From: Fugh, Justina
To: Stedeford, Todd
Subject: FW: Your ethics filing obligations
Date: Wednesday, April 3, 2019 11:17:00 AM

Reminder: your filing deadline is 4/15/19!

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Thursday, March 14, 2019 4:52 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: RE: Your ethics filing obligations

Good luck!

From: Stedeford, Todd
Sent: Thursday, March 14, 2019 3:04 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Your ethics filing obligations

Thank you Justina, I will make sure to file in the required time frame. I received the Integrity e-mails for setting everything up.

From: Fugh, Justina
Sent: Thursday, March 14, 2019 2:50 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: Your ethics filing obligations

Hi there,

Welcome to the wonderful world of public financial disclosure reporting! I understand that you have been selected to the position of Senior Science Advisor in the Office of Pollution Prevention and Toxics, OCSPP, at the SL level. Congratulations! In this position, you are required by the Ethics in Government Act of 1978 to file the Public Financial Disclosure Report. Technically, your “new entrant" report was due no later than 30 days from the effective date of your selection, which was 3/3/19, but we will set your due date 30 days from now. Your due date is 4/15/19. If you are a supervisor, then you are obliged by 5 CFR § 2638.103 to set an example to model ethical behavior for your staff. The Ethics Office is here to help you if you have any questions!

EPA uses an entirely electronic filing system (called INTEGRITY) for the public financial disclosure reports. This system is operated and secured by the Office of Government Ethics. You are required by law to complete the form, and we will use it to determine whether you have any financial conflicts of interest or other ethics concerns. There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave, you will have to file a termination report (we’ll remind you); and (4) you will be subject to a late

filing fee of $200 for not filing your report timely. Plus, there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

We have assigned you a "new entrant" report. If you are asked to provide an address, use the EPA business address. Do not enter your personal home address. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at http://intranet.epa.gov/ogc/Integrity/Landingpage.html . The email from INTEGRITY.gov will provide you with specific instructions to log into the federal government's max.gov site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact ethics@epa.gov so that we can follow up.

DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form, so just know that you will have to report way more information that you did on the confidential financial disclosure report.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income, and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than $1000. Include any income from any source that exceeded $200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than $5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation.
- Do not report your federal salary, your spouse's federal salary, or TSP
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.

- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.

- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.

- If you have nothing to report in a section, be sure to click the "nothing to report" button

OTHER ETHICS REQUIREMENTS FOR YOU

STOCK ACT

Because you are required to file the form, you are also now subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds $1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf and our revised chart, also attached.

HATCH ACT

As an SL appointee, you remain LESSER RESTRICTED under the Hatch Act. You should familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet, can gain a good overview by reviewing our online Hatch Act training course or by referring to our attached handy chart that reminds you of your restrictions.

ETHICS TRAINING

As a public financial disclosure filer, you need to have one hour of ethics training annually. Going forward, I'll be reminding you of your annual training obligation. In the meantime, I have a call into Scott Sherlock, your assistant Deputy Ethics Official, to ascertain whether you completed any required training. For example, if you're a new EPA employee, you need to take the online ethics training course for new employees, but if you were already an EPA employee, then you would have needed to take the annual 2018 training. I'll let you know if we discover there is some training you need to take.

Congratulations on your SL appointment again, and good luck with your disclosure report!

Cheers,

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Updated February 2017

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity "directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group."

Type of Activity	**PAS***	**Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other**	**Career SES, ALJs**
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day	Yes	Yes	Yes
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

**PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service*

When to Report Transactions

This table's guidance is effective beginning January 1, 2013 and for informational purposes only. Email ethics@epa.gov for specific questions.

Investment Assets	Periodic Transaction Report Report on the OGE 278-T?	Annual and/or Termination Report Report on the OGE 278?
Transactions of $1,000 or less		
• Any asset in which the transaction amount is $1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's own brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's own brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes[1]
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds"[2]	No	Yes
• Any asset in which the transaction amount is $1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust[3]	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

[1] You do not report the purchase or sale of your personal residence on Schedule B unless you rent it out at any time during the reporting period.

[2] To be an excepted investment fund (EIF), the asset must be:

(a) widely held (more than 100 participants),
(b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
(c) publicly traded (or available) or widely diversified.

There are several types of investment vehicles that are not excepted investment funds, including (but not limited to) managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs). You should note that the individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. If you have questions about whether a particular asset or investment vehicle is an EIF, contact ethics@epa.gov.

[3] OGC/Ethics must determine that your trust qualifies as an "excepted trust." For help, email ethics@epa.gov.

