



**Homeland
Security**

Privacy Office, Mail Stop 0655

September 26, 2019

SENT BY ELECTRONIC MAIL TO: john@greenewald.com

John Greenewald
The Black Vault

Re: 2017-HQFO-01228

Dear Mr. Greenewald:

This is the electronic final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated August 30, 2016, and received by this office on August 15, 2017. You are seeking a copy of all memos sent out by your DHS Designated Agency Ethics Official (DAEO) from January 1, 2015 to the date of processing this request.

A search of the Office of the General Counsel (OGC) for documents responsive to your request produced a total of 161 pages. Of those pages, I have determined that 57 pages of the records are releasable in their entirety and 104 pages are partially releasable pursuant to Title 5 U.S.C. § 552:(b)(5), (b)(6) and (b)(7)(C) FOIA Exemptions 5, 6 and b7(C).

Enclosed are 161 pages with certain information withheld as described below.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the

- **Deliberative Process Privilege**

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

- **Attorney-Client Privilege**

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the analyst below who processed your request and refer to **2017-HQFO-01228**. You may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner.

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as

follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,


Maura Busch

Maura Busch
FOIA Program Specialist

Enclosure(s): Responsive Documents, 161 pages

This document is made available through the declassification efforts
and research of John Greenewald, Jr., creator of:

The Black Vault



The Black Vault is the largest online Freedom of Information Act (FOIA)
document clearinghouse in the world. The research efforts here are
responsible for the declassification of hundreds of thousands of pages
released by the U.S. Government & Military.

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Homeland Security

March 20, 2015

MEMORANDUM FOR THE SECRETARY

FROM: Alejandro Mayorkas (b)(6)
DEPUTY SECRETARY

Stevan E. Bunnell (b)(6)
GENERAL COUNSEL

Joseph B. Maher (b)(6)
DESIGNATED AGENCY ETHICS OFFICIAL
PRINCIPAL DEPUTY GENERAL COUNSEL

SUBJECT: Proposed Ethics and Integrity Initiative

Purpose

(b)(5)

Background

Over the past several years, there have been a number of ethical failures within the Department's workforce. These include: an employee who unlawfully diverted spending to his prospective employer; wide-spread abuse of administratively uncontrollable overtime; and employees who have been criminally charged with theft of government property and resources. (b)(5)

(b)(5)

(b)(5)

In developing this proposal, we have consulted with, and incorporated helpful suggestions from the Office of Government Ethics and the Office of the Inspector General. We have also solicited comments and suggestions from all components within the Department. All

(b)(5)

Discussion

The U.S. Office of Government Ethics regulations invest the Secretary with the responsibility to “exercise personal leadership in establishing, maintaining, and carrying out the agency’s ethics program. He...shall make available to the ethics program sufficient resources...to enable the agency to administer its program in a positive and effective manner.” 5 C.F.R. § 2638.202(a). We propose that you authorize the following specific actions as part of an initiative to promote ethics and integrity throughout the Department:

(b)(5)

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(b)(5)

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(b)(5)

Recommendation

We recommend that (b)(5)

(b)(5)

attached a draft memorandum for your consideration in formally announcing the initiative.

Approved

Disapproved



Homeland Security

Privileged and Confidential

OCT 07 2015

MEMORANDUM FOR THE SECRETARY

THROUGH: Alejandro N. Mayorkas
DEPUTY SECRETARY
(b)(6)

FROM: Joseph B. Maher
PRINCIPAL DEPUTY GENERAL COUNSEL
DESIGNATED AGENCY ETHICS OFFICIAL
(b)(6)

Jonathan E. Meyer
DEPUTY GENERAL COUNSEL
(b)(6)

Christina E. McDonald
ASSOCIATE GENERAL COUNSEL FOR
REGULATORY AFFAIRS
(b)(6)

SUBJECT: DHS Final Rule: Supplemental Standards of Ethical Conduct for
Employees of DHS

Purpose

The DHS Designated Agency Ethics Official requests your approval and signature to submit the accompanying final rule for publication in the *Federal Register*. This rule would enhance the ethics program of the Department, and it would mark the first time that the Department has issued its own regulation governing ethics in the Department. The final rule must be jointly issued by the Office of Government Ethics (OGE). That office has reviewed and approved of the attached regulation.

This rule would supplement the existing OGE regulations, *the Standards of Ethical Conduct for Employees of the Executive Branch*,¹ with additional DHS-specific standards and procedures related to the following matters: (1) the purchase of certain Government-owned

¹ See 5 C.F.R. part 2635.

or seized property, (2) the obligation to report allegations of waste, fraud, and abuse, and (3) outside employment and activities.

A Department-wide working group of ethics officials developed this rule. Following Secretary Napolitano's earlier approval and publication of a proposed rule on this topic, working group members reviewed the public comments received and revised the rule as appropriate.

In addition, as we do with all regulatory actions and significant guidance, the Office of the General Counsel (OGC) cleared the guidance through the DHS Components. Commenters from ICE, USCIS, and CBP recommended minor edits for clarity. OGC revised the document to the commenters' satisfaction.

Background

On August 7, 1992, OGE issued a final rule setting forth the uniform Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards), which are codified at 5 C.F.R. Part 2635.² The OGE Standards established uniform ethics rules applicable to all Executive Branch personnel.

The OGE Standards authorize DHS to publish, with the concurrence of OGE, supplemental regulations necessary to implement DHS's particular ethics programs.³ DHS published, with the concurrence of OGE, a proposed rule on this matter on October 12, 2011.⁴ DHS received a small number of public comments in response to the proposed rule. As described below, DHS modified the final rule in response to some of the public comments.

(b)(5)



² See 57 Fed. Reg. 35006-35087.

³ See 5 C.F.R. § 2635.105.

⁴ 76 Fed. Reg. 63,206.

Discussion

Below is a summary of the major provisions of the final rule.

Designation of Components as Separate Agencies

The OGE Standards allow departments to designate components as separate agencies for the purposes of limiting some restrictions. (b)(5)

(b)(5)

(b)(5)

Prior Approval for Outside Employment

This rule would require employees to obtain written approval from the agency's Chief Deputy Ethics Official or other designated official prior to engaging in certain outside employment and activities. (b)(5)

(b)(5)

⁵ See 5 C.F.R. § 2635.203(a) (providing executive departments with authority to determine that departmental components should be treated distinctly for the ethics purposes described herein).

(b)(5)

A number of commenters on the proposed rule expressed concern about the scope of the prior-approval requirement. For instance, some commenters requested that DHS eliminate the prior-approval requirement entirely, exempt additional categories of activities (and especially speech-related activities) from the prior-approval requirement, or establish a presumption that the designated official will approve requests for outside employment unless the activity would involve prohibited conduct.

(b)(5)

Special Rules for Outside Employment for Employees of CBP, ICE, and FEMA

(b)(5)

(b)(5)

Prohibited Purchases of Property

(b)(5)

Reporting Waste, Fraud, and Abuse

(b)(5)

National Consultation and Collective Bargaining

(b)(5)

⁸ See 5 U.S.C. § 7113(b)(1).

(b)(5)

OMB Review

The Office of Management and Budget has determined that this rule is not significant under Executive Order 12,866. As a result, following your approval and signature, we will submit the rule to OGE for their Director's signature. Following receipt of OGE Director's signature, we will submit the rule to the Office of the Federal Register for publication.

Litigation Risk

(b)(5)

(b)(5)

Recommendation

(b)(5)

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Decision Document:

DHS Final Rule: Supplemental Standards of Ethical Conduct for Employees of DHS

_____ Sign the final rule and approve its publication in the *Federal Register*.

_____ Disapprove publication of the final rule in the *Federal Register*.

_____ Modify per further instructions.

_____ Needs discussion.

_____ Date



Homeland Security

February 17, 2016

DECISION

MEMORANDUM FOR THE SECRETARY

THROUGH: Paul Rosen
Chief of Staff

FROM: Joseph B. Maher
Designated Agency Ethics Officer and Principal Deputy General Counsel

SUBJECT: **Liaison Appointments to International Association of Chiefs of Police**

(b)(6)

Purpose: This forwards requests from Francis Taylor, Under Secretary for Intelligence and Analysis, and R. Gil Kerlikowske, Commissioner, Customs and Border Protection, to be appointed as Department liaisons to the International Association of Chiefs of Police (IACP), Executive Committee (the "Committee").

Background or Context: IACP describes itself as "a leadership organization committed to advancing the profession of policing by promoting enhanced practices, cooperative efforts and the exchange of information among police leaders and other institutions and organizations. The association works to bring about the recruitment and training of qualified individuals into police agencies and encourages police officers worldwide to maintain the highest standards possible." (Preamble, IACP Constitution.) The Executive Committee "provides members with a unique opportunity to lead and focus the activities of the IACP and to provide guidance to the law enforcement profession worldwide." (IACP Executive Committee summary.) The Executive Committee is responsible for overseeing and directing IACP business operations and expects Committee members to actively participate in governing IACP. Because of ethics conflict-of-interest concerns, employees generally may not participate in the conduct of non-Federal entity business operations. This means that DHS officials may not serve as members of an Executive

Committee for such entities, and formal DHS policy recognizes this limitation. In lieu of active participation, DHS policy¹ authorizes employees to be appointed as Department liaisons to non-Federal organizations for the purpose of representing the Department's views to the organization. Liaisons may act as a means of communication between the organization and the Department to enhance awareness, to enhance information sharing, and to track new operation and policy trends.

Recommendation:

(b)(5)

(b)(5)

Please indicate your determination below. If you approve the appointments, please also indicate your approval by signing the attached appointment memoranda.

Approve/date _____

Disapprove/date _____

Modify/date _____

Needs discussion/date _____

¹ MD 2300, 05/23/2003, "Committee Management," Section VI.E., Procedures For Non-FACA Committees, Paragraph C.5, pages 10-11 ("In lieu of official participation as a member, the approving official should consider permitting DHS personnel to participate as an observer or liaison, particularly for non-Government committees.").



Homeland Security

January 18, 2018

MEMORANDUM FOR THE SECRETARY

FROM: Joseph B. Maher (b)(6)
Acting General
Designated Agency Ethics Official

SUBJECT: Ethics guidance on participation at the 2018 World Economic Forum Annual Meeting

This memorandum provides ethics guidance for your participation in the 2018 World Economic Forum (WEF) Annual Meeting in Davos-Klosters, Switzerland, being held on January 23-26, 2018. Ethics restrictions and obligations do not prevent your official participation in the WEF Annual Meeting, subject to the below discussion.

Background

The World Economic Forum is a Swiss nonprofit foundation, “committed to improving the state of the world by engaging business, political, academic, and other leaders of society to shape global, regional, and industry agendas.” The annual meeting, often known only as “Davos,” brings together over 2,000 world leaders with business leaders, economists, and journalists to discuss the emerging world issues. The agenda includes plenary sessions, open to all attendees, known as public sessions, and closed more intimate “private” sessions. Some of the sessions are sponsored by partners.

You will be attending in your official capacity as part of the United States delegation. The department is not paying a registration fee to participate nor is this a fundraiser for WEF. Your engagement will include attendance, and formal and informal remarks at many official sessions, both public and private. Communications are expected to be focused on department interests and to be broad policy discussions, but not “particular matters involving specific parties”—typically, encompassing specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties. At most, we expect that your communications may implicate “particular matters of general applicability,” meaning matters focused on the interests of a discrete and identifiable class of persons, but matters that do not involve specific parties. This is also an exceptional opportunity for less prescribed interaction with counterparts and stakeholders, such as foreign government leaders and industry leaders in cybersecurity, allowing you to maximize information in-take as well as dissemination essential to further the department’s mission.

Until October 2016, you served as Chair of World Economic Forum (WEF) Global Agenda Council on Risks and Resilience. This was an unpaid position on a council that served WEF as

an advisory board. This role was included in your ethics agreement and nominee financial disclosure in an abundance of caution and for maximum transparency.

