



United States Department of State

Washington, D.C. 20520

November 5, 2014

Limited Waiver Pursuant To Section 3 of Executive Order 13490

Pursuant to the authority delegated under Section 3 of Executive Order 13490 “Ethics Commitments by Executive Branch Personnel” (January 21, 2009) and after consultation with the Office of the Counsel to the President, I hereby certify for the reasons stated below that it is in the public interest for Capricia P. Marshall, former Chief of Protocol of the United States, to receive a limited waiver of the restrictions of Paragraph 4 of the Ethics Pledge with respect to service as a member of the Board of Trustees (the Board) of the Blair House Restoration Fund (the Fund). The Fund has invited Ms. Marshall to serve as a Board member in her private capacity. Ms. Marshall left her government position in August 2013.

Executive Order 13490, Section 1 (Ethics Pledge), requires all covered political appointees to abide by certain commitments. Paragraph 4 of the Ethics Pledge provides that a covered appointee for a period of two years following the end of her appointment is “covered by the post-employment restrictions on communicating with employees of [the Department of State] set forth in section 207(c) of title 18, United States Code” (also known as the former senior employee cooling off period).

Section 207(c) states that former senior employees such as Ms. Marshall may not within the cooling off period “knowingly make[], with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served . . . on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency” 18 U.S.C. § 207(c) (2009). The current Chief of Protocol of the United States serves in his official capacity as the Board’s honorary chairman. To the extent that Ms. Marshall would be representing the Board to him with the intent to influence him in connection with a matter where she seeks official action, section 207(c) concerns are triggered.

A waiver of the restriction contained in Paragraph 4 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purposes of the restriction or that it is in the public interest to grant the waiver. *See* E.O. 13490, Sec. 3(a). The Director of the Office of Management and Budget has designated the Designated Agency Ethics Official of each executive branch agency to exercise the Section 3 waiver authority in consultation with the Counsel to the President. *See* DO-09-008, OGE Memorandum to Designated Agency Ethics Officials, February 23, 2009.

It is in the public's interest that Ms. Marshall be issued this waiver because of the strong governmental purpose served by the Board. Blair House, in addition to being known as the "President's guest house" for providing lodging to visiting foreign leaders, is a stage for a multitude of internationally focused events that help to advance America's relationship with foreign nations. Such events have included a summit of the G-8 Foreign Ministers and many initiatives for the Washington Diplomatic Corps such as the State of the Administration briefings by Cabinet members and White House officials and exchanges for foreign diplomats and their families. Blair House is the residence of the president-elect in the days prior to moving into the White House. Blair House has been a residence for the family of a deceased former President during a state funeral. A typical schedule for Blair House in a calendar year may include up to thirty visits by foreign leaders, multiple foreign policy related luncheons, dinners, receptions and teas, and official meetings, all of which underscore the unique diplomatic role of Blair House. Blair House overnight visitors have included Queen Elizabeth II, Charles de Gaulle, Vaclav Havel, and the Emperor and Empress of Japan. Blair House is linked to the State Department's appropriation accounts and has been designated part of the White House Security Complex.

The Fund was established in 1985 as a charitable, non-partisan organization dedicated to raising private funds to create and maintain the rooms, gardens, and amenities of Blair House. The Fund is a tax-exempt organization pursuant to section 503(c)(1) of the tax code. The Fund has the responsibility to preserve and refresh the furnishings, décor, fine arts, and gardens of Blair House. Reaching out to United States citizens, foundations, and corporations, the Fund's work is vital to ensure that Blair House remains a beautiful and welcoming historic showcase of American hospitality, elegance, design, and craftsmanship.

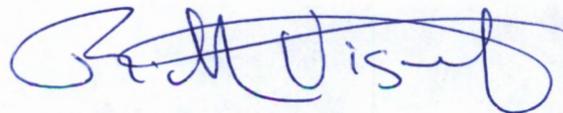
This waiver would enable Ms. Marshall to serve on the Fund's Board without regard to the presence of the current Chief of Protocol of the United States or any other Department official who may also be Board members or present at Board meetings. I determine that this waiver is in the public interest.

Reasons for this determination include:

- Ms. Marshall will be able to put her considerable experience to work on behalf of the Fund which in turn supports the important services Blair House provides to the federal government and the American people. Without public spirited commitments by individuals such as Ms. Marshall it would be difficult for the Fund to cultivate the substantial fundraising, endowment, and in-kind donations necessary for Blair House to remain a significant symbol of our nation.
- There is a strong official connection between Blair House and the Department of State. Ms. Marshall's service on the Board will support this connection. It is in the public interest that these institutionalized connections be nurtured and strengthened given the unique foreign policy niche Blair House occupies.
 - Approximately seventeen Department of State employees comprise the staff of Blair House.

- The Department assists the General Services Administration with federal funds to pay for Blair House's structural "brick and mortar" needs.
- The Department permits the Chief of Protocol to serve as honorary chairman of the Fund, acting in his official capacity.
- The Congress has statutorily supported the Blair House-Department of State link by providing that fees received by the State Department in connection with Blair House may be credited to a Department appropriation account. 22 U.S.C. § 2718 (2014). Such fees are available only for Blair House maintenance and expenses. *Id.*
- The Congress has underscored Blair House's significance to the federal government by designating it as part of the White House Security Complex for certain purposes connected to the protection of the President and the Vice President. Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, Div. A, Title I, § 101(b), 110 Stat. 3009-108 (1996).
- The revolving door concerns which gave rise to the Obama Pledge do not apply in these particular circumstances. The Fund serves no purpose other than to preserve and enhance a unique historic property owned by the federal government since 1942. Ms. Marshall's proposed role as a member of the Fund's Board is uncompensated so her service provides her with no personal financial advantage.
- This waiver is limited in scope. Ms. Marshall will remain subject to Paragraph 4 of the Ethics Pledge with respect to communications and appearances to the Department on behalf of any other person besides the Fund and the Board. Ms. Marshall will also remain subject to the restrictions in 18 U.S.C. § 207(a) concerning communications and appearances on behalf of another in connection with specific party matters that she personally worked on or that were under her official responsibility when she was a Department of State employee. These restrictions include matters deriving from her prior service as honorary chairman of the Fund while she was a Department employee.

Thus, I grant this waiver with the understanding that Ms. Marshall will comply with the remaining provisions of the Ethics Pledge, with all preexisting government ethics rules otherwise applicable to her, and with the limitations described here.



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