From: Fugh, Justina
To: Stedeford, Todd
Subject: RE: one more swipe at your new entrant report
Date: Sunday, June 30, 2019 10:17:00 PM
Attachments: image001.jpg

Hi Todd,

Oh, I still have control over your report, so you can't make changes. I've updated it to reflect the information below. I just need to check with our experts to figure out what your potential conflicts are. I think that some of the stock may be privately traded, so I need to double check what that means for your conflicts.

Justina

Justina Fugh | Director Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North William Jefferson Clinton Federal Building | Washington DC 20460 (for ground deliveries use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Stedeford, Todd
Sent: Friday, June 28, 2019 3:22 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: one more swipe at your new entrant report

Hi Justina,

I just regained access to this account. Here is the breakdown below:

(b) (6)

I can update the entrant report tomorrow.

Thanks,

Todd

From: Fugh, Justina
Sent: Tuesday, June 25, 2019 6:44 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: one more swipe at your new entrant report

Hi there,

Thanks for taking another stab at your report. I've made some adjustments to the way you're reporting the (b) (6) [redacted]. You don't have to report the TSP, but you will need to do a bit more on that (b) (6) [redacted] What exactly are you invested in? we need to know the names of the funds and the value of each one. You can send me a quick email or call me, or I can return the report back to you for additional changes. Just let me know how you'd like to proceed.

Justina

Justina Fugh | Director Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North William Jefferson Clinton Federal Building | Washington DC 20460 (for ground deliveries use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
To: Stedeford, Todd
Subject: RE: Seeking outside employment
Date: Monday, May 3, 2021 3:56:00 PM
Attachments: Negotiations Notification Form.pdf
Departing EPA for career SES updated Jan 2021.docx

Hi Todd,

I did not respond to this message earlier because I completely missed it. I was utterly surprised to see your message today that you are leaving EPA, so I did a search of my email to find this one. When you didn't hear from me, you should have yelped! Okay, lots to talk about:

1. Please complete the attached negotiations notification form and use today's date. Don't lock the form after you sign it digitally so that I can enter a comment that you had made an attempt to notify me last month;
2. You did not name the firm in your email to me, but since EPA does not directly regulate law firms, your restriction while you were seeking or negotiating for employment with them would have been not to participate in any particular matter in which the firm was a party or represented a party. You appear to have realized that (hooray! Ethics training is paying off!) and recused appropriately;
3. You will have to have a post-employment discussion with someone in ethics before you leave. What's your availability in the next few days? Because you are still planning to work, and you are an attorney, this discussion likely take about 30 minutes. For preparation, I have attached our chatty guide for seeking/post employment for career SESers: and
4. You have to submit a termination 278. I noticed that you filed your annual report today, but that covers only CY 2020. I will assign you a termination report now to cover CY 2021.

Whew!

justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Stedeford, Todd <Stedeford.Todd@epa.gov>
Sent: Tuesday, April 06, 2021 6:05 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Seeking outside employment
Importance: High

Hi Justina,

I wanted to disclose that I am seeking outside employment. Yesterday evening, I inquired with an outside law firm about employment. The law firm works on TSCA issues. I don't foresee any conflicts with my current assignments, but I wanted to check in with you just to make sure. My current projects are listed below.

1. Revising draft report to congress, as required under Section 4 of TSCA (this is a report summarizing EPA's activities on the Strategic Plan and new approach methodologies [non-

vertebrate test methods], which was issued in June 2018)

2. Revising two scientific manuscripts that were submitted to a peer reviewed journal (Revising per peer reviewer comments received in October/November 2020)
3. Collecting information on journal articles authored by OPPT employees for ORD's public access metrics (this is done, I just have to submit responses to ORD)
4. Serving as a technical expert on two multiagency criminal enforcement actions (this work is essentially done, I already submitted my affidavits on these cases, and the law firm I applied to is not involved)
5. Serving as a technical expert on a criminal/civil case (this is ongoing, but the law firm I applied to is not involved)

Since the OPPT reorganization in October 2020, I am no longer working on issues on new chemicals (Section 5 of TSCA) and existing chemicals (Section 6 of TSCA), which the law firm is active on.

Please let me know if you have any questions.