Discussion

As you know, upon your confirmation, you resigned all outside positions and professional affiliations. For one-year after your resignation from each of the entities, you agreed to not participate in any particular matter involving specific parties in which any such entity is a party or represents a party to the matter within a year from your appointment, unless you are first authorized to participate, pursuant to 5 C.F.R. § 2635.502. This is because you are considered to have a “covered relationship” with these former employer and clients for a year after you cease providing them personal services.

Additionally, as an Ethics Pledge signatory, you are prohibited from participating, for two years after appointment, in any particular matter involving specific parties that is directly and substantially related to a former employer whom you personally served within two years of appointment. *See*, Executive Order (E.O.) 13770, 82 Fed. Reg. 9333, Paragraph 6 (January 28, 2017) (describing two year ban for political appointees on participating in particular matters directly and substantially related to former employers and clients); *see also*, *Office of Government Ethics DAEOgram DO-09-011 (March 26, 2009)*; *applied to current Executive Order 13770 via U.S. Office of Government (OGE) Legal Advisory (LA) LA-17-03 (March 20, 2017)*.

Based on your clarifications about your role, **WEF is not a “former client” or “former employer” for the purposes of either the ethics impartiality regulations or the Ethics Pledge.** This is because you served in an advisory capacity. You did not serve as an agent, attorney or consultant, nor did WEF retain your consulting company, which would make WEF a former client. Even if WEF could plausibly be considered a former employer, you were appointed on December 5, 2017, more than a year after you resigned from your advisory role with WEF. As such, you do not have a “covered relationships” with WEF pursuant to 5 C.F.R. § 2635.502. Since the WEF role was listed in your ethics agreement and on your financial disclosure, a reasonable person might conclude you are obligated to recuse yourself from participating in an official capacity in any DHS matters affecting WEF. OGE guidance indicates to the contrary. In its legal advisory DO-09-011, OGE explains that “former employer” excludes “unpaid positions as a member of an advisory board or committee of a nonprofit organization, unless the position involved fiduciary duties of the kind exercised by officers, directors or trustees, or involved sufficient supervision by the organization to create a common law employee-employer relationship.” *OGE DO-09-011*. As such, **your ethics restrictions and commitments do not prohibit your official participation at the WEF Annual Meeting.**¹

¹ Even if the Ethics Pledge ¶ 6 restriction applied—and it does not—your decision to generally participate would meet an exception to the general prohibition. OGE interpretative guidance provides for a relevant exception to this Ethics Pledge restriction. *See OGE LA 09-020 (May 26, 2009)*. In the advisory, OGE clarifies that the Ethics Pledge restriction would permit you to decide to give an official speech at an event sponsored by a former client or former employer if the communication was “(1) about a particular matter of general applicability and (2) is made at a meeting or other event at which participation is open to all interested parties.” *Id.*

While my office continues to evaluate the individual public and private meetings requests you received to ensure there are no ethical concerns or restrictions with your participation (e.g., prohibited issues resulting from privately-sponsored sessions), I list here some helpful reminders to aid in avoiding inadvertent ethics violations:

- Beware of inadvertent disclosure of nonpublic information which could provide any private entity an unfair advantage in its engagement with the department.
- Ensure your communications do not raise concerns about unilateral commitments or official DHS requests to private persons or entities.
- Avoid any meeting which potentially raises concerns about special access or undermines the integrity of DHS programs and activities. This could include concerns about special access or preferential treatment for one individual or entity, which denying that same access or treatment to others, without an articulable basis for the difference in treatment.
- Do not accept gifts, including free attendance, which are offered by registered lobbying organizations or registered lobbyists. This does not prohibit you from meeting with lobbyists or lobbying organizations, but prevents you from accepting free refreshments, including something as minor as a cup of coffee.
- Avoid accepting gifts from private persons or entities (inclusive of nonprofits or nongovernmental organizations) unless the gift meets an exclusion or exception. Consider declining otherwise acceptable gifts which could raise doubts over an appearance of impartiality.
- Gifts from foreign governmental officials, meant as a courtesy, are acceptable.
- Be cautious that your participation (e.g., use of title) is not used in a manner that could reasonably be construed to imply that DHS sanctions or endorses a person (including entities), his or her activities or products.

As a reminder, the ethics rules do not prevent you from disseminating publically available information to interested parties or gathering of relevant information to further DHS programs.

If any of the information summarized above is incorrect or if you receive new or additional information, please do not hesitate to contact me or Erica Dornburg with questions or concerns.



Homeland Security

JUL - 5 2018

MEMORANDUM FOR THE SECRETARY

FROM: Joseph Mahe
Principal Deputy
Designated Agency Ethics Official

(b)(6)

SUBJECT: Acceptance of the Union League Abraham Lincoln Award

You may accept the Union League's Abraham Lincoln Award and provide the annual Howard S. Mitnick Memorial Lecture. The following provides ethics guidance related to these activities.

Background

On March 28, 2018, the Union League invited you to deliver the annual Howard S. Mitnick Memorial Lecture.¹ The Howard S. Mitnick Lecture is a sixth annual speaker program in memory of the Abraham Lincoln Foundation trustee Howard S. Mitnick, to be presented on July 27, 2018. Invited lecturers present on a range of topics such as free enterprise, democracy and the United States Constitution. The lectures are generally open to the public and free. Invited lecturers may be offered an honorarium for speaking from the lecture series sponsor, Barbara Mitnick. However, the Union League is not offering one for this lecture, as it is aware that federal employees may not accept remuneration for official activities. Former Secretary of Homeland Security, Tom Ridge, was the invited speaker in 2016.

Following your lecture, the Union League plans on an award luncheon, where you will receive the Abraham Lincoln Award. The Abraham Lincoln Award is given to "leaders of distinction, who through their actions have demonstrated a high degree of patriotism and have made significant contributions to the United States of America." The first silver medal (now Lincoln Award) was awarded to Lincoln's Vice President Hannibal Hamlin in 1863. In the past 150 years, since it was established, there have been in excess of hundred award recipients. The Union League past presidents identify and select recipients. The award consists of a 10 inch replica statue of the Union League's Otto Schweizer Statue of Abraham Lincoln, at a cost of \$1,000 (resale value of approximately \$200). The luncheon program and award are funded entirely from membership dues, and the event is not a fundraiser. Prior recipients of the Award

¹ The lecture series was established and honoraria is funded by Barbara Mitnick, the current General Counsel, John Mitnick, (b)(6) who is a board member at the Union League. I have been advised that Mr. Mitnick had no involvement in the determination to invite you to present the lecture nor award you the Abraham Lincoln Award.

include Justice Samuel Alito, Governor Chris Christie, Justice Clarence Thomas, Speaker Newt Gingrich, Speaker John Boehner, and United States Attorney General Jeff Sessions just this February. There will be 350-400 attendees, consisting of members and a limited number of League guests, at the award ceremony. You will be seated at the head table with members of the League leadership including the President, Jim Dunnigan, the Abraham Lincoln Foundation Executive Director, John Meko, and Chair, Joan Carter John, and Barbara Mitnick.

The Union League of Philadelphia was founded in 1862 as a patriotic society that supports the Union and President Lincoln's policies prior to and during the Civil War. The Union League has evolved into a philanthropic private member's only club, hosting Presidents, heads of state, industrialists, entertainers and dignitaries from around the world. The only criteria for membership is United States citizenship. The League has no other membership restrictions. Current League membership exceeds 3,500 individuals who promote the League's traditions. The members are comprised of leaders in business, education, technology, healthcare, law, government, religion, art, and culture in the Philadelphia area. The League operates three charitable foundations: The Youth Work Foundation, The Scholarship Foundation, and The Abraham Lincoln Foundation. These foundations work to educate the public about the nation's history, and recognize student role models by providing scholarships. The League is not a registered lobbying organization.

Discussion

MITNICK LECTURE

Your personal ethics restrictions do not prevent you from providing an official speech for the Howard S. Mitnick Lecture, assuming you determined the event is an appropriate forum for the exchange of information relevant to DHS programs, operations, or responsibilities. As with all public engagements, you must ensure your engagement otherwise meets ethics guidelines. This includes the following principles:

- Avoiding concerns about preferential treatment or special access, by ensuring you are willing and able to provide the same access and support to similarly situated organizations.
- Guard against inadvertent disclosure of unauthorized nonpublic information that could provide any private entity an unfair advantage in its engagement with the department.
- Ensure your remarks do not raise the appearance of DHS endorsement or sanctioning of the Union League, its members, or their activities. This does not prevent you however from thanking them for the distinct honor.

ABRAHAM LINCOLN AWARD

Generally, an employee may not accept a gift offered because of her Government position or from a prohibited source (a person or entity with business before the Department, seeking business with the Department, regulated by the Department or with interests that could be affected by the performance of the employee's duties). 5 C.F.R. § 2635.202(b). The award would qualify as a gift offered because of your Government position, and would be

impermissible absent an applicable exception. In this instance, however, an exception for awards for meritorious public service allows you to accept the gift. 5 C.F.R. § 2635.204(d).

Under this exception, you may accept the award if it is a *bona fide* award given for meritorious public service, so long as the majority of the organization's members do not have interests that may be substantially affected by the performance or non-performance of your official duties. 5 C.F.R. § 2635.204(d)(1). Because the award includes the statute, valued in excess of \$200, this written ethics determination is required to ensure the award is made as part of an "established program of recognition." Specifically, an established program of recognition is an award that is made on a regular basis and selection of the award recipients is pursuant to written standards. 5 C.F.R. § 2635.204(d)(2).

The Union League does not appear to be a prohibited source or otherwise have interests which could be "substantially affected by the performance or nonperformance" of your "official duties" as Secretary. Likewise, the award appears to be "an established program of recognition." The award is over 155 years old. It has been given on a regular basis, almost annually and there is written criteria for the award determination. Therefore, I find **you may accept the Abraham Lincoln Award as a *bona fide* award given for meritorious public service. You may also accept meals and entertainment given to you and to members of your family at the event at which the award presentation takes place.** 5 C.F.R. § 2635.204(d)(4).



Homeland Security

June 29, 2015

TO: Walter Shaub
Director, U.S. Office of Government Ethics

FROM: Joseph B. Maher (b)(6)
Principal Deputy General Counsel and Designated Agency Ethics Official

Luke McCormack (b)(6)
Chief Information Officer

SUBJECT: Request to Continue Using the Department of the Army Financial Disclosure Management System; and
Tentative DHS Plan for Collection of Public Financial Disclosure Reports in Calendar Year 2016

This memorandum is in response to the U.S. Office of Government Ethics (OGE) Program Advisory, PA-15-01, dated March 2, 2015, which offers the opportunity for executive branch agencies to seek OGE authorization to use a legacy electronic filing system and requires agencies to provide tentative financial disclosure filing plans for 2016.

