



February 25, 2021  
PA-21-01

PROGRAM ADVISORY

TO: Designated Agency Ethics Officials

FROM: Dale A. Christopher, Jr.  
Deputy Director for Compliance

SUBJECT: Updates to Certification of Ethics Agreement Compliance

This Program Advisory describes recent updates to the Certification of Ethics Agreement Compliance (Certification) required to be filed with the U.S. Office of Government Ethics (OGE) by Presidential appointees following their confirmation by the Senate.<sup>1</sup> (*See* attached.) The updates were necessary to reflect the revocation of [Executive Order 13770](#)<sup>2</sup> and the implementation of [Executive Order 13989](#). Other updates include clarification of one of the recusal requirements, the addition of a Privacy Act Statement, and the inclusion of a reminder for Presidentially appointed, Senate-confirmed (PAS) officials of their personal responsibility to timely comply with the terms of their ethics agreements as described more fully below.

First, OGE has updated the Certification to reflect the current ethics requirements imposed by E.O. 13989. Specifically, OGE has removed all references to E.O. 13770 from the Certification. In addition, the updated Certification requires PAS officials to certify that they continue to comply with recusal requirements established by E.O. 13989, indicate whether they received a waiver under the Executive Order, and certify that they have signed the Ethics Pledge required by the Executive Order.

Second, OGE has clarified one of the recusal requirements on the Certification. Specifically, OGE revised Section (6a.) to address concerns raised by some PAS officials who felt that the language included on the Certification required them to agree to requirements beyond those in their ethics agreements. OGE amended the language in Section (6a.) as follows to clarify that the PAS official completing the Certification is only confirming their existing obligation to comply with [18 U.S.C. § 208](#) and that the section does not impose any additional requirements.

*(6a.) As required by 18 U.S.C. 208, I will continue to recuse from particular matters in which I know I have a personal or imputed financial interest directly and predictably affected by the matter, unless I receive a waiver or qualify for a regulatory exemption.*

---

<sup>1</sup> *See* 5 U.S.C. app. § 110(a); *see also* OGE Program Advisory [PA-17-03](#) (May 11, 2017).

<sup>2</sup> *See* [Exec. Order No. 13983](#).



In addition, OGE has incorporated a mandatory Privacy Act Statement on the final page of the Certification. The Privacy Act Statement explains why OGE is collecting the required information and the possible consequences for failing to provide it.

Finally, OGE has added extensive new language on the final page of the Certification that explains PAS officials' responsibilities and the purpose, timing, and filing of the Certification. This new language includes a reminder to PAS officials that they are personally responsible for timely complying with all provisions of their ethics agreement. It encourages them to carefully review their ethics agreement and initiate any necessary action in time to meet deadlines for compliance and submission of the Certification, including requesting an extension. It also encourages PAS officials to contact their DAEO if they need assistance.

OGE will continue to complete the first part of the Certification form and send it to the appropriate agency ethics official via email when a Presidential nominee is confirmed by the Senate. General questions concerning the Certification should be sent to [ecompliance@oge.gov](mailto:ecompliance@oge.gov). Questions about this Program Advisory or those in need of immediate response should be directed to the Chief of OGE's Program Review Branch, Doug Chapman, at (202) 482-9223.

Attachment

<b>CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE</b> Senate Confirmed Presidential Appointee		
1. Appointee's Information	a. Appointee's Name:	to be completed by OGE
	b. Position Title:	to be completed by OGE
	c. Agency:	to be completed by OGE
	d. Date Ethics Agreement Signed:	to be completed by OGE
	e. Date Confirmed:	to be completed by OGE
	f. Due Date for Certification of Ethics Agreement Compliance:	to be completed by OGE
2. Resignations	<i>I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
3. Divestitures	a. <i>I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
	b. <i>I have filed a periodic transaction report, or periodic transaction reports, (OGE Form-T) to disclose the completion of these agreed upon divestitures.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
		Filing Date(s) of OGE Form 278-T Report(s):
4. Managed Accounts	<i>If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
5. Interim Recusals	<i>I complied with my interim recusal obligations pending the divestitures required by my ethics agreement.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

<p>6. Recusals</p> <p><i>(Note: These factual statements describe the appointee's current status. They are not intended to modify ethics agreement commitments or create new recusal obligations.)</i></p>	<p>a. <i>I will continue to recuse from particular matters in which I know I have a <u>personal</u> or <u>imputed</u> financial interest directly and predictably affected by the matter, unless I receive a waiver or qualify for a regulatory exemption.</i></p>	<p><input type="radio"/> Yes      <input type="radio"/> No</p>
	<p>b. <i>I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</i></p>	<p><input type="radio"/> Yes      <input type="radio"/> No      <input type="radio"/> N/A</p>
	<p>c. <i>I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13989.</i></p>	<p><input type="radio"/> Yes      <input type="radio"/> No      <input type="radio"/> N/A</p>
<p>7. Waivers and Authorizations</p> <p><b>(Consult with your agency's DAEO if uncertain under what authority a waiver or authorization was granted.)</b></p>	<p>a. <i>I received a waiver pursuant to 18 U.S.C. § 208.</i></p> <p>If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.</p>	<p><input type="radio"/> Yes      <input type="radio"/> No</p> <p>Date: Financial interest:</p>
	<p>b. <i>I received a waiver pursuant to Executive Order 13989.</i></p> <p>If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).</p>	<p><input type="radio"/> Yes      <input type="radio"/> No</p> <p>Date: Subject:</p>
	<p>c. <i>I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</i></p> <p>If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).</p>	<p><input type="radio"/> Yes      <input type="radio"/> No</p> <p>Date: Covered person(s):</p>
	<p>d. <i>I received a waiver pursuant to 5 C.F.R. § 2635.503(c).</i></p> <p>If yes, indicate the date of the waiver and identify the former employer or payer.</p>	<p><input type="radio"/> Yes      <input type="radio"/> No</p> <p>Date: Former employer or payer:</p>

8. Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service	Mark this box if not applicable:  <input type="checkbox"/>	a. <i>If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</i>	<input type="radio"/> <i>I received it (or it was accelerated) <u>prior to</u> my assumption of the duties of the position.</i>  <input type="radio"/> <i>I received it (or if was accelerated <u>after</u> my assumption of the duties of the position.</i>  <input type="radio"/> <i>I forfeited it.</i>
		b. Financial interest or payment at issue:	
9. Requirements for Regular Appointees	<i>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</i>		<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
	If you are a Special Government Employee (SGE) or career Foreign Service Officer (FSO), select N/A.  <i>I have signed the ethics pledge pursuant to Executive Order 13989.</i>		<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
10. Additional Ethics Agreement Requirements	to be completed by OGE		to be completed by appointee  <i>I am complying with these requirements as described in the adjacent box.</i>  <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
11. Comments of Appointee			
Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.			
<i>I certify that the information I have provided is complete and accurate.</i>	Appointee's Signature:		Date:

<p><b>Privacy Act Statement</b></p>	<p>Section 110 of the Ethics in Government Act of 1978, as amended, requires the reporting of this information. The primary use of the information on this report is for review by Government officials to determine an appointee’s compliance with applicable Federal laws and regulations, and the appointee’s Ethics Agreement. Failure to provide the requested information may result in notification of lack of compliance to the Senate and the head of the appointee’s agency, or the White House, and/or could result in OGE declining to certify the appointee’s financial disclosure reports. The appointee could also be required to recuse from matters based on uncertainty as to whether they have divested or resigned from a matter determined to raise potential conflicts.</p> <p>This information will be publically posted to the OGE website at <a href="http://www.oge.gov">www.oge.gov</a> in accordance with <a href="#">OGE/GOVT-1</a>, Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records (routine use “k.”). Please see <a href="#">OGE/GOVT-1</a> for more information about the maintenance and disclosure of this information.</p>
<p><b>Filing the Certification of Ethics Agreement Compliance</b></p>	<p>Your position as one of our government’s most senior leaders brings with it extraordinary responsibilities. One of those responsibilities is to serve as a role model for all executive branch employees by demonstrating a commitment to ethical principles and actively seeking to avoid conflicts of interest. This includes compliance with the ethics agreement you signed prior to and as a condition of your confirmation. By signing this Certification of Ethics Agreement Compliance (Certification) you certify that you have complied with the terms of your ethics agreement. The information below is intended to help you timely meet your obligation to complete and submit this form to the U.S. Office of Government Ethics (OGE).</p> <p>You are required to comply with the provisions of your ethics agreement within three months of the date of your confirmation, unless otherwise specified. Please:</p> <ul style="list-style-type: none"> <li>• Review your ethics agreement carefully.</li> <li>• If your ethics agreement requires you to resign from an outside position, please note that resignations are generally required “upon confirmation.”</li> <li>• Identify any provisions of your ethics agreement that may require coordination with an account manager or other third party.</li> <li>• Initiate any necessary action early enough to timely comply with your ethics agreement.</li> <li>• If you qualify for and wish to request a Certificate of Divestiture, please submit your request as soon as possible through your agency’s Designated Agency Ethics Official (DAEO).</li> </ul> <p>If your ethics agreement specifies that you have more than three months to comply with a particular provision, you must still comply with the remaining provisions within the standard three-month period and submit a Certification (through your agency’s DAEO) within seven days thereafter. If you have not complied with a provision of your ethics agreement, please provide an explanation in Box 11, Comments of Appointee. You will be provided with an additional Certification to complete and submit to OGE to certify that you have complied with all provisions of your ethics agreement.</p> <p><b>Extensions:</b> OGE may grant an extension of time for complying with a provision of your ethics agreement if, in its sole discretion, it determines that an unusual hardship has/will prevent you from complying timely. Generally, waiting for an account manager to sell an interest, not being able to locate records, or waiting for OGE to process a request for a Certificate of Divestiture are not considered unusual hardships. As noted in the Privacy Act Statement above, not submitting your Certification may result in notification of lack of compliance to the Senate, the head of your agency, or the White House. OGE may also decline to certify your financial disclosure reports. You may also be required to recuse from matters based on uncertainty as to whether they have divested or resigned from a matter determined to raise potential conflicts. OGE may also post a notice on its website, in place of your Certification, stating that you have not yet submitted the required certification.</p> <p><b>While it is your personal responsibility to take the steps necessary to comply with your ethics agreement, your agency’s DAEO is available to assist you in completing this Certification and submitting it to OGE. Any questions you may have should be directed to your agency’s DAEO.</b></p>