Thanks,

Todd

Todd Stedeford, Ph.D., J.D., DABT, ERT, ATS
Senior Science Advisor
Office of Pollution Prevention & Toxics
U.S. Environmental Protection Agency
EPA East Bldg., Room 3410B
1200 Pennsylvania Ave., NW
Mail code: 7401M
Washington, DC 20460
Tel: (202) 564-6991
Cell: (202) 893-0374
E-mail: stedeford.todd@epa.gov

REQUIREMENT: Notify OGC/Ethics within 3 business days of commencing the negotiation or agreement for post-government employment or compensation

NOTIFICATION OF NEGOTIATION OR AGREEMENT

Your full name	Your telephone number*	Date negotiation or agreement began
Your Title / Office / AAship or Region	Your email address*	Name of non-federal entity that you are negotiating with or have an agreement for employment or compensation

* *Provide information for OGC/Ethics to use to contact you as part of our official duty. For this purpose, you may provide a personal email address or cell number.*

RECUSAL STATEMENT

To assist in identifying your recusal obligations, check the appropriate boxes below:

	Yes	No	
1.	☐	☐	EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment.
2.	☐	☐	My office in EPA does work that affects the non-federal entity with which I am seeking employment.
3.	☐	☐	The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Need help answering these statements? See page 2.

For as long as I am negotiating for, or have an agreement of, employment or compensation with the entity listed above, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity, unless I first obtain from OGC/Ethics a written authorization or waiver consistent with 5 C.F.R. § 2635.605 or 18 U.S.C. § 208(b)(1). I understand that it is my responsibility to consult with OGC/Ethics if I have questions regarding my recusal obligations.

Sign and submit to ethics@epa.gov:

Your signature

OGC/Ethics Use Only:

Statement 1: EPA's programs, policies, or operations affect the non-federal entity with which I am seeking employment.

If your answer is "yes" to any of the following questions, then you must answer "yes" to statement 1.

- Is the non-federal entity seeking official action from EPA (even if not your own office)?
- Does the non-federal entity do business or seek to do business with the EPA (even if not your own office)?
- Does the non-federal entity conduct activities that EPA regulates (even if not in your own office)?
- Does the non-federal entity have interests that may be substantially affected by the performance or non-performance of your official duties?
- Is the non-federal entity a membership organization in which the majority of the members are described in the preceding questions?

Statement 2: My office in EPA does work that affects the non-federal entity with which I am seeking employment.

To answer this question, think about the nexus between the work of your office and the non-federal entity. The closer the nexus, the more likely you will have to check "yes" to statement 2.

- Consider the particular matters your office works on and whether there is any connection to the work of this entity. Does your office work on permits, investigations, litigation, grants, licenses, contracts, applications, enforcement cases, or other similar types of matters where there is an identified non-federal entity (i.e., particular matters involving specific parties)?
- Also consider whether your office is involved in scientific programs, media programs, or other types of policies, procedures, guidance documents, regulations, etc., that would affect this particular industry or sector (i.e., particular matters of general applicability).

Statement 3: The work I participate in affects or will affect the non-federal entity with which I am seeking employment.

Think about the nexus between your work and the non-federal entity as well as its respective class, industry or sector. The closer the nexus between your work and the sector the non-federal entity belongs to, the more likely you will check have to check "yes" to statement 3.

- Will the work you do affect the sector? Don't concentrate on whether your personal contributions will be determinative but rather, overall, how the outcome of the work itself will affect the sector and the non-federal entity with which you are negotiating.
- Do you advise on or consult with your colleagues' projects and work? Does their work affect this sector or the non-federal entity?
- Do you actively supervise or assign work to subordinates? Do those assignments affect the sector or the non-federal entity?

Need help answering these statements? Contact ethics@epa.gov to discuss.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

UPDATED JANUARY 2021
FOR CAREER SES EMPLOYEES

Ethical Considerations Related to Your Transition Out of EPA

During your federal service, you have been subject to the Standards of Ethical Conduct for Employees of the Executive Branch as well as federal conflict of interest statutes and the STOCK (Stop Trading on Congressional Knowledge) Act. Although many of these rules will no longer affect you when you leave federal service, you will still be bound by post-employment restrictions.

This document provides an overview of the most important ethics considerations that you need to know when you transition out of Government service. The relevant statute is 18 U.S.C. § 207, and the implementing regulations are found at 5 C.F.R. Part 2641. Having an understanding of your ethics obligations before and after Government service will help you avoid ethics pitfalls.

THINGS YOU NEED TO KNOW *BEFORE* YOU LEAVE GOVERNMENT SERVICE

1. Seeking employment -- You can't participate in official matters that will have a direct and predictable effect on the financial interests of any person or entity with whom you are seeking employment. You may not participate in a "particular matter" having a direct and predictable effect on the financial interests of any person or entity with whom you are seeking or negotiating for employment or with whom you have an agreement for future employment. *See generally, 5 Code of Federal Regulations, Subpart F, 18 United States Code (U.S.C.) § 208.*

***"Seeking employment" begins** when you:*

- directly or indirectly make an unsolicited communication regarding possible employment with any person or entity;
- engage in negotiations with a view toward reaching an agreement regarding possible employment;
- receive a response to a job application or employment proposal indicating an interest in employment discussions; or
- make a response, other than rejection, to an unsolicited communication from any person regarding possible employment with that person.