Request to Continue Using Legacy Electronic Filing System

The Department of Homeland Security (DHS) requests authorization to continue to use the legacy electronic filing system operated and maintained by the Department of the Army. The Financial Disclosure Management System (FDM), has been the sole provider for DHS electronic filing of Public Financial Disclosure Reports (OGE 278) since 2011. DHS ethics officials have been engaged in an ongoing, significant effort to promote FDM use by employees and to develop proficiency by both employees and DHS Ethics Officials on the FDM system. FDM use has steadily increased during this time and the majority of the Department's public filers are now using FDM. FDM use is now mandatory for DHS public filers.¹ FDM has proved an effective

¹ Three components have, so far, been authorized to use paper reports due to technical difficulties in launching FDM in the three individual components. These technical difficulties are currently

financial disclosure management tool for supporting conflicts assessment at the Department by **increasing our ability to oversee filer compliance, furthering complete reporting of required information, and increasing efficiency for both filers and Ethics Officials in report review and certification.**

DHS maintains a Functional Support Agreement with Department of the Army/CECOM. Under this agreement, the Department of the Army provides all operational, maintenance, and help desk services for DHS FDM use. The Statement of Work provided by the Software Engineering Center, Enterprise Solutions Directorate/CECOM (SEC) for the Functional Support Agreement states, in pertinent part, "FDM is a web-based information system (AIS). SEC agrees to maintain the physical infrastructure required for the operation of FDM and to provide the necessary security mechanisms IAW the Defense Information Assurance Certification and Accreditation Program (DIACAP)." All modifications are entirely under the purview of the Department of the Army. DHS is merely a user, does not independently have the ability to modify or administer FDM and does not have the ability to effect any system changes to FDM. The Department of the Army, through the FDM Program Manager, has advised DHS that the Department of the Army will modify FDM to be consistent with the following Office of Government Ethics requirements as set forth in OGE Program Advisory PA-15-01, dated March 2, 2015, by the end of 2015:

- (i) the FDM will generate the new OGE Form 278e, consistent with the version that Integrity produces;
- (ii) the FDM 278e data input screens, will distinguish the respective employment-related assets and income of the filer from those of the filer's spouse, and will further distinguish those employment-related assets and income from other assets and income by a mechanism acceptable to the Office of Government Ethics; and
- (iii) the FDM will incorporate the capability for a daily email transmission from FDM of aggregate data to OGE in the format specified in Appendix 4 of OGE Advisory, PA-15-01.

The Department of the Army has advised DHS that the foregoing modifications, will be implemented on or before January 1, 2016. We are further advised that the Department of the Army is not planning to request an extension of the effective date. A copy of the Department of the Army OGE authorization request, dated June 4, 2015, is attached and incorporated by reference to this request.

Through a process still to be determined by OGE and the White House, and beginning on January 1, 2016, DHS commits to use the OGE Integrity electronic filing system to collect reports from nominees to positions which require Senate confirmation that are required to be submitted to OGE under 5 U.S.C. app. § 103. The DHS Designated Agency Ethics Official plans to submit his report through the Integrity system beginning in January 2016.

being addressed. DHS anticipates resolving these issues by the end of the calendar year and that those public filers will transition to FDM.

Upon request from OGE, the DHS DAEO, AAEO or their designees will periodically meet with OGE to assess the efficiency and effectiveness of the FDM system at DHS.

Tentative Plans for Collection of Financial Disclosure Reports in 2016

DHS plans to continue to use FDM in 2016 for the collection of all public financial disclosure reports, other those reports which OGC mandates must be filed in the Integrity system. DHS upgraded the FDM to PIV card use in 2015 and committed significant effort and resources in calendar year 2015 to ensuring the accuracy of the data and to training employees on accessing and use of FDM. At this time, the Department does not plan to transition away from FDM for these public filers, however, we will continue to work with OGE on this issue.

We understand that an ongoing OGE effort is underway to develop and deploy a software program that will migrate FDM report data to the OGE Integrity system beginning in January 2016. This tool will be useful for migrating the data from prior reports to Integrity. If the data migration tool is not available beginning in January 2016 for mandatory Integrity users, DHS will consult with OGE as to possible alternative filing options for the 2016 filing year.

Please contact the Susan Heller, Associate General Counsel for Ethics and Alternate Agency Ethics Official on (202) 447-3266 or Mike Waters, Deputy Associate General Counsel for Ethics on (202) 447-3516, with any questions. The office will serve as the point of contact throughout the process and is available to meet with OGE, as requested, to assess the efficiency and effectiveness of the legacy system.

Attachments:

1. Department of the Army, Authorization Request, dated June 4, 2015
2. Department of the Army, Annexes A & B to Authorization Request



Homeland Security

October 18, 2017

INFORMATION

MEMORANDUM FOR THE ACTING SECRETARY

FROM:

Joseph B. Maher
Acting General Counsel and Designated Agency Ethics Official

(b)(6)

SUBJECT:

Approval to Accept Travel Expenses from the Government of Italy

Your staff has informed the Office of the General Counsel that the Government of Italy has offered to provide local police transportation for you and the official DHS Delegation accompanying you to participate in the G7 Interior Ministers meeting. The meeting venue is located on the island Ischia, Naples, Italy. The Government of Italy will provide round trip boat transportation departing from Naples, Italy on Thursday, October 19 to Ischia, Naples, Italy and returning to Naples, Italy on Saturday, October 21, 2017. The G7 Ministerial meeting presents an important opportunity for you to meet with counterparts from Canada, France, Germany, Italy, Japan and the United Kingdom to advance DHS's counterterrorism, aviation security, law enforcement, and border management priorities.

Article I, Section 9, Clause 8 of the Constitution provides that without the Consent of Congress, no person holding public office may accept, "...any present, Emolument, Office or Title, of any kind whatever, from any King, Prince, or foreign State." This provision is intended to prevent foreign government influence over officers of the United States. *See*, 2 U.S. Op. Off. Legal Counsel 345, April 11, 1977.

Congress, however, has enacted legislation to authorize acceptance of certain gifts from foreign governments in limited circumstances. This legislation permits an employee to accept gifts from foreign governments of "minimal value"¹ which are tendered and received as a souvenir or mark of courtesy. 5 U.S.C. § 7342(c). When the gift is for expenses for travel taking place entirely outside the United States and the gift exceeds minimal value, employees² may accept gifts such as

¹ Minimal value is periodically set by the General Services Administration. Currently, minimal value is \$390.

² Although the statutory language refers to employees accepting the travel expenses, the Office of Legal Counsel has opined that travel gift offers to employees traveling as an official delegation to a foreign country are extended as a diplomatic courtesy to the United States Government and the beneficiary of the gift offer is

transportation, food, and lodging if acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency.

The offer from the Government of Italy for round trip local transportation for you and the DHS Delegation is appropriate and consistent with the interests of the United States to facilitate your official attendance and that of the DHS Delegation at the G7 Ministerial meeting and accordingly, may be accepted. *See* Information Memorandum, "Approval of Air Transportation for October 17-21, 2017," October 17, 2017.

Attachment: DHS Delegation Traveler List

the United States Government and not the individual employees. *See* 2 U.S. Op. Off. Legal Counsel 345, April 11, 1977.

DHS Delegation

Travelers

Round Trip

1. THE ACTING SECRETARY
2. Chad Wolf, Chief of Staff
3. Miles Taylor, Counselor to the Secretary
4. Jonathan Hoffman, Assistant Secretary for Public Affairs
5. (b)(6), Executive Telecommunications Service
6. LCDR (b)(6), Military Assistant to the Secretary
7. (b)(6), Official Photographer to the Secretary
8. (b)(6)
9. (b)(6)
10. (b)(6)
11. (b)(6)
12. (b)(6); (b)(7)(C)
13. (b)(6)
14. (b)(6)
15. (b)(6)
16. (b)(6)
17. (b)(6)
18. (b)(6)
19. (b)(6)
20. (b)(6)
21. (b)(6)
22. (b)(6)
23. (b)(6)
24. (b)(6)
25. (b)(6), Executive Telecommunications Service
26. (b)(6), Executive Telecommunications Service
27. (b)(6), Technical Operations Branch
28. (b)(6), Technical Operations Branch



Homeland Security

JUL 18 2018

MEMORANDUM FOR (b)(6)

FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

I commend you for your outstanding support of the Ethics Law Division during the 2018 annual Confidential Financial Disclosure (OGE 450) season. Your hard work and diligent effort played an integral part of our successful OGE 450 filing season. Collectively, the group certified over 2,000 reports for the Department of Homeland Security Headquarters.

Thank you for your selfless dedication and willingness to step up and assist colleagues, furthering the spirit of our one-DHS.

cc:
Neal Swartz, Associate General Counsel (GLD)



Homeland Security

JUL 18 2018

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FROM: Joseph B. Mahe (b)(6)
Principal General Counsel and Designated Agency Ethics Official
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Homeland Security

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Homeland Security

JUL 18 2018

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Thank you for your selfless dedication and willingness to step up and assist colleagues, furthering the spirit of our one-DHS.

cc:
Marshall Caggiano, Associate General Counsel (TPLD)



Homeland Security

JUL 18 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

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Thank you for your selfless dedication and willingness to step up and assist colleagues, furthering the spirit of our one-DHS.

cc:
Daniel Sutherland, Associate General Counsel (NPPD)



Homeland Security

JUL 18 2018

MEMORANDUM FOR (b)(6)

FROM: Joseph B. Mahe (b)(6)
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

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Thank you for your selfless dedication and willingness to step up and assist colleagues, furthering the spirit of our one-DHS.

cc:
Matthew Kronisch, Associate General Counsel (INTEL)



Homeland Security

JUL 18 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

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cc:
Daniel Sutherland, Associate General Counsel (NPPD)



Homeland Security

JUL 18 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

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Thank you for your selfless dedication and willingness to step up and assist colleagues, furthering the spirit of our one-DHS.

cc:
Marshall Caggiano, Associate General Counsel (TPLD)



Homeland
Security

JUL 31 2018

MEMORANDUM FOR ANGELA SARDELLI

FROM: Joseph B. Maher (b)(6)
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Ethics detail to the Ethics Law Division

I am writing to thank the U.S. Customs and Border Protection (CBP), Office of Chief Counsel, for detailing (b)(6) to the DHS' Office of General Counsel Ethics Law Division (ELD). Ms. (b)(6) made noteworthy contributions to ELD's success over the last six months.

Ms. (b)(6) arrived in the midst of the Confidential Financial Disclosure Report annual filing season, where she assisted technical and substantive conflict of interest reviews of approximately 150 reports within the regulatory review timelines. Despite technical difficulties accessing the system, she stayed focused ensuring effective and efficient certification of the reports. Simultaneously, Ms. (b)(6) completed timely and accurate ethics guidance for headquarters' personnel, including in some of the most challenging areas such as public engagement. She also stepped up to assume responsibility in providing the new employee orientation every 2 weeks.

Most notably, Ms. (b)(6) assisted, not only the DHS headquarters' ethics program, but made strides to support the overarching DHS ethics program, including assisting develop documents and training for department-wide use.

The acting Associate General Counsel for Ethics indicates that, in addition to being positive and enthusiastic, Ms. (b)(6) proved to be a diligent worker, eager to learn from this experience, as well as share her insight, making the detail particularly fruitful for ELD and, hopefully, bringing back useful knowledge and innovative ideas to CBP.

I would like to commend Ms. (b)(6) for the time and effort dedicated to ELD.



Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Science and Technology Directorate ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.



Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Privacy Office ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.



Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6) (b)(6)
FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Policy ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Operations Coordination ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Partnership and Engagement ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6) (b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Public Affairs ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6) (b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Legislative Affairs ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the General Counsel ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland Security

SEP 20 2018

MEMORANDUM FOR

(b)(6)

(b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the National Protection & Programs Directorate ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6) (b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Program Accountability and Risk Management ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6) (b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Security Support Officer ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Readiness Support Officer ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Procurement Officer ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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**Homeland
Security**

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Information Officer ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Financial Officer ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Human Capital Officer ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Chief Human Capital Officer ethics program liaison for this past calendar year.

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Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Intelligence and Analysis ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Domestic Nuclear Detection Office ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR

(b)(6)

(b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Countering Weapons of Mass Destruction ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Countering Weapons of Mass Destruction ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

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Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6) (b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Civil Rights and Civil Liberties ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.



Homeland Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Civil Rights and Civil Liberties ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.

Thank you (b)(6)!



Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Maher (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Citizenship and Immigration Services Ombudsman ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.



Homeland
Security

SEP 20 2018

MEMORANDUM FOR (b)(6)
FROM: Joseph B. Mahe (b)(6)
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of Partnership and Engagement ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.

SEP 20 2018



Homeland
Security

MEMORANDUM FOR (b)(6)
(b)(6)
FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official
SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Executive Secretary ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.

SEP 20 2018



Homeland
Security

MEMORANDUM FOR

(b)(6)

(b)(6)

FROM: Joseph B. Maher
Principal General Counsel and Designated Agency Ethics Official

SUBJECT: Commendation for Assisting the Ethics Law Division

This is a letter to thank you for your support as the Office of the Under Secretary for Management ethics program liaison for this past calendar year.

You have played an integral part in the success of the DHS Headquarters' ethics program in 2018. Your efforts have ensured more timely identification of financial disclosure filers, better tracking and enforcement for disclosure filing, and continued compliance with training requirements. The end of year is a time for last minute catch-up to ensure 100 percent compliance with all aspects of the ethics program, as well as preparations for the new calendar year filing season.

I wanted to recognize your service and show the Office of General Counsel's appreciation for your hard work, and request your continued cooperation for end-of-year close out. Thank you for your continued leadership in advancing the DHS government ethics program.



Homeland Security

January 21, 2015

MEMORANDUM FOR: Laurel Loomis Rimon
Counsel to the Inspector General

FROM: Joseph B. Maher (b)(6)
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.204, to you in your capacity as the Counsel to the Inspector General to assist in managing and coordinating the Department's ethics program within Office of the Inspector General. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.203(b) except for the functions set forth in 5 C.F.R. §§ 2638.203(b)(1) and 203(b)(3) and in 5 C.F.R. § 2634.605(c)(2).

The authorities granted in this delegation may be re-delegated in writing to career Office of the Inspector General attorneys who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Office of the Inspector General employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision. Any further delegations must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. The prior delegation to Jennifer Kendrick to serve as the Office of the Inspector General Chief Deputy Ethics Official is hereby revoked.



Homeland Security

September 9, 2016

MEMORANDUM FOR: Rear Admiral Steven J. Andersen
Judge Advocate General and Chief Counsel
U.S. Coast Guard

FROM: Joseph B. Maher
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.204 to you in your capacity as the Judge Advocate General and Chief Counsel, to assist in managing and coordinating the Department's ethics program within the U.S. Coast Guard. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.203(b) except for the functions set forth in 5 C.F.R §§ 2638.203(b)(1) and 203(b)(2) and in 5 C.F.R. § 2634.605(c)(2).

The authorities granted in this delegation to provide advice, counseling, and training, and to administer a financial disclosure program may be re-delegated in writing to Coast Guard civilian attorneys or judge advocates, all of whom are considered career employees, who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Coast Guard employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision. This authority to delegate these responsibilities to Coast Guard attorneys is delegated solely to you and may not re-delegated. Any further delegations of ethics authority must identify by name the individuals with delegated authority. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all of your delegates to include their authorities, locations, and contact information.

cc: C. M. Lederer, Deputy Judge Advocate General



Homeland Security

March 13, 2017

MEMORANDUM FOR: John F. Kelly
Secretary

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Authorization Pursuant to 5 C.F.R. § 2635.502 to Participate in
Acquisition Matters the Government of Australia

This memorandum reviews the applicable ethics authorities and, pursuant to those authorities, authorizes your participation in all Government matters involving the Government of Australia, including particular matters involving specific parties in which the Government of Australia ("Australia") is a party or represents a party. Two laws would otherwise prohibit your participation in matters involving the Government of Australia: President Trump's Executive Order on ethics (which the White House has waived in this circumstance) and Title 5 ethics regulations (which this memorandum waives in this circumstance). The attached "Waiver of Executive Order 13,770 for Secretary John F. Kelly" describes the background of your association with the Government of Australia and your critical role in ensuring the accomplishment of the DHS mission and homeland and national security for the United States.

Background

In accordance with your Ethics Agreement, dated January 5, 2017, unless you were authorized to participate, you committed to recusing from participation in any particular matter involving specific parties in which the Government of Australia ("Australia") is a party or represents a party, pending payment from the Government of Australia. You received payment in full from the Government of Australia on February 8, 2017.

In addition to your Ethics Agreement, you are subject to the provisions of the ethics regulations regarding impartiality in performing official duties. Pursuant to these provisions, employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a "covered relationship" with that entity. When an employee has a covered relationship with a

a reasonable person with knowledge of the facts would not question the employee's impartiality in acting in the matter. 5 C.F.R. § 2635.501, et. seq. In certain circumstances, however, an employee may be authorized to participate in the foregoing types of matters if authorized by the agency.

You are also subject to the provisions of Executive Order 13770 (January 28, 2017) (the "Executive Order"). Under Section 1, paragraph 6, of the Executive Order, you are restricted for two years, beginning with your appointment date, from participating in any particular matter involving specific parties in which your former client, the Government of Australia, ("Australia"), is a party or represents a party. The White House determined that it was in the public interest to grant a waiver of this restriction, enabling you to participate in all matters involving the Government of Australia.

Analysis and Conclusion

The regulatory provisions are designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties. Towards that end, 5 C.F.R. § 2635.502 provides for an employee to seek authorization in certain circumstances in which his participation may call into doubt his impartiality. With respect to the Government of Australia, you have requested authorization to participate in all matters involving the Government of Australia, including particular matters involving specific parties in which the Government of Australia ("Australia") is a party or represents a party.

As Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving the Government of Australia. In light of your recent teaching position with Australia, and your recent honorarium payment from Australia, a reasonable person might question your impartiality in making critical decisions on sensitive matters of homeland and national security.

Accordingly, as instructed by the regulation, I have followed the process set forth in § 2635.502(d), to consider authorizing your participation in matters involving Australia. I have considered the isolated, short-term nature of your teaching position; the fact that you no longer have a personal financial interest that is affected by Australia; the critical need for your engagement in homeland and national security; and the probability that DHS's role could be undermined on a national and international scale or could be detrimentally affected by significant inefficiencies if you are restricted from interacting with any national or international group or official solely due to the Government of Australia's involvement or participation. Based on the foregoing considerations, as more fully set forth in the attached White House Waiver Certification, I have determined that it is necessary and appropriate to authorize you to participate in all matters involving the Government of Australia.

Attachment: Waiver of Executive Order 13,770 for Secretary John F. Kelly

Authorization

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.502(d), I authorize Secretary John F. Kelly to participate in all matters involving the Government of Australia, including any particular matter involving specific parties in which the Government of Australia (“Australia”) is a party or represents a party. In granting this authorization, I have determined that in light of all relevant circumstances, the interest of the Government in Secretary Kelly’s participation in all matters involving the Government of Australia outweighs the concern that a reasonable person may question the integrity of DHS’s programs and operations. I have considered relevant factors including the Government’s critical need for Secretary Kelly to effectively carry out his duties as Secretary of DHS. The role of the Secretary is at the center of the Department’s important national security and related missions. The successful accomplishment of these DHS missions relies on extensive, open, and collaborative communications within the Department and between the Secretary and the President, United States Government officials and foreign government officials. I have also considered the limited nature of Secretary Kelly’s involvement with the Government of Australia, while he was a retired military officer, and the critical national interest served by authorizing Secretary Kelly to freely communicate with all members of the national and international community regarding all aspects of DHS’s mission and operations. This authorization will significantly promote and protect the public interest by enabling Secretary Kelly to freely carry out the responsibilities of his office.

I have also considered the White House Counsel Waiver Certification, granted to Secretary on March 10, 2017, pursuant to Executive Order 13770, Section 3.

This waiver does not otherwise affect Secretary Kelly’s obligation to comply with all other pre-existing government ethics rules, other provisions of the Executive Order and with the other commitments he made in his Ethics Agreement and amendments to his Ethics Agreement.

3/13/17

Date

(b)(6)

Joseph B. Maher
Designated Agency Ethics Official



Homeland Security

DATE: August 25, 2017

MEMORANDUM FOR: William Brockman Long
Administrator
Federal Emergency Management Agency

FROM: Joseph B. Maher (b)(6)
Designated Agency Ethics Official &
General Counsel (acting)
U.S. Department of Homeland Security

SUBJECT: Authorization Pursuant to 5 C.F.R. § 2635.502 to Participate in Any
Matter with Former State and Local Government Clients

This memorandum reviews the applicable ethics regulation and, pursuant to that regulation, authorizes your participation in all Government matters in which certain state and municipal government entities, which were your clients prior to your present role as FEMA Administrator, are a party or represent a party (hereafter, the "local government entities.") Without this Authorization you would be prohibited from participation in government matters involving the local government entities, with which you have a "covered relationship" as defined by Title 5 ethics regulations.

Background

In accordance with your Ethics Agreement, dated April 24, 2017, you committed to recusing from participating in any particular matter involving specific parties in which your former clients are or represent a party, in accordance with 5 C.F.R. § 2635.502(a). Pursuant to that regulation, employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a "covered relationship" with that entity. This covered relationship will last for a period of one year after the employee last provided service to that entity. When an employee has a covered relationship with an entity, he should not participate in a particular matter involving specific parties if a party with whom he has a covered relationship is a party to the matter or represents a party to the matter, if he determines that a reasonable person with knowledge of the relevant facts would question the employee's impartiality in acting in the matter. 5 C.F.R. § 2635.501(a), *et seq.* In certain circumstances, however, an employee may be authorized to participate in the foregoing types of matters if authorized by the agency.

You currently have a covered relationship with fourteen local government entities, which were your clients while you were employed at Hagerty Consulting, Inc. While some of this work was funded by FEMA grants, you were not involved in the management of those grants, and you neither communicated with FEMA on behalf of these entities regarding the terms of the grants nor requested funding for these grants. In addition, although all of these local government entities were your "clients," you did not personally provide services for several of these local government entities. The

following is a brief summary of the local government entities, the services Hagerty Consulting, Inc. performed for each client, and the professional services you personally provided to each client:

<i>Client</i>	<i>Hagerty Consulting Services</i>	<i>Personal Professional Services</i>	<i>Relationship with Client ended on -</i>
Brunswick/Glynn County, GA Water and Sewer Commission	Climate resilience adaptation strategy.	You personally provided no services to this client	6/20/2017
Chatham County Emergency Management Agency	Pre-disaster recovery planning, continuity of operations planning, HSEEP exercises, response and recovery support for Hurricane Matthew.	Project Executive; Finance Section Support. Provided advice on pre-disaster recovery planning.	4/30/2017
City of Danville, VA City Manager's Office	Active threat planning.	Project Executive and Subject Matter Expert. Advised client on planning and execution.	6/20/2017
Cook County Department of Homeland Security and Emergency Management	Active threat program support.	Project Executive and Subject Matter Expert. Advised client on training, planning and execution.	12/8/2016
Georgia Department of Natural Resources	Recovery plan guide development	Project Executive. Advised the client on planning and execution.	12/31/2016
Horry County, SC County Manager's Office	Flood and Hurricane Matthew recovery support.	You personally provided no services to this client	6/20/2017
Houston, TX METRO	Cost recovery planning, recovery financial support, hazard mitigation planning	Project Executive. Advised the client on plans and execution.	6/20/2017
Lee County, FL Emergency Management Agency	Evacuation planning.	Project Executive and Subject Matter Expert. Advised the client regarding plans	5/12/2017
NYC Office of Emergency Management	Post-Sandy recovery support.	You personally provided no services to this client	6/20/2017
Rhode Island Department of Environmental Management	Evacuation planning.	Project Executive. Advised the client regarding planning.	6/20/2017
Rhode Island Emergency Management Agency	Planning and EMAP Accreditation support.	You personally provided no services to this client	6/20/2017
San Diego County, CA Emergency Management Agency	Regional active threat exercises.	Project Executive and Subject Matter Expert. Advised the client on training, plans, and execution of exercises.	9/16/2016

Santa Barbara County, CA Emergency Management Agency	Post-oil spill after-action reporting.	Project Executive and Subject Matter Expert. Assisted the client create after action reports.	9/30/2016
Tarrant County, TX Public Health Department	Tabletop exercise	Project Executive and Facilitator. Facilitated plans and discussions for the exercise.	9/15/2016

FEMA Administrator Responsibilities

FEMA’s primary mission is to “reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.” 6 U.S.C. § 313. Congress specifically tasked FEMA to “partner with State, local, and tribal governments and emergency response providers . . . to build a national system of emergency management.” *Id.* The national system of emergency management includes actions to promote or assist with the five elements of emergency preparedness (prevention, protection, response, recovery, and mitigation).

To that end, the FEMA Administrator engages in a whole-community approach to emergency management, which seeks to consolidate and combine the contributions of various stakeholders comprising the entire community in an area, including individuals, the private and nonprofit sectors, faith-based organizations, and all levels of government (including state, local, and tribal government organizations). *National Preparedness Goal*, 2nd Ed. (September 2015); *see* PPD-8 (National Preparedness).

In order to effectively and efficiently carry out the FEMA mission, the Administrator may direct or engage in a broad variety of actions on matters which impact a state or local government organization, including, but not limited to the following:

- Making recommendations to the President on how to respond to a request for a Stafford Act disaster or emergency declaration from a state governor. 44 C.F.R. § 206.37, implementing 42 U.S.C. §§ 5170, 5191.
- Establishing and promoting emergency preparedness compacts for mutual assistance by states in emergency management matters. The Administrator assists and encourages states to engage in these compacts, and assists and coordinates activities under the compacts. 42 U.S.C. § 5196(h).
- Promoting emergency management training to officials, including to state and local government emergency management officials. 42 U.S.C. § 5196(f).
- Making financial contributions to states for emergency preparedness purposes, including the procurement or construction of facilities. 42 U.S.C. § 5196(j).

Analysis and Conclusion

The regulatory provisions at 5 C.F.R. § 2635.501 *et. seq.* are designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties. Toward that end, 5 C.F.R. § 2635.502 provides for an employee to seek authorization in certain circumstances in which his participation may call into doubt his impartiality. With respect to the local government entities listed above, you have requested authorization to participate in all matters involving these entities, including particular matters involving specific parties in which the local government entities are a party or represent a party.

As the Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving the local government entities. In light of your recent position as the Executive Vice President of Hagerty Consulting, and the fact that the local government entities were your clients during the last year of your service with Hagerty Consulting, a reasonable person might question your impartiality in making critical decisions on sensitive government matters involving the local government entities.

The Standards of Ethical Conduct provide a process for balancing the needs of the government in the employee's participation outweighs the potential that the integrity of the agency's operations may be questioned. Section 2635.502(d) instructs that where an employee's participation in a particular matter involving specific parties would raise a question in the mind of a reasonable person about his impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. This authorization is effectively a waiver to the impartiality rule at Section 2635.502(a). Factors which may be taken into consideration include:

- (1) The nature of the relationship involved;
- (2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- (3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) The sensitivity of the matter;
- (5) The difficulty of reassigning the matter to another employee; and
- (6) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

I have considered that, although these local government entities are your former clients, you did not personally provide services to all of them. With regard to the entities for which you provided personal professional services, the extent of your involvement was to provide advice pertaining to emergency management planning, assist with facilitating security exercises and evaluation exercises,

and to provide technical subject matter expertise regarding various phases of emergency management. You were not involved in the application for or management of any grants on behalf of any of the local government entities, and you did not make requests to any Federal agency for any Federal funding on behalf of your clients. You do not currently have any ongoing commitments to these local government entities, and you also have no personal financial interests involving any of these local government entities.

It is also significant that a Deputy Administrator for FEMA has not yet been appointed.

To effectively carry out the agency's mission of leading and supporting the nation in emergency management, the FEMA Administrator must be free to engage and coordinate with all community members and stakeholders. It is essential for the FEMA Administrator to communicate directly with local government leaders and officials both for emergency preparedness and to carry out any disaster recovery mission. In an emergency situation, this direct coordination must be done quickly and as efficiently as possible to fulfill the mission of the Agency in accomplishing recovery operations. Similarly, the importance of preparation, planning, and other resilience mission activities, make it critical that the FEMA Administrator engage with government leaders and officials at all levels to ensure all parties can coordinate and implement recovery plans effectively. Overall, the FEMA Administrator plays a unique role in emergency management which requires the ability to engage in robust interactions with state and local government officials. The FEMA Administrator is responsible for providing leadership and direction to FEMA employees as they coordinate and support state and local government officials in all aspects of emergency management (preparedness, protection, response, recovery, and mitigation). The significant public interest in the agility of FEMA to support first responders and communities in need of emergency management assistance, planning, and coordination requires that the Administrator be able to fully exercise his leadership role in ongoing oversight and direction for FEMA coordination and collaboration with government entities. That significant public interest, in combination with the other factors described above, leads me to make the authorization described below. Based on the foregoing considerations, I have determined that it is the government's need for you to participate in all matters involving the local government entities that were your clients while you were employed at Hagerty Consulting outweighs the concern that a reasonable person might question your impartiality.

Authorization

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.502(d), I authorize FEMA Administrator William Brockman Long to participate in all matters, including particular matters involving specific parties in which the following state and municipal entities are a party or represent a party:

Brunswick/Glynn County, GA Water and Sewer Commission
Chatham County Emergency Management Agency
City of Danville, VA City Manager's Office
Cook County Department of Homeland Security and Emergency Management
Georgia Department of Natural Resources
Horry County, SC County Manager's Office
Houston, TX METRO
Lee County, FL Emergency Management Agency
NYC Office of Emergency Management
Rhode Island Department of Environmental Management
Rhode Island Emergency Management Agency
San Diego County, CA Emergency Management Agency
Santa Barbara County, CA Emergency Management Agency
Tarrant County, TX Public Health Department

In granting this authorization, I have determined that in light of all the relevant circumstances, the interests of the Government in Administrator Long's participation in all matters involving these state and municipal entities outweighs the concern that a reasonable person may question the integrity of FEMA's programs and operations. I have considered relevant factors including Government's critical need for Administrator Long to effectively carry out his duties as Administrator of FEMA and the lack of an appointed Deputy Administrator. The role of Administrator is at the center of FEMA's mission to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents. The FEMA Administrator has a statutory duty to coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation. The successful accomplishment of FEMA's mission relies on the Administrator's active leadership and facilitation of a healthy partnership between the federal government and state, local, and tribal government and emergency response providers. I have also considered the fact that Mr. Long does not have a personal financial interest that is affected by these state and municipal entities, and the critical national interest served by authorizing Administrator Long to freely communicate with all members of state and municipal government regarding all aspects of FEMA's mission and operations. This authorization will significantly promote and protect the public interest by enabling Administrator Long to freely carry out the responsibilities of his office.

This authorization does not otherwise affect Administrator Long's obligation to comply with all other pre-existing government ethics rules, provisions of the Executive Order 13770, and with other commitments he made in his Ethics Agreement.

Aug. 25, 2017
Date

(b)(6)

Joseph B. Maher
Designated Agency Ethics Official



Homeland Security

DEC 01 2017

MEMORANDUM FOR: Daniel Kaniewski
Deputy Administrator, Protection and National Preparedness
Federal Emergency Management Agency (FEMA)
(b)(6)

FROM: Joseph B. Mahe
Designated Agency Ethics Official

SUBJECT: Authorization Pursuant to 5 C.F.R. § 2635.502 to Participate in Any
Matter with the City of Dallas, Texas

This memorandum reviews the applicable ethics regulation and, pursuant to that regulation, authorizes your participation in all government matters in which the City of Dallas, Texas (hereafter, "City of Dallas") is a party or represents a party. Without this Authorization you would be prohibited from participation in certain government matters involving the City of Dallas, as a result of your "covered relationship" with the City of Dallas as defined by Title 5 of the Federal ethics regulations.

Background

Pursuant to 5 C.F.R. § 2635.502(a), employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a "covered relationship" with that entity. This covered relationship lasts for a period of one year after the employee last provided service to that entity. When an employee has a covered relationship with an entity, he should not participate in a particular matter involving specific parties if a party with whom he has a covered relationship is a party to the matter or represents a party to the matter, if he or his agency designee determines that a reasonable person with knowledge of the relevant facts would question the employee's impartiality in acting in the matter. 5 C.F.R. § 2535.501(a), *et seq.* In certain circumstances, however, an employee may be authorized to participate in the foregoing types of matters if authorized by the agency. 5 C.F.R. § 2635.502(a).

Prior to your current FEMA position, you were the Vice President of Global Resilience with Air Worldwide. Because the City of Dallas was one of your clients, you currently have a covered relationship with the City of Dallas. AIR Worldwide provided company services generally, as well as your services, to the City of Dallas pro bono, and no other party covered the cost for AIR Worldwide's, or your services, to the City of Dallas. These services to the City of Dallas were performed as part of the company's role as a Platform Partner to the 100 Resilient Cities Initiative (see, <http://www.100resilientcities.org/>). Your specific role was to support a study and a report related to the City of Dallas' resilience to a variety of hazards (termed as "shocks and stresses"),

which include natural hazards (e.g., weather) and society-induced stresses (such as, poverty and civil unrest). Your relationship with the client ended on June 29, 2017.

Responsibilities of FEMA Deputy Administrator for Protection and National Preparedness

FEMA's primary mission is to "reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation." 6 U.S.C. § 313. Congress specifically tasked FEMA to, among other things, "partner with State, local, and tribal governments and emergency response providers... to build a national system of emergency management." *Id.* The national system of emergency management includes actions to promote or assist with the five elements of emergency preparedness (prevention, protection, response, recovery, and mitigation).

Protection and National Preparedness (PNP) is the organization within FEMA which is responsible for the coordination of preparedness and protection-related activities throughout FEMA, including grants, planning, training, exercises, individual and community preparedness, assessments, lessons learned, and continuity. In order to effectively and efficiently carry out the FEMA mission, the Deputy Administrator for Protection and National Preparedness may direct or engage in a broad variety of actions on matters which impact a state or local government organization, including, but not limited to the following:

- Establishing and promoting emergency preparedness compacts for mutual assistance by states in emergency management matters. The Deputy Administrator for PNP assists and encourages states to engage in these compacts, and assists and coordinates activities under the compacts. *See* 42 U.S.C. § 5196(h).
- Promoting emergency management training to officials, including to state and local government emergency management officials, as well as exercises to evaluate and verify preparedness. *See* 42 U.S.C. § 5196(f).
- Providing federal assistance through various grant portfolios to support the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. *See, i.e.,* Homeland Security Grant Programs, 6 U.S.C. § 603; Urban Area Security Initiative, 6 U.S.C. § 604; Emergency Management Assistance Compact Grants, 6 U.S.C. § 761.

Analysis and Conclusion

The regulatory provision at 5 C.F.R. § 2635.501 et. seq. is designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties. Towards that end, 5 C.F.R. § 2635.502 provides for an employee to seek authorization in certain circumstances in which his participation may call into doubt his impartiality. You have requested authorization to participate in all matters involving the City of Dallas, including particular matters involving specific parties in which the City of Dallas is a party or represents a party.

As a Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving a former client. In light of your recent position as Vice

President, Global Resilience for AIR Worldwide, and the fact that the City of Dallas was your client during the last year of your service with AIR Worldwide, a reasonable person might question your impartiality in making critical decisions on sensitive government matters involving the local government entities.

The Standards of Ethical Conduct provides a process for evaluating whether the government's need to have an employee participate in a matter outweighs the potential that the integrity of the agency's operations may be questioned. Section 2635.502(d) instructs that where an employee's participation in a particular matter involving specific parties would raise a question in the mind of a reasonable person about his impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. This authorization is effectively a waiver to the impartiality rule at Section 2635.502(a). Factors which may be taken into consideration include:

- (1) The nature of the relationship involved;
- (2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- (3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) The sensitivity of the matter;
- (5) The difficulty of reassigning the matter to another employee; and
- (6) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

I have considered the circumstances involving your work for the City of Dallas. The extent of your involvement was to provide support for a study and follow up report on resilience for a variety of hazards and societal stresses found to be impacting the City of Dallas. Your services were provided on a pro bono basis, and you had no involvement or interaction with any part of the Federal government in performing this work. You were not involved in the application for or management of any Federal grants on behalf of the City of Dallas, nor did you make any request to any Federal agency for any Federal funding on behalf of the City of Dallas. You do not currently have any ongoing commitments to the City of Dallas, and you also have no personal financial interests involving the City of Dallas.

To effectively carry out the agency's mission of leading and supporting the nation in emergency management, the FEMA Deputy Administrator for Protection and National Preparedness must be free to engage and coordinate with all community members and stakeholders. It is essential for the FEMA Deputy Administrator for Protection and National Preparedness to communicate directly with local government leaders and officials regarding all aspects of emergency preparedness, readiness, and protection. The importance of preparation, planning, and other resilience mission activities, make it critical that the FEMA Deputy Administrator for Protection and National Preparedness engage with government leaders and officials at all levels to ensure all parties can coordinate and implement recovery plans effectively and engage in activities prior to disasters or emergencies which may prevent or mitigate the effects of those situations. Overall, the FEMA Deputy Administrator for Protection and National Preparedness plays a unique role in emergency

management which requires the ability to engage in robust interactions with state and local government officials. The FEMA Administrator Deputy Administrator for Protection and National Preparedness is responsible for providing leadership and direction to FEMA employees as they coordinate and support state and local government officials in the key emergency management aspects of preparedness, protection, and mitigation. The significant public interest in the agility of FEMA to support first responders and communities requires that the FEMA Deputy Administrator for Protection and National Preparedness be able to fully exercise his leadership role in ongoing oversight and direction for FEMA coordination and collaboration with government entities.

As instructed by the regulation, I have followed the process set forth in 5 C.F.R. § 2635.502(d) to consider authorizing your participation in matters involving the City of Dallas. I have considered the fact that you do not have a personal financial interest that is affected by the City of Dallas, the critical need for your engagement with local government entities to be able to carry out the FEMA mission, and the possibility that the nation's emergency management capabilities for the City of Dallas metropolitan area could be detrimentally affected by significant inefficiencies if you are restricted from interacting with the City of Dallas. Based on the foregoing considerations, I have determined that the government's need for you to participate in all matters involving the City of Dallas outweighs the concern that a reasonable person might question your impartiality.

Authorization

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.502(d), I authorize Dr. Daniel Kaniewski, Deputy FEMA Administrator for Protection and National Preparedness, to participate in all matters, including particular matters involving specific parties, in which the City of Dallas is a party or represents a party.

In granting this authorization, I have determined that in light of all the relevant circumstances, the interests of the Government in Dr. Kaniewski's participation in all matters involving the City of Dallas outweighs the concern that a reasonable person may question the integrity of FEMA's programs and operations. I have considered relevant factors including Government's critical need for Dr. Kaniewski to effectively carry out his duties as FEMA Deputy Administrator for Protection and National Preparedness. His role is at the center of FEMA's mission to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents. This role directly supports the FEMA Administrator's statutory duty to coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation. The successful accomplishment of FEMA's mission partly relies on the active leadership and facilitation of a healthy partnership between the federal government and state, local, and tribal government and emergency response providers. I have also considered the fact that Dr. Kaniewski does not have a personal financial interest that is affected by the City of Dallas, and the critical national interest served by authorizing Dr. Kaniewski to freely communicate with the City of Dallas regarding all aspects of FEMA's mission and operations. This authorization will significantly promote and protect the public interest by enabling Dr. Kaniewski to freely carry out the responsibilities of his office.

This authorization does not otherwise affect Dr. Kaniewski's obligation to comply with all other pre-existing government ethics rules, provisions of the Executive Order 13770, and with other commitments he made in his Ethics Agreement.

12/1/17

Date

(b)(6)

Joseph B. Maher
Designated Agency Ethics Official

DEC 4 - 2017



**Homeland
Security**

MEMORANDUM FOR HEADQUARTERS DIRECTORATE AND OFFICE HEADS

FROM:

Joseph B. Mahe
Acting General Counsel
Designated Agency Ethics Official

(b)(6)

SUBJECT:

2018 Government Ethics Program Liaison

As the Office of General Counsel Ethics Law Division (ELD) prepares to close out this year's ethics program, I wanted to extend my gratitude to you for your organization's continued support of the DHS standards of conduct program and to request certain, specific support for CY18 from your organization. The importance of Government ethics extends far beyond compliance with the baseline mandatory requirements of filing disclosures and training. Ethics rules are designed to ensure our employees incorporate these principles into all DHS mission activities and objectives so that the public can rely on the integrity and impartiality in our stewardship of DHS' mission.

A necessary part of improving the ethics program is greater involvement of your offices so we can increase program effectiveness and efficiencies. Like many programs, the DHS ethics program cannot fulfill its mission without timely, accurate personnel information. Accordingly, I am requesting that you designate at least one individual in your office to liaise with the Ethics Law Division on Government ethics program requirements—most notably to identifying financial disclosure filers, as well as track and assist with enforcement of their filing and training compliance. Your designee should be an individual who is directly involved in personnel changes for your organization. We are also asking for a designee who has the ability to assign required training within your organization.

The Ethics Law Division has deployed electronic financial disclosure filing systems for senior executive filers and all other employees who are required filers. In addition, the Ethics Law Division is working with OCHCO to utilize PALMS to make necessary training more accessible. To that end, I appreciate your continued patience as ELD works with supporting organizations, to include the Chief Human Capital Office and the Office of the Chief Information Officer, to remediate technical challenges and improve these resources.

Please forward the designees' names to Erica Dornburg, Deputy Associate General Counsel for Ethics, at Erica.Dornburg@hq.dhs.gov or (202) 447-3516 not later than **December 17, 2017**. Erica Dornburg is available to assist your offices with questions about mandatory financial disclosure and training requirements and to re-assess the filing status of all personnel in your organization.

Thank you for your continued leadership in advancing the DHS Government ethics program.

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Scott Falk
Chief Counsel
Customs and Border Protection

FROM: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the Customs and Border Protection (CBP). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ *See also* 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career CBP attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to CBP employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the CBP Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: David Brunjes
Chief Counsel
Federal Law Enforcement Training Center

FROM: Joseph B. Maher (b)(6)
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the Federal Law Enforcement Training Center (FLETC). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career FLETC attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to FLETC employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the FLETC Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Michael Davis
Deputy Principal Legal Advisor
Immigration and Customs Enforcement

FROM: Joseph B. Maher (b)(6)
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Deputy Principal Legal Advisor, to assist in managing and coordinating the Department's ethics program within the Immigration and Customs Enforcement (ICE). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career ICE attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to ICE employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the ICE Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Francine Kerner
Chief Counsel
Transportation Security Administration

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the Transportation Security Administration (TSA). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career TSA attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to TSA employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the TSA Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Calvin Lederer
Deputy Judge Advocate General/Deputy Chief Counsel
United States Coast Guard (b)(6)

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the United States Coast Guard (USCG). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USCG attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USCG employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USCG Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Molly Groom
Deputy Chief Counsel
U.S. Citizenship and Immigration Services

FROM: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

(b)(6)

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Deputy Chief Counsel, to assist in managing and coordinating the Department's ethics program within the U.S. Citizenship and Immigration Services (USCIS). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USCIS attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USCIS employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USCIS Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Donna Cahill
Chief Counsel
United States Secret Service
(b)(6)

FROM: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the United States Secret Service (USSS). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USSS attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USSS employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USSS Chief Deputy Ethics Official are hereby revoked.

cc:
Associate General Counsel for Ethics



Homeland Security

JAN 07 2018

MEMORANDUM FOR: Steven J. Andersen, RDML
Judge Advocate General and Chief Counsel
United States Coast Guard

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel and Judge Advocate General, to assist in managing and coordinating the Department's ethics program within the United States Coast Guard (USCG). Subject to the Associate General Counsel for Ethics and my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subparts B and C. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USCG attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USCG employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me, by way of the Ethics Law Division, with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USCG Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics



Homeland Security

January 16, 2018

Memorandum To: David Pekoske
Transportation Security Agency Administrator

From: Joseph B. Maher (b)(6)
Acting General Counsel and
Designated Agency Ethics Official
Department of Homeland Security

Subject: Clarification and Authorization to Participate in Matters involving
the Naval Postgraduate School

This memorandum clarifies that you may participate in official Transportation Security Agency (TSA) matters involving the Naval Postgraduate School (NPS), notwithstanding the language included in your Ethics Agreement signed on May 31, 2017.

Background

As you know, as part of the Ethics Agreement and upon your confirmation, you appropriately resigned from your positions and professional affiliations with various entities, including NPS. For one-year after your resignation from each of the entities, you agreed to not participate in any particular matter involving specific parties in which any such entity is a party or represents a party to the matter, unless you are first authorized to participate, pursuant to 5 C.F.R. § 2635.502. Your Ethics Agreement erroneously included NPS in the list of entities from which you are recused for a year. However, because NPS is a federal entity, the impartiality rules do not require such recusal. This is because the impartiality rule and recusal apply to "persons" an employee served prior to government employment and the definition of "persons" does not include any agency or entity of the federal government. 5 C.F.R. § 2635.102(k) ("...It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity.").

Hence, upon the advice of the U.S. Office of Government Ethics, we are issuing this memo and authorization to make it clear that neither this rule nor any other rule (including the ethics pledge) requires you to recuse from official matters involving NPS.¹ Moreover, as described in more detailed below, even if a reasonable person were to question the integrity of the agency's programs and operations because of your participation in an official matter involving NPS, we would still authorize it based on a

¹ We conferred with the U.S. Office of Government Ethics (OGE) and rather than amending the Ethics Agreement, they recommended that we issue a clarifying memorandum and, as necessary, an authorization.

David Pekoske
January 16, 2018

determination that the Government's interest in your participation outweighs any potential appearance concern.

Analysis

The appearance of impartiality rule, among other things, bars an employee from participating in a particular matter involving specific parties without authorization from an agency designee when the employee knows that a person with whom he or she has a covered relationship is or represents a party to such a matter and the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter. 5 C.F.R. § 2635.502(a). Further, employees with circumstances that are not identified within the rule but would still cause a reasonable person with knowledge of the relevant facts to question the employee's ability to be impartial are directed to seek a determination from an agency designee as to whether or not they should participate in matters involving the parties to those circumstances. 5 C.F.R. § 2635.502(a)(2).

Absent a conflict of interest under 18 U.S.C. §208, which is not present here, an agency designee (including an Ethics Attorney) may authorize an employee to participate in a matter, notwithstanding the information above upon a determination that, in light of all relevant circumstances, the interest of the Government in the employee's participation outweighs the concern that a reasonable person might question the integrity of the agency's work. 5 C.F.R. § 2635.502(d).

In this instance, a reasonable person with knowledge of the relevant circumstances is unlikely to question your impartiality. Here, you performed work for NPS as an independent contractor (i.e., adjunct professor) within the last year prior to your appointment as TSA Administrator on August 11, 2017. However, as discussed, NPS is a federal entity and the impartiality rule does not apply to former employers who are federal entities.² Moreover, DHS' interest in your participation outweighs any concern that a reasonable person may question the integrity of the agency's programs and operations. In making this determination, we considered relevant factors outlined in 5 C.F.R. § 2635.502(d). As the TSA Administrator, it is of utmost importance for you to be visible and an active participant throughout the federal community (and other outside stakeholders), especially in those instances in which you can provide leadership and share TSA's mission and focus. Further, we are convinced that you have and will continue to make yourself available as appropriate to other federal (and non-federal entities) that may request your presence.

Additionally, your recusal under the Ethics Pledge from participating in matters involving former employer and clients do not apply to NPS. *See*, Executive Order 13770, 82 Fed. Reg. 9333, Paragraph 6 (January 28, 2017) (describing two year ban for political appointees on participating in particular matters directly and substantially related to former employers and clients); *see also*, Office of Government Ethics DAEOgram DO-09-011 (March 26, 2009; *applied to current Executive Order 13770 via OGE Legal*

² You resigned from NPS on June 9, 2017.

David Pekoske
January 16, 2018

Advisory LA-17-03 (March 20, 2017) (concluding that the definition of former employers in the Ethics Pledge is meant to also exclude Federal Government entities for former clients).

Accordingly, neither the impartiality rule nor the ethics pledge requires you to abstain from participating in TSA matters impacting NPS. Still, given the language included in the Ethics Pledge regarding the impartiality rules, out of an abundance of caution, we are issuing this authorization for you to participate in official TSA matters involving NPS.

Authorization

For these reasons, you are hereby authorized to participate in official matters involving NPS. Authorization is granted based on the facts described, in accordance with 5 C.F.R. § 2635.502(d), that “the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the agency’s programs and operations.”

Acknowledgement:

TSA Administrator David Pekoske

Date

FEB 2 2018



Homeland Security

MEMORANDUM FOR: Erica Dornburg
Acting Associate General Counsel for Ethics

FROM: Joseph B. Mahoney (b)(6)
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the acting Associate General Counsel for Ethics (AGC (Ethics)), to assist in managing and coordinating the department's ethics program for Headquarters and responsibility for oversight of the department's ethics program as a whole. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ *See also* 5 C.F.R. part 2638, subparts B and C. As the acting AGC(Ethics), formerly known as the Legal Advisor for Ethics, pursuant to Delegation Number 0420, you are the Alternate Agency Ethics Official, and notwithstanding the above, you may perform all of the functions described in 5 C.F.R. § 2638.104 in my absence. *See also* 5 C.F.R. § 2638.104(d). You are specifically delegated the responsibility to make the determination and authorize compensated teaching by covered non-career employees, pursuant to 5 C.F.R. § 2636.307. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career Ethics Law Division attorneys and attorneys in the Office of the General Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Headquarter employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career attorneys in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s). Prior delegations of my authority under 5 C.F.R. §§ 2638.104 and 2636.307 to the Associate General Counsel for Ethics are hereby revoked.

cc:

Chief of Staff, Office General Counsel



Homeland Security

APR - 2 2018

MEMORANDUM FOR: Kirstjen Nielsen
Secretary

FROM: Joseph B. Maher
Principal Deputy
Designated Agency Ethics Official

SUBJECT: Authorization Pursuant to Participate in DHS Matters Related to
the North American Treaty Organization

(b)(6)

This memorandum reviews the applicable ethics authorities and, pursuant to those authorities, authorizes your participation in all Government matters involving the North American Treaty Organization (NATO), including particular matters involving specific parties in which the NATO is a party or represents a party. Doing our analysis, we considered a number of laws, including two laws that restrict acting when conflicts arise: President Trump's Executive Order on ethics (which this memorandum determines does not prohibit your engagement) and Title 5 ethics regulations (which this memorandum waives). Based on the all relevant facts concerning your prior association with NATO and your critical role in ensuring the accomplishment of the DHS mission and homeland and national security for the United States, we have determined that NATO does not qualify as a former client or former employer. Further, due to a lapse of time, you no longer have a "covered relationship" with NATO that would require your recusal from participation in Government matters where NATO is a party or represents a party. But, even if you did have a "covered relationship" with NATO, the DHS interest in your participation outweighs any concerns that your participation would lead a reasonable person with knowledge of the facts to question your impartiality in matters involving NATO.

Background

In May 2015, NATO appointed you as a civilian expert to NATO. The U.S. Government – specifically, a DHS Deputy Assistant Secretary in National Protection and Programs Directorate – identified you to NATO as a subject matter expert for appointment by NATO as a civilian expert. Your service to NATO was purely advisory in nature, without fiduciary responsibilities, and was uncompensated. At most, you would have been eligible for

reimbursement for expenses such as travel. You resigned from the position in January 2017 before assuming a position with the Department. I understand that besides from perfunctory administrative discussions, you only provided expertise to NATO on one discrete matter review and comments on the book “Resilience and Risk, Methods and Application in Environment, Cyber and Social Domains.” As part of this, you contributed as one of nine authors to Chapter 14, Bridging the Gap from Cyber Security to Resilience. This work was completed on or about July 2016.

In accordance with your Ethics Agreement, dated October 23, 2017, unless you were authorized to participate, you committed to recusing from participation in any particular matter involving specific parties in which NATO is a party or represents a party. This commitment was made based on your prior role as a civilian expert for NATO.

In addition to your Ethics Agreement, you are subject to the provisions of the ethics regulations regarding impartiality in performing official duties. Pursuant to these provisions, employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a “covered relationship” with that entity. When an employee has a covered relationship with an entity, the employee should recuse herself from participating in specific party matters involving that entity unless the Designated Agency Ethics Official or the employee’s supervisor determines that a reasonable person with knowledge of the facts would not question the employee’s impartiality in acting in the matter. 5 C.F.R. § 2635.501, et. seq. In certain circumstances, however, an employee may be authorized by the agency to participate in the foregoing types of matters.

You are also subject to the provisions of Executive Order 13770 (January 28, 2017) (the “Executive Order”). Under Section 1, paragraph 6, of the Executive Order, you are restricted for two years, beginning with your appointment date, from participating in any particular matter involving specific parties in which any former employer or former client is a party or represents a party.

Analysis and Conclusion

Pursuant to the U.S. Office of Government Ethics (“OGE”) Legal Advisory, DO-09-011, and validated by OGE Legal Advisory, LA-17-03,

[t]he definition of former client specifically excludes “instances where the service provided was limited to a speech or similar appearance.” Exec. Order No. 13490, sec. 2(j). In addition to excluding all activities that consist merely of speaking engagements, this provision is intended to exclude other kinds of discrete, short-term engagements, including certain de minimis consulting activities. Essentially, the Pledge is not intended to require a two-year recusal based on activities so insubstantial that they are not likely to engender the kind of lingering affinity and mixed loyalties at which the Executive Order is directed.

Based on your discreet and short-term engagement as a NATO civilian expert, I have determined that your de minimis consulting activity with NATO constitutes a limited appearance. The

activity was insubstantial and did not engender a lingering affinity or create mixed loyalties so as to make NATO a former client under the Executive Order. I therefore find that you do not have a two-year recusal based on the Executive Order, which would otherwise prohibit your participation in Government matters where NATO is a party or represents a party.

Further, the regulatory provisions designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties, provide that you have a covered relationship with NATO for one year after you last provided services. This impartiality recusal however is no longer applicable to you as more than a year has lapsed since you last provided services to NATO. 5 C.F.R. § 2635.502.

This same regulation provides that where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question her impartiality in the matter, the employee should not participate in the matter unless she has informed the agency designee of the appearance problem and received authorization.

As Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving NATO. I find that a reasonable person with knowledge of the relevant facts would not question your impartiality if you participated in Government matters where NATO was a party or represented a party.

This does not otherwise affect your obligation to comply with all other pre-existing government ethics rules, other provisions of the Executive Order, and with the other commitments you made in your Ethics Agreement.

AUG 22 2018



Homeland
Security

MEMORANDUM FOR: Diana R. Shaw
Assistant Inspector General for Legal Affairs and Counsel to the
Inspector General
Office of Inspector General

FROM: Joseph B. Maher
Principal Deputy
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e) to you in your capacity as the Assistant Inspector General for Legal Affairs and Counsel to the Inspector General to assist in managing and coordinating the Department's ethics program within the Office of Inspector General (OIG). Subject to the Associate General Counsel for Ethics and my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f). You have the authority to make referrals to the Department of Justice and submit Notifications of Conflict of Interest Referral (U.S. Office of Government Ethics Form 202), pursuant to 5 C.F.R. § 2638.206 to the U.S. Office of Government Ethics, with notification to me. *See also* 5 C.F.R. part 2638, subparts B and C. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career attorneys in the OIG who demonstrate sufficient expertise to advise, counsel, and provide ethics training to OIG employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate in writing the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity as the Designated Agency Ethics Official, except that submitting Notification of Conflict of Interest Referrals to the Department of Justice may not be further delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me, by way of the Ethics Law Division, with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the OIG Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics



Homeland Security

SEP 11 2018

MEMORANDUM FOR: Erica Dornburg
Associate General Counsel for Ethics
(b)(6)

FROM: Joseph B. Maher
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as Alternate Designated Agency Ethics
Official and Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Associate General Counsel for Ethics (AGC (Ethics)), to assist in managing and coordinating the department's ethics program for Headquarters and responsibility for oversight of the department's ethics program as a whole. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice. *See also* 5 C.F.R. part 2638, subparts B and C. As the AGC(Ethics), formerly known as the Legal Advisor for Ethics, pursuant to Delegation Number 0420, you are the Alternate Designated Agency Ethics Official, and notwithstanding the above, you may perform all of the functions described in 5 C.F.R. § 2638.104 in my absence. *See also* 5 C.F.R. § 2638.104(d). You are specifically delegated the responsibility to make the determination and authorize compensated teaching by covered non-career employees, pursuant to 5 C.F.R. § 2636.307. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding ethics matters, the ethics program, and its functions.

The authorities granted in this delegation may be re-delegated in writing to career Ethics Law Division attorneys and attorneys in the Office of the General Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Headquarter employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career attorneys in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions. To the extent that you previously, in your acting AGC(Ethics) capacity, issued delegations, those delegations remain valid and do not require reissuance as a result of this new delegation.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s). The prior delegation, dated February 2, 2018, of my authority under 5 C.F.R. §§ 2638.104 and 2636.307 to the acting Associate General Counsel for Ethics is hereby revoked.

cc:

Chief of Staff, Office General Counsel



Homeland Security

October 5, 2018

MEMORANDUM FOR THE SECRETARY

FROM:

Joseph B. Maher
Designated Agency Ethics Officer &
Principal Deputy General Counsel

(b)(6)

SUBJECT:

Leadership in Ethics

The Director of the Office of Government Ethics has issued the attached memorandum to all Cabinet Secretaries. In this memorandum, he urges the Federal Government's leaders to demonstrate their commitment to ethical leadership by communicating it directly to their staffs.

We appreciate the efforts that you have personally made in communicating the importance of ethical leadership within the Department of Homeland Security. Your sponsorship and participation in our recent Hatch Act training session was the latest example. Your personal involvement sends a clear message.

To ensure that all of DHS is aware of your unwavering commitment to ethical leadership and understands your expectations in their daily engagements, we prepared the enclosed, draft DHS message (b)(5)

We will look for additional opportunities to support you in your continuing leadership in this area by working with your immediate staff and the Office of Public Affairs.

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



OCT 4 2018

MEMORANDUM

To: Agency Heads

From: Emory Rounds
Director

A handwritten signature in cursive script that reads "Emory Rounds".

As trusted leaders in the United States Government, we have the opportunity to improve the lives of the American people. This opportunity can be realized only with strong ethical leadership. Ethical failures hurt our ability to fulfill our missions and erode the trust of citizens in their government. Public confidence is vital to our success.

The Office of Government Ethics stands ready to help you accomplish your important work. By ensuring that government decisions are free from conflicts of interest, together we can protect the public's confidence in its government and succeed in our critical missions. To that end, in the coming months I will be scheduling a meeting with each of you to discuss the importance of ethical leadership and how the Office of Government Ethics can assist you and your ethics program.

Until then, as the leader of your agency and its ethics program, you can take action now to protect your agency and its mission. Consider demonstrating your commitment to ethical leadership by communicating it directly to your staff, meeting with your ethics team to make sure they have the support they need, and inviting your ethics officials to executive planning meetings to help foresee and prevent ethics challenges.

Together, we can secure the public's trust and deliver for the American people on their expectation of selfless governing and honest government.

Thank you for your service to our country.





Homeland Security

MEMORANDUM FOR DISTRIBUTION

FROM: Kirstjen M. Nielsen

SUBJECT: DHS Ethical Values

(b)(5)

Distribution:



Homeland
Security

OCT 29 2018

MEMORANDUM FOR HEADQUARTERS DIRECTORATE AND OFFICE HEADS

FROM: Joseph B. Maher
Principal General (b)(6)
Designated Agency Ethics Official

SUBJECT: 2019 Government Ethics Program Liaison

The Office of the General Counsel wishes to express appreciation for all the support your organization provided the DHS Government ethics program over the past year. Each of your designated ethics program liaisons aided the Ethics Law Division (ELD) strengthen our program with more accurate and timely information, allowing for greater compliance. This in turn helped to reduce the risk of potential ethics violations. Each liaison should be commended for their efforts.

ELD continues to work at improving the efficiency and effectiveness of the program, relying on support from your designated ethics program liaisons. To that end, as we close out this year, we ask for your understanding as your liaisons ethics program work increases to help ELD update financial disclosure information and ensure completion of final requirements, such as annual ethics training.

Your organizations should have benefited from the program improvements this past year. Additional improvements are underway to increase regulatory compliance in the most effective and efficient manner possible. To that end, as we prepare for the new financial disclosure year, we request your kind support to reaffirm or designate ethics program liaisons for the upcoming 2019 calendar year. Ideally, the liaison will have access or responsibility related to personnel actions, training, and familiarity with the structure and mission of your office. The liaisons will be responsible for assisting ELD identify financial disclosure filers as well as track and assist with enforcement of their filing and training compliance.

As you know, the importance of Government ethics extends far beyond compliance with the baseline mandatory requirements of filing disclosures and training. Ethics rules are designed to ensure our employees incorporate valuable principles into all DHS mission activities so that the public can rely on the integrity and impartiality in our stewardship of DHS' mission.

Please forward the designees' names to Erica Dornburg, Associate General Counsel for Ethics, at Erica.Dornburg@hq.dhs.gov or (202) 447-3516 no later than **November 16, 2018**. Erica Dornburg is available to assist your offices with questions about mandatory financial disclosure and training requirements and to re-assess the filing status of all personnel in your organization.

Thank you for your continued leadership in advancing the DHS Government ethics program.



Homeland Security

January 18, 2019

MEMORANDUM FOR DHS CHIEF DESIGNATED ETHICS OFFICIALS

FROM: Joseph B. Maher
Principal Deputy General Counsel and
Designated Agency Ethics Official (DAEO)

SUBJECT: Furlough-Limited Delegation of Authority to Selectively Exempt Employees or Categories of Outside Employment from the Prior Approval Requirement

U.S. Department of Homeland Security (DHS) employees are required to request and receive approval prior to engaging in paid outside employment and activities, pursuant to DHS Supplemental Standards of Ethical Conduct. 5 C.F.R. § 4601.103. There are multiple reasons for this requirement. It ensures that employees receive guidance about the potential ethics implications of their proposed activities, and it also helps to prevent employees from engaging in outside employment that conflicts with their official duties as outlined by the conflict of interest statutes, the Executive Branch ethics regulations, related laws, and DHS policies.

Currently, the U.S. Department of Homeland Security has experienced a lapse in funding and has been under a partial shutdown caused by a lapse in appropriations since December 21, 2018. As such, many employees have been furloughed and others are working without pay. Further, the work of the department has been limited to activities that are authorized by exceptions to the Antideficiency Act. Because of these extraordinary circumstances, we are providing additional flexibility, while maintaining compliance with the law, for employees seeking outside employment.

Under these extraordinary circumstances and for the limited duration of the lapse in appropriations, I hereby delegate to each DHS separate agency Chief Designated Ethics Official (CDEO), as defined in 5 C.F.R. §§ 4601.101 and 4601.102, the authority to selectively exempt employees or categories of outside employment from the prior approval requirement in the absence of a DAEO-approved instruction or manual, pursuant to 5 C.F.R. § 4601.103. Each DHS separate agency CDEO may implement this temporary authority as needed for the necessary and orderly operation of the component.¹ This may include exempting the requirement to seek prior approval for classes of employees or certain categories of outside employment, so long as the activities are not prohibited by law and components implement the waiver of the approval requirement in accordance with law and DHS policies. All exemptions must be memorialized in writing.

Notice Requirement

All DHS employees taking advantage of any exemption of the prior approval requirement must still provide notice of their outside employment and the expected duration to their immediate supervisor. If their immediate supervisor is furloughed, then employees should also notify the next

¹ This delegation of authority does *not* apply to U.S. Citizenship and Immigration Services.

level, exempt manager. If the employee is unsuccessful in contacting anyone in their chain who is exempt, notice should be provided to the appropriate component ethics officials.

Outside Positions Appropriate for Waiver

To alleviate the burden on DHS employees who are not currently receiving salaries, CDEOs are encouraged to provide maximum flexibility to employees. For example, CDEOs should consider exemption of the prior approval requirement for those outside paid activities that are completely unrelated to the agency's operations and the employee's official duties, do not involve a prohibited source, and do not include representational activities back to the federal government. Such an exemption is only appropriate if there is no discernable conflict of interest or very remote likelihood of a conflict of interest. For example, the following examples may be suitable for exemption for employees seeking paid in positions with non-federal employers:

- Beauty/body care services (e.g., hair/nail/skin services, masseuse/wellness services)
- Food service industry positions (e.g., waiter/waitress, host/hostess, food preparation)
- Task-oriented freelance services (e.g., TaskRabbit, Instacart, or similar services)
- Home improvement services (e.g., landscaping or handy-man services)
- Personal training/exercise instruction
- Pet care (grooming, dog-walking, pet-sitting, etc.)
- Private tutoring/college preparatory services
- Substitute teaching for an accredited elementary or high school
- Retail sales positions (e.g., working at the grocery store, mall retail shops)
- Ride sharing services (e.g. Uber, Lyft, or similar services)

These exemptions do not change the requirements for reporting outside earned income and outside positions by confidential or public financial disclosure report filers (OGE Forms 450 and 278, respectively).

In communicating this to your employees, please remember to remind employees that their outside employment must otherwise adhere to the standards of conduct, including that they may not:

- Misuse their official title or any authority associated with their government position;
- Misuse government resources including official time or the official time of the subordinate (and contractors); or
- Improperly use nonpublic information (including providing advice or recommendations for others), or disclose non-public information without authorization.

Upon the end of the current furlough, this delegation of my Designated Agency Ethics Official authority will automatically expire. You must also promptly provide the Alternate Designated Agency Ethics Official, Erica Dornburg, with copies of each executed exemption. If you have questions, please contact Ms. Dornburg at (b)(6)



Homeland Security

MAR 27 2019

MEMORANDUM FOR: Adrian Sevier
Chief Counsel and
Chief Deputy Ethics Official (CDEO), FEMA

FROM: Joseph B. Maher
Principal Deputy General Counsel and
Designated Agency Ethics Official (DAEO), DHS OGC

Authorization for FEMA to Exempt Certain Outside Employment/Activities from the Requirement to Receive Prior Approval

I hereby authorize the Federal Emergency Management Agency (FEMA) to exempt its employees from the requirement in 5 C.F.R. §4601.103 to receive prior approval for the below identified outside employment activities, so long as these activities are otherwise conducted in accordance with law (including ethics guidelines):

- Beauty/body care services (e.g., hair/nail/skin services, masseuse/wellness services)
- Food service industry positions (e.g., waiter/waitress, host/hostess, food preparation)
- Task-oriented freelance services (e.g., TaskRabbit, Instacart, or similar services)
- Home improvement services (e.g., landscaping or handy-man services)
- Personal training/exercise instruction
- Pet care (grooming, dog-walking, pet-sitting, etc.)
- Private tutoring/college preparatory services
- Substitute teaching for an accredited elementary or high school
- Retail sales positions (e.g., working at the grocery store, mall retail shops)
- Ride sharing services (e.g., Uber, Lyft, or similar services)
- Performing arts positions (e.g., musician, actor)
- Custodial or cleaning services for non-federal entities
- Employment related to local sport and recreation activities, such as working as an event official (e.g., referee or umpire), for a non-professional sporting event, coach, manager, or athlete

(b)(6)

Joseph B. Maher
Designated Agency Ethics Official

3/27/19



Homeland Security

January 21, 2015

MEMORANDUM FOR: Laurel Loomis Rimon
Counsel to the Inspector General
(b)(6)

FROM: Joseph B. Mahe
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.204, to you in your capacity as the Counsel to the Inspector General to assist in managing and coordinating the Department's ethics program within Office of the Inspector General. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.203(b) except for the functions set forth in 5 C.F.R. §§ 2638.203(b)(1) and 203(b)(3) and in 5 C.F.R. § 2634.605(c)(2).

The authorities granted in this delegation may be re-delegated in writing to career Office of the Inspector General attorneys who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Office of the Inspector General employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision. Any further delegations must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. The prior delegation to Jennifer Kendrick to serve as the Office of the Inspector General Chief Deputy Ethics Official is hereby revoked.



Homeland Security

September 9, 2016

MEMORANDUM FOR: Rear Admiral Steven J. Andersen
Judge Advocate General and Chief Counsel
U.S. Coast Guard

FROM: Joseph B. Maher
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.204 to you in your capacity as the Judge Advocate General and Chief Counsel, to assist in managing and coordinating the Department's ethics program within the U.S. Coast Guard. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.203(b) except for the functions set forth in 5 C.F.R. §§ 2638.203(b)(1) and 203(b)(2) and in 5 C.F.R. § 2634.605(c)(2).

The authorities granted in this delegation to provide advice, counseling, and training, and to administer a financial disclosure program may be re-delegated in writing to Coast Guard civilian attorneys or judge advocates, all of whom are considered career employees, who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Coast Guard employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision. This authority to delegate these responsibilities to Coast Guard attorneys is delegated solely to you and may not re-delegated. Any further delegations of ethics authority must identify by name the individuals with delegated authority. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all of your delegates to include their authorities, locations, and contact information.

cc: C. M. Lederer, Deputy Judge Advocate General



Homeland Security

March 13, 2017

MEMORANDUM FOR: John F. Kelly
Secretary

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Authorization Pursuant to 5 C.F.R. § 2635.502 to Participate in
Acquisition Matters the Government of Australia

This memorandum reviews the applicable ethics authorities and, pursuant to those authorities, authorizes your participation in all Government matters involving the Government of Australia, including particular matters involving specific parties in which the Government of Australia (“Australia”) is a party or represents a party. Two laws would otherwise prohibit your participation in matters involving the Government of Australia: President Trump’s Executive Order on ethics (which the White House has waived in this circumstance) and Title 5 ethics regulations (which this memorandum waives in this circumstance). The attached “Waiver of Executive Order 13,770 for Secretary John F. Kelly” describes the background of your association with the Government of Australia and your critical role in ensuring the accomplishment of the DHS mission and homeland and national security for the United States.

Background

In accordance with your Ethics Agreement, dated January 5, 2017, unless you were authorized to participate, you committed to recusing from participation in any particular matter involving specific parties in which the Government of Australia (“Australia”) is a party or represents a party, pending payment from the Government of Australia. You received payment in full from the Government of Australia on February 8, 2017.

In addition to your Ethics Agreement, you are subject to the provisions of the ethics regulations regarding impartiality in performing official duties. Pursuant to these provisions, employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a “covered relationship” with that entity. When an employee has a covered relationship with a

a reasonable person with knowledge of the facