 5 C.F.R. § 6201.102
26. Farm Credit Administration: 5 C.F.R. § 4101.108
27. Farm Credit System Insurance Corporation: 5 C.F.R. § 4001.108
28. Federal Communications Commission: 5 C.F.R. § 3901.102
29. Federal Deposit Insurance Corporation: 5 C.F.R. § 3201.107
30. Federal Election Commission: 5 CFR § 4701.102
31. Federal Energy Regulatory Commission: 5 C.F.R. § 3401.104
32. Federal Housing Finance Agency: 5 C.F.R. § 9001.105
33. Federal Labor Relations Authority: 5 CFR § 5901.102
34. Federal Mine Safety & Health Review Comm.: 5 C.F.R. § 8401.103
35. Federal Retirement Thrift Investment Board: 5 C.F.R. § 8601.102

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36. Federal Trade Commission: 5 C.F.R. § 5701.102
37. General Services Administration: 5 C.F.R. § 6701.106
38. Institute of Museum and Library Sciences: 5 C.F.R. § 7701.102
39. Inter-American Foundation: 5 C.F.R. § 7301.102
40. Interstate Commerce Commission: 5 C.F.R. § 5001.104
41. Merit Systems Protection Board: 5 C.F.R. § 7401.102
42. National Aeronautics and Space Administration: 5 C.F.R. § 6901.103
43. National Archives and Records Administration: 5 C.F.R. § 7601.102
44. National Credit Union Admin.: 5 C.F.R. §§ 9601.103, 104, 105
45. National Endowment for the Arts: 5 C.F.R. § 6501.102
46. National Endowment for the Humanities: 5 C.F.R. § 6601.102
47. National Labor Relations Board: 5 C.F.R. § 7101.102
48. National Science Foundation: 5 C.F.R. § 5301.103
49. Nuclear Regulatory Commission: 5 C.F.R. § 5801.103
50. Office of Management and Budget: 5 C.F.R. § 8701.102
51. Office of Personnel Management: 5 C.F.R. § 4501.103
52. Office of the Special IG for Afghanistan Rec.: 5 C.F.R. § 9303.102
53. Overseas Private Investment Corporation: 5 C.F.R. § 4301.101
54. Postal Rate Commission: 5 C.F.R. § 5601.104
55. Securities and Exchange Commission: 5 C.F.R. § 4401.103
56. Special IG for Iraq Reconstruction: 5 CFR § 9201.102
57. Tennessee Valley Authority: 5 C.F.R. § 7901.102
58. United States Postal Service: 5 C.F.R. § 7001.102, 103

**E. OGE Legal Advisories Concerning Federal Employee Outside Activities  
[Chronological Order]**

1. Informal Advisory Op. 90 x 20: Applicability of the Outside Earned Income  
Limitation \*

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2. Informal Advisory Op. 90 x 21: Service Outside the Government in a Private or Official Capacity
3. Informal Advisory Op. 90 x 22: Application of Restrictions on Outside Earning & Employment \*
4. Informal Advisory Op. 90 x 24: Effect of Title VI of Ethics Reform Act of 1989†
5. Informal Advisory Op. 91 x 3: Limitation on Outside Activities \*
6. Informal Advisory Op. 91 x 5: Service by a Govt. Employee as an Officer in an Association
7. Informal Advisory Op. 91 x 23: General Discussion of the Honoraria Ban and Compensation for Writing Books †
8. Informal Advisory Op. 91 x 27: Applicability of the Honoraria Ban to Compensation for Writing a Book †
9. Informal Advisory Op. 91 x 31: Executive Branch Employees & Service in Honorary Outside Positions
10. Informal Advisory Op. 92 x 2: Limitations on Federal Employee's Proposed Publication
11. Informal Advisory Op. 92 x 18: Applicability of the Honoraria Ban to Compensated teaching †
12. Informal Advisory Op. 92 x 19: Employee Payments from Fiduciary Practice \*
13. Informal Advisory Op. 92 x 23: Solicitation & Acceptance of Funds from Prohibited Sources
14. Informal Advisory Op. 92 x 24: Applicability of the Honoraria Ban to Compensated for Participation as Panelist at Symposium †
15. Informal Advisory Op. 93 x 3: General Discussion of the Honoraria Ban †
16. Informal Advisory Op. 93 x 6: Prohibition Against Using Government Resources to Facilitate Meeting of Private Organization
17. Informal Advisory Op. 93 x 8: “Targeted Solicitation” in Fundraising Provisions of Standards

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18. Informal Advisory Op. 93 x 16: Discussion of Meaning of “Or Otherwise Determined by Agency” in 5 CFR 2635.808(b)
19. Informal Advisory Op. 93 x 19: Recurring Questions about Fundraising \*
20. Informal Advisory Op. 93 x 23: Fundraising in a Personal Capacity & Prohibited Sources
21. Informal Advisory Op. 93 x 40: Prior Approval of Outside Activities \*
22. Informal Advisory Op. 94 x 1: Employee Participation as Speaker at Conference
23. Informal Advisory Op. 94 x 7: Application of 18 U.S.C. § 205 to Proposed Representation
24. Informal Advisory Op. 94 x 14: Speaking at Conference Sponsored by Non-Fed. Entity
25. Informal Advisory Op. 94 x 18: Use of Nonpublic Information in Teaching, Speaking, Writing
26. Informal Advisory Op. 95 x 9: Outside Earned Income Ban and Royalties
27. Informal Advisory Op. 95 x 14: Uncompensated Service on Board of Directors
28. Informal Advisory Op. 96 x 2: Fundraising in an Official Capacity \*
29. Informal Advisory Op. 96 x 5: Honoraria ban declared unenforceable †
30. Informal Advisory Op. 96 x 6: Position with Private Partisan Organization
31. Informal Advisory Op. 96 x 22: Regs. for Employee Working on Presidential Campaign
32. Informal Advisory Op. 97 x 4: Referring to Official Title & Position in Outside Writing
33. Informal Advisory Op. 97 x 13: Fundraising for a Professional Society\*
34. Informal Advisory Op. 98 x 14: Official and Unofficial Speech at Private Conference
35. Informal Advisory Op. 98 x 19: Compensation for Outside Writing Unrelated to Employee’s Official Duties (explanation of *Sanjour v. EPA*, 56 F.3d 85 (D.C. Cir. 1995))
36. Informal Advisory Op. 99 x 4: Consulting Business of Government Employee \*

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37. Informal Advisory Op. 99 x 12: Consulting Services and Expert Testimony by Former Government Employee
38. Informal Advisory Op. 99 x 15: Use of Official Title
39. Informal Advisory Op. 99 x 25: Clarification of Interpretation of 18 U.S.C. § 203
40. Informal Advisory Op. 00 x 10: 18 USC § 205 and Definition of “Agency” (explanation of *O’Neill v. HUD*, 220 F.3d 1354 (Fed. Cir. 2000))
41. Informal Advisory Op. 01 x 3: OLC Opinions (Exception to Honoraria Ban and Communications under 18 U.S.C. § 207(c)) †
42. Informal Advisory Op. 01 x 6: Employee’s Use of Title in Relation to Outside Writing
43. Informal Advisory Op. 01 x 7: Compensation Bar for Writing Related to Official Duties
44. Informal Advisory Op. 01 x 9: Employee's Management of Nonprofit Organization
45. Informal Advisory Op. 01 x 10: Book Writing Related to Official Duties
46. Informal Advisory Op. 02 x 4: 18 U.S.C. § 209 Guidance Supplementation & employees \*
47. Informal Advisory Op. 02 x 9: Use of Title on Personal Stationery or in Personal Activity
48. Informal Guidance Doc. DO-02-18: 18 U.S.C. § 205 Advice & Counseling
49. Informal Advisory Op. 03 x 30: Government Employee Status \*
50. Informal Advisory Op. 04 x 3: Public Financial Disclosure and Outside Activities \*
51. Informal Advisory Op. 04x 4: Awards and Outside Consulting Activities \*
52. Informal Advisory Op. 04 x 5: 18 U.S.C. § 208 Recusal Obligation & Screening Requirements \*
53. Informal Advisory Op. 04 x 6: Employee Ethics Laws and Regs. Apply During Furlough Periods
54. Informal Advisory Op. 04 x 10: Definition of 'Covered Non-career Employee
55. Informal Guidance Doc. DO-04-11(a): Awards and Outside Consulting Services \*

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56. Informal Guidance Doc. DO-04-11(b): Former Acting OGE Director Marilyn Glynn Testimony Before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce Concerning Outside Consulting \*
57. Informal Advisory Op. 05 x 2: Uncompensated Board/Trustee Service and 18 U.S.C. § 205
58. Informal Advisory Op. 05 x 2(2): Definition of Covered Non-Career Employee
59. Informal Advisory Op. 05 x 7: Issues Pertaining to Covered Non-Career Employee
60. Informal Advisory Op. 06 x 7: Ethics and Working with Contractors Q & A's
61. Informal Advisory Op. 06 x 13: Outside Activities Related to Official Duty \*
62. Informal Advisory Op. 07 x 8: Guidance on Compensation for Apeaking Related to Official Duty
63. Informal Advisory Op. 08 x 2: Political Appointees and Book Deals
64. Informal Advisory Op. 08 x 3: Book Deals General Advisory/Overview
65. Informal Advisory Op. 08 x 3(a)(1): Book Deals for Federal Employees and SGEs
66. Informal Advisory Op. 08 x 5: Multiple Presentations Exception to Courses Offered by Non-Appropriated Fund Instrumentalities (NAFIs)
67. Informal Advisory Op. 10 x 1: Employee Uncompensated Teaching, Speaking, Writing \*
68. Informal Advisory Op. LA-11-06: Nonpartisan Political Activity \*
69. Informal Advisory Op. LA 11-7: OGE Supplemental Agency Regulation Process \*
70. Informal Advisory Op. LA-13-02: Ethics laws and Regulations Apply During Furlough Priods
71. Informal Advisory Op. LA -13-07: Summary of 2013 Appropriations Act Affecting Executive Branch Ethics program – Outside Earned Income Restrictions

## **F. Training Materials Related to Employee Outside Activities and Employment**

1. Materials from OGE's 2011 National Training Event: Official Duties vs. Outside Activities

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2. Materials from OGE's 2011 National Training Event: Outside Activity Approval
3. Materials from OGE's 2011 National Training Event: Prior Approval Request Template

#### **G. Program Review Materials**

1. Summary Report: SGEs and Outside Activities \*
2. Program Review Reports Issued Since January 1, 2009 (basis of summary report)

#### **H. Miscellaneous Background Materials and Information**

1. Annual Questionnaire Data Summary \*

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### III. MATERIALS RELATED SPECIFICALLY TO SGEs

#### A. Executive Orders Related to SGEs

1. EO 11222: Part III, Sec. 301-306 (Standards of Conduct for SGEs)

#### B. Legal Advisories Applicable to SGEs [Chronological]

1. Overview Summary of Ethical Requirements Applicable to SGEs \*
2. Informal Advisory Op. 90 x 5: SGEs and Other Appointment Types
3. Informal Advisory Op. 91 x 11: SGEs and Patent Prosecution
4. Informal Advisory Op. 91 x 17: Ethics Restrictions Applicable to SGEs
5. Informal Advisory Op. 93 x 14: Status of Individuals Appointed to a Federal Advisory Committee
6. Informal Advisory Op. 96 x 6: Position with Private Partisan Organization
7. Informal Advisory Op. 98 x 14: SGE Official and Unofficial Speech at Private Conference
8. Informal Advisory Op. 00 x 01: Summary of Ethical Requirements Applicable to SGEs \*
9. Informal Advisory Op. 01 x 02: Potential PAS Appointees Employed as 'Advisors' or 'Counselors'
10. Informal Advisory Op. 02 x 4: 18 U.S.C. § 209 Guidance Supplementation re. SGEs \*
11. Informal Advisory Op. 03 x 5: SGE vs. Advisory Committee Representatives
12. Informal Advisory Op. 03 x 7: 60-Day Thresholds for SGEs \*
13. Informal Advisory Op. 04 x 9: SGEs and Representatives on Federal Advisory Committees
14. Informal Advisory Op. 05 x 4: Federal Advisory Committee Appointments
15. Informal Advisory Op. 05 x 7: Compensated Board Service for a Covered Non-career/SGEs
16. Informal Advisory Op. 07 x 1: Counting Days of Service for SGEs \*
17. Informal Advisory Op. 07 x 3: OLC Opinion on SGE Day-counting

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18. Informal Guidance Doc. DO-07-024: Emoluments Clause & Advisory Boards
19. Informal Advisory Op. 08 x 3(1): Book Deals General Advisory/Overview
20. Informal Advisory Op. 08 x 3(a)(1): Book Deals for Federal Employees and SGEs
21. Informal Guidance Doc. DO-09-010: Who Must Sign the Ethics Pledge?
22. Informal Guidance Doc. DO-10-017: 2009 Conflict of Interest Prosecution Survey  
Section II, 18 U.S.C. § 208 #6, *U.S. v. Courtney A. Stadd*
23. Informal Advisory Op. LA 12 x 1: STOCK ACT and SGE Requirements \*

### **C. Training Materials Related To SGEs**

1. OGE PowerPoint: Federal Advisory Committee Act Training Course
2. OGE Online Module: Ethics Training for SGEs \*

### **D. Program Review Materials**

1. Summary report: SGEs and Outside Activities\*
2. Program review reports issued since January 1, 2009 (basis of summary report)

### **E. Miscellaneous Items Related To SGEs**

1. Annual Questionnaire Data Summary \*

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