"Seeking employment" ***<u>ends</u>*** when:

- you or the prospective employer reject the possibility of employment and all discussions of possible employment have terminated; or
- two months have elapsed since you sent an unsolicited resume or employment proposal, and you have not received an interest in employment discussions.

See generally, 5 C.F.R. Part 2635, Subpart F

Example 1: You are contacted by an official of a State Environmental Department in your home state. On the call, he asks if you are interested in a position with the State beginning in the next calendar year. You are currently working on an enforcement action involving the State but are interested in returning to the area at the beginning of the year. You agree to send him your resume for an open position.

Answer: Because you are open to the prospect of future employment and have sent your resume for an open position, *you are "seeking employment"* and must immediately disqualify yourself from participating in the pending enforcement action until either you or the State affirmatively rejects the possibility of employment or you leave the EPA to take the position, whichever is *later*.

Example 2: Deferring employment discussions. You give a speech to a trade association and afterwards, someone says, "hey, have you been thinking about what you're going to do when the Trump Administration is over? My company would be very interested in someone like you." You say that you aren't considering any future employment prospects until after January 20, so please contact you after that date.

Answer: This response will be considered an *affirmative rejection* of an offer of future employment and therefore, you *are not "seeking employment."*

Another Example: But let's say instead that you know your region is working on a regulation affecting the financial interests of the company as a member of a discrete industry sector and you respond by saying you cannot discuss future employment while you are working on the regulation, but you would like to discuss employment with the company when the regulation is final.

Answer: Because you have merely deferred employment discussions until the foreseeable future, you have begun "seeking employment" under the ethics regulations and now may not work on the regulation that affect the company's financial interests. It's not sufficient that you said you won't talk to them until after the regulation is issued.

2. <u>Negotiating for future employment</u> -- you have a financial interest in any entity in which you begin employment "negotiations"-- which means a two-way communication made either personally or through an intermediary such as a headhunter -- with a view towards reaching an agreement regarding future employment or compensation. The financial conflict of interest law

requires you to recuse yourself from participating in a government matter affecting the entity's financial interests until either party affirmatively rejects the possibility of future employment or you leave the Agency. *See 18 U.S.C. § Section 208(a).*

Notification requirement: once you engage in an employment negotiation, you must complete, sign, date, and file a Negotiation Notification Form within *three business days* and send it to ethics@epa.gov.

3. Procurement integrity requirements -- if you are participating in an ongoing procurement in excess of $150,000, procurement integrity regulations require that you notify your supervisor and the Ethics Office in writing if you make or receive a contact for future employment with a competing contractor. If you do not affirmatively reject the possibility of future employment, you must disqualify yourself from further participation in the procurement until either party affirmatively rejects the possibility of future employment and the Contracting Officer approves your continued participation. *See* 41 U.S.C. § 2103.

4. Gifts relating to *bona fide* employment negotiations - you may accept gifts that are customarily provided by a prospective employer in connection with bona fide employment discussions (e.g., travel, lodging, and meals). You may accept these gifts even if the prospective employer is a federally registered lobbyist and you signed the Trump Ethics Pledge. If the prospective employer has matters that may be affected by your official duties, you must first disqualify yourself from EPA matters affecting the financial interests of the prospective employer. If the value of the benefits you accept meet the reporting thresholds, you have to report these gifts on your termination financial disclosure report. *See* 5 C.F.R. § 2635.204(e)(3).

5. Post-employment training

Make an appointment to talk to OGC/Ethics or your regional ethics counsel for live counseling. In addition, we highly recommend that you take the online post-employment course Leaving Federal Service.

6. Financial disclosure reporting requirements

You must submit a ***termination Public Financial Disclosure Report (OGE 278e) in INTEGRITY (www.Integrity.gov) within 15 days of departure or no more than 30 days after departure.*** Once you know your departure date, contact the Ethics Office at ethics@epa.gov so that we can assign you a termination report in INTEGRITY. You may begin the report at that time after assignment*, but do not submit the report earlier than 15 days of your departure date.* We urge you to file the report before you depart so that you can access the electronic system using your EPA PIV card. If you do not complete the report prior to your departure date, you must notify OGC/Ethics of your forwarding email address so that we can make the necessary changes for your access from your personal computer. It is your responsibility to provide us with your forwarding information and submit a timely report.

Late filing fee: if you file the OGE 278e more than 30 days after the due date without requesting and receiving an extension from the Ethics Office *before the due date*, **you will be assessed a $200 late filing fee once you file the report.** We can grant up to a 90-day extension for good cause shown. **Failure to file a termination OGE-278e will result in a referral to the U.S.**

Attorney General for civil action which may result in civil penalties up to $50,000. Failure to pay late fees will result in referral for debt collection.

In fact, in 2012, DOJ settled a case with a former EPA employee who did not file her termination 278. She still had to turn in her form and paid a fine of $15,000.

THINGS YOU NEED TO KNOW
AFTER YOU LEAVE GOVERNMENT SERVICE

1. Criminal post-employment restrictions – 18 U.S.C. § 207

a) Permanent Bar, 18 U.S.C. § 207(a)(1):

You may not, on behalf of a third party, appear before or communicate with an officer or employee of the United States with the intent to influence that person on a particular matter involving specific parties in which you participated personally and substantially while a government employee. This restriction does not prohibit providing "behind the scenes" assistance. (If you are an attorney, your state bar rules may prohibit this type of assistance, but we do not provide opinions on your bar obligations).

A *"particular matter involving specific parties"* include an investigation, application, request for a ruling or determination, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding. The term *does not include* a rulemaking or other particular matter of general applicability. "Personal" participation means that you participated directly in the matter and includes the direction or control over a subordinate employee's participation. Your participation is "substantial" if, at the time of your involvement, it was of significance to the matter. This includes decision-making, reviewing, or recommending an action to be taken. It does not include ministerial acts relating to the matter.

b) One-Year Bar (Trade or Treaty Negotiations), 18 U.S.C. § 207(b)

For one year after leaving federal service, you may not knowingly represent, aid, or advise on the basis of covered information, any other person (except the United States) concerning any ongoing trade or treaty negotiation in which you participated personally and substantially as an employee during your last year of federal service.

c) Two-year restriction for former supervisors - 18 U.S.C. § 207(a)(2)

For two years after your departure, you may not appear before or represent others with the attempt to influence government action before the federal government on particular matters involving specific parties that were actually pending under your "official responsibility" in your last year of federal service. This restriction applies only to the supervisors (including the Administrator, Regional Administrators, Assistant Administrators, etc.) but not to team leaders. For the purposes of this restriction, personal and substantial participation is not required. Note that this restriction applies even if you did not participate in the matter personally or substantially because of a recusal.

> *Example*: Six months ago, a Regional Administrator recused herself from participating personally in a contract award to a company because she owns stock in that company. Upon leaving federal service, she takes a position with the winning contractor and now wants to make representations back to the federal government on behalf of her new employer on that contract. Even though she did not work personally and substantially on the contract because of her recusal, she may not, for two years after her departure, represent her new employer before the government on this contract because it was pending under her official responsibility during her last year of government service.

The definition of "official responsibility" is the "direct administrative or operating authority, whether intermediate or final, and whether exercisable alone or with another, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action." The scope of your "official responsibility" is determined by those areas assigned by statute, regulation, Executive Order, job description or delegation of authority. For the Agency head, all matters in the Agency are deemed to be within his or her "official responsibility." For a Regional Administrator, all pending particular matters in the Region are deemed to be within your "official responsibility." For the General Counsel and the Assistant Administrator for Enforcement and Compliance Assurance, their areas of "official responsibility" include their respective offices as well as the ten regional counsels because of the regional alignment with Headquarters.

d) <u>Additional Post-Employment Restrictions For Former "Senior Employees"</u>

A "***senior employee"*** includes members of the Senior Executive Service (SES) (either career and non-career), and individuals who are paid at a rate of basic pay that is equal to or greater than 86.5 percent of the rate for level II of the Executive Schedule (this figure changes every January). **As of January 2021, the figure is $172,395.** In addition, all Presidential Appointees with Senate Confirmation (PAS) appointees, irrespective of their salaries, are considered to be former "senior employees." *See* 5 C.F.R. 2641.104 and 5 U.S.C. §§ 5313-5315.[1]

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[1] The statute lists the following specific EPA positions: Administrator, Deputy Administrator, Assistant Administrator for Toxic Substances, Assistant Administrator for Solid Waste, Assistant Administrators, Chief Financial Officer, Chief Information Officer. For the purposes of this statute, OGC Ethics assumes that the General Counsel is included.

1) One-Year Bar on communicating with or appearing before the EPA - 18 U.S.C. § 207(c)

For one year after serving as a "senior employee," you may not knowingly make any communication to or appearance before an officer or employee of EPA on behalf of another with the intent to influence government action on a matter pending at the Agency. Please note that the restriction will apply to *any matter* pending before the Agency, to include broad policies, regulations, legislation, as well as a "particular matter involving specific parties" or a "matter of general applicability" that is narrowly focused on a discreet industry sector.

NOTE: if you were detailed from EPA to another department, agency, or other entity, during the period of your detail, you are deemed to be an officer or employee of BOTH departments, agencies, or other entity.

> *Example:* You leave EPA as a "senior employee" to work for a regulated entity. The next week, the Agency issues a new regulation affecting your new employer. Because you are a former senior employee, you may not submit comments on behalf of your new employer to the Agency objecting to the regulatory requirements because you are still within the one-year "cooling-off" period under 18 U.S.C. § 207(c). **Remember, this is a criminal statute.**

2) One-Year Bar Relating to aiding, advising, or representing a foreign entity (18 U.S.C. § 207(f)):

For one year after serving as a "senior employee," you may not knowingly aid, advise, or represent a foreign entity before any employee of a federal department or agency with the intent to influence a decision of such employee in carrying out his or her official duties. This restriction extends to all federal agencies, U.S. courts or court martials, as well as the President, Vice President, and Members of Congress. A "foreign entity" is a foreign government or a foreign political party. *See* 18 U.S.C. § 207. Unlike the other criminal post-employment restrictions, this restriction applies to "behind-the-scenes" activities.

e) <u>Exceptions to the criminal post-employment law:</u>

1) Common exceptions to the permanent and two-year bars (18 U.S.C. §§ 207(a)(1) and (2)):

- <u>Acting on behalf of the US government</u> - if you are re-employed by the United States or called as a witness by Congress, the post-employment restrictions do not apply. However, working for a government contractor is not covered by this exception.
- <u>Acting as an elected official</u> - if you are carrying out your official duties as an *elected official* of a state or local government, the post-employment restrictions do not apply.
- <u>Employee of a Tribe</u> – if you are an employee or an elected or appointed official of a tribal organization or inter-tribal consortium, you may represent the tribe back to the United States provided that you submit adequate notice to the EPA Administrator and OGC/Ethics.
- <u>Providing testimony</u> - you may give testimony under oath or make statements required to be made under penalty of perjury. Unless expert opinion testimony is

given pursuant to court order, or you are called as a witness by the United States, you may not provide such testimony on a matter on behalf of any other person except the United States or Congress if the activity is one covered by the permanent restrictions at 18 U.S.C. § 207(a)(1).

2) Additional exceptions for the one-year restriction for former "Senior Employees" before the EPA (18 U.S.C. § 207(c))**:**

- Acting as an employee of a state, local government or an instrumentality thereof, a hospital, or certain educational institutions
- Acting on behalf of an international organization in which the United States participates, if approved by the Secretary of State
- Imparting special knowledge not for compensation
- Making appearances made solely on behalf of a candidate, an authorized committee, a State committee, or a political party.

c) Compensation bar for matters affecting the government, 18 U.S.C. § 203

After you depart, a new employer may not compensate you for any covered representational services that were provided at a time when you were a federal employee. *"Representational services"* means communications to or appearances before federal entities (not just EPA) with the intent to influence the government on behalf of a third party. Common examples are legal and consulting services where you may share in profits or fees related to those representations once you leave federal service.

> *Example*: You are a former EPA attorney who is now an equity sharing partner at Dewey, Cheatham and Howe, a prominent law firm with an extensive federal practice. As a former federal employee, you may not share in any fees attributable to the firm's representational services before the government while you were still employed by the EPA. Therefore, your compensation plan, to include any bonus or partnership share, may not include any of the firm's profits that comes from its covered representational services before the federal government during your federal tenure.

7. <u>Additional Post-Employment Restrictions For Procurement Officials</u>

a) Procurement integrity provisions relating to contracts in excess of $10 million:

- Officials with a major role in a federal procurement in excess of $10 million may not accept compensation from the winning contractor as an employee, officer, director, or consultant within one year after serving as: the procurement contracting officer; the source selection authority; a member of the source selection board; or the chief of the financial or technical evaluation panel of a contract involving payment or claims of over $10 million.

- This restriction also applies to former officials who have personally made the federal agency decision to: award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order to that contractor; establish overhead or other rates applicable to one or more contracts for that contractor that are valued in

excess of $10 million; approve issuance of one or more contract payments in excess of $10 million; or pay or settle a claim in excess of $10 million with that contractor. *See* 41 U.S.C. § 2104 and 48 C.F.R. § 3.104.

b) Non-disclosure of procurement-sensitive information: as a former employee, you may not knowingly disclose contractor bid or proposal information or source selection information before the award of a federal agency procurement contract. *See* 41 U.S.C. § 2102.

8. Additional Post-Employment Guidance for Officials Involved in Grants

If you were involved in any grant competition activities while at EPA, then you should review the post employment implications under EPA's Grants Competition Conflicts of Interest and Competitive Advantage policies. While not strictly statutory or regulatory prohibitions, these policies ensure that EPA can preserve the integrity of its competitions. Applicants competing for EPA awards cannot have an unfair competitive advantage or even the appearance of an unfair advantage. If you were involved in certain grant activities, including but not limited to the development, review and preparation of solicitations, then you, your family members, or your new employer may be constrained in competing for grants under the solicitations in which you participated. For more information about grants conflicts of interest and competitive advantage policies, contact Bruce S. Binder, Senior Associate Director for Grants Competition, at binder.bruce@epa.gov.

9. A Special Note for Attorneys

Attorneys are reminded to consult their state bar rules or seek advice from state bar counsel even if you did not work as an attorney for EPA. These rules may differ from the federal criminal post-employment rules. For example, although the federal post-employment laws permit "behind the scenes" work for a new employer on matters you worked on or on which you supervised others, the American Bar Association (ABA) restricts such communications. ABA Model Rule 1.11(a) permits a former government employee to represent a client in connection with a matter in which the lawyer participated personally and substantially as a "public officer or employee" only if he first obtains consent from the appropriate government agency. The DC Bar is even more restrictive than the ABA. DC Bar rule 1.11(a) prohibits the former employee from accepting employment in connection with a matter which is the same as, or substantially related to, a matter in which the lawyer participated personally and substantially as a public officer or employee. Under this rule, there is no waiver possibility, and the former government lawyer is not permitted even to provide "behind the scenes" work. OGC/Ethics does not provide guidance on state bar rules.

Conclusion: This is a summary of the major ethics rules that apply to you as you begin to seek employment and after you depart the Executive Branch. *This is not a substitute for ethics advice on your seeking and post-employment activities and is not an ethics opinion.* We strongly recommend that you schedule a meeting with the Ethics Office to receive an opinion on your specific facts and circumstances. If you seek advice from an ethics official, provide the relevant facts, and follow our guidance in good faith, then an ethics opinion may be a mitigating factor in any prosecution should you violate the criminal provisions. Please contact us at ethics@epa.gov. Even after you leave EPA, we are here to answer your questions.

From: Stedeford, Todd
To: Fugh, Justina
Subject: Re: your financial conflicts of interest; impartiality concern with your former employer
Date: Friday, July 5, 2019 2:49:52 PM
Attachments: image001.jpg

Understood, thank you

Sent from my iPhone

On Jul 5, 2019, at 2:02 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Todd,
No need to do a periodic transaction report but thanks for letting me know!
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Stedeford, Todd
Sent: Friday, July 05, 2019 5:59 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: your financial conflicts of interest; impartiality concern with your former employer

(b) (6) is gone. I had to submit a letter of authorization to unload the others, which will take about a week or so.

From: Fugh, Justina
Sent: Thursday, July 4, 2019 11:32 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: RE: your financial conflicts of interest; impartiality concern with your former employer

Hi,
Thanks for filing the 278T (I've already certified it). You still have to be careful about the following:

SPECIFIC PARTY MATTERS
(b) (6) [redacted]
[redacted]
[redacted]
[redacted] (continues until 2/2020, one year after your departure from company)
PARTICULAR MATTERS OF GENERAL APPLICABILITY
(b) (6) [redacted]
[redacted]

(b) (6) [redacted]
[redacted]

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Stedeford, Todd
Sent: Wednesday, July 03, 2019 4:48 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: your financial conflicts of interest; impartiality concern with your former employer

I sold (b) (6) [redacted] yesterday. I just submitted 278T for this transaction.

From: Fugh, Justina
Sent: Monday, July 1, 2019 5:46 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: your financial conflicts of interest; impartiality concern with your former employer

Hi there,

The assets are reportable on this report because you owned them at the time of filing. I don't anticipate any financial conflict unless your work at EPA involves (b) (6) [redacted] (see below). And you have to recuse from working directly with your former employer on any specific party matter for one year from the time you left. Bottom line is that you probably keep the assets if you want, provided you abide by your financial obligations. If you decide to sell them, then may do so. But if you sell (b) (6) [redacted], then you will need to file a periodic transaction report in INTEGRITY (the 278T).

The issue now is what are your financial conflicts given the fact that you own these assets. (b) (6) [redacted] do not meet the definition of "publicly traded," so the fact that you own any amount (even of the penny stocks) means that you have a financial conflict of interest. There is no de *minimis* exemption level because these are not publicly traded companies. You cannot participate personally and substantially in any particular matter that involves any of these companies as specific parties and, more importantly, any particular matter that affects any of the sectors in which they operate.

In reviewing your OGE-278 (Public Financial Disclosure Report) in INTEGRITY, we noticed that you reported owning certain interests that might be affected by the performance of your official duties. These assets are either not publicly traded or, if publicly traded, then over the regulatory threshold. We are sending you this cautionary letter to remind you to take appropriate steps to ensure that you do not have a conflict of interest. We are not concluding that you currently have a conflict of interest; rather, you should read the information below and contact an ethics official if you have any questions. Remember, it is your obligation to ensure to that your private interests (including your assets) do not conflict with your

public duties. You must recuse from participation in the following:

SPECIFIC PARTY MATTERS
(b) (6) [redacted]
[redacted]
[redacted]
[redacted]
[redacted] (continues until 2/2020, one year after your departure from company)
PARTICULAR MATTERS OF GENERAL APPLICABILITY
(b) (6) [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

Why Do We Raise Concerns?

A criminal statute, 18 U.S.C. §208(a), bars you from participating in any "particular matter" that affects any of your own interests or any imputed interest (e.g., spouse or dependent children). Your interests include not only ownership interests (e.g., stock, bonds, mutual funds) but also the interests of outside entities (e.g., any organization in which you are serving as an officer, director, or trustee) and prospective employers (any entity with which you are seeking future employment). So you can't participate in any particular matter that will have a direct and predictable effect on your financial interest.

The important point to remember here is that 18 U.S.C. §208(a) is a criminal statute. A knowing violation of this statute can result in criminal prosecution and penalties. It's important to understand the elements of the financial conflict of interest statute. You have to participate "personally and substantially" in a "particular matter" in order for there to be a conflict of interest, and there has to be a "direct and predictable" effect on your financial interests.

What is a particular matter?

A "particular matter" involves any deliberation, decision or action and that is focused on the interests of specific persons/organizations or any identifiable class of persons. It includes "specific party" matters (e.g., contracts, grants, assistance agreements, lawsuits, enforcement action, permits, licenses, audits) and matters of "general applicability" (e.g., rulemaking or policy matters) that distinctively affect a particular industry or identifiable class of persons.

What is "personal and substantial" participation?

Personal participation means that you were personally involved in the matter or that you directed or controlled a subordinate's participation. Substantial participation means that your involvement in the matter was of significance, which includes decision-making, review or recommendation as to an action being taken, signing or approving a final document, and/or participating in a final decision briefing.

What is a "direct and predictable" effect on a financial interest?

The effect must be direct and predictable and not speculative (though the actual dollar amount does not need to be ascertained). There must be close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest.

If you need more information or advice, feel free to contact OGC/Ethics at ethics@epa.gov . We will be happy to assist you.

Justina

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From: Stedeford, Todd
Sent: Monday, July 01, 2019 6:01 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: one more swipe at your new entrant report

Okay thanks, is this reportable if I just close the account and transfer the balance to my TSP?

From: Fugh, Justina
Sent: Sunday, June 30, 2019 10:18 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: RE: one more swipe at your new entrant report

Hi Todd,

Oh, I still have control over your report, so you can't make changes. I've updated it to reflect the information below. I just need to check with our experts to figure out what your potential conflicts are. I think that some of the stock may be privately traded, so I need to double check what that means for your conflicts.

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Stedeford, Todd
Sent: Friday, June 28, 2019 3:22 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: one more swipe at your new entrant report

Hi Justina,

I just regained access to this account. Here is the breakdown below:

<image001.jpg>

I can update the entrant report tomorrow.

Thanks,

Todd

From: Fugh, Justina
Sent: Tuesday, June 25, 2019 6:44 PM
To: Stedeford, Todd <Stedeford.Todd@epa.gov>
Subject: one more swipe at your new entrant report

Hi there,

Thanks for taking another stab at your report. I've made some adjustments to the way you're reporting the (b) (6) [redacted]. You don't have to report the TSP, but you

will need to do a bit more on that (b) (6) [redacted] What exactly are you invested in? we need to know the names of the funds and the value of each one. You can send me a quick email or call me, or I can return the report back to you for additional changes. Just let me know how you'd like to proceed.

Justina

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From: Fugh, Justina
To: Sherlock, Scott
Subject: Todd Stedeford?
Date: Thursday, March 14, 2019 1:48:00 PM

Hi,

Is Todd Stedeford a new hire in OPPT? He's been appointed to a position that requires him to file the public financial disclosure report, but I don't know whether he comes from another federal agency where he was already filing that report or not. I've got a call into him but then I thought that you might know too. Any insights?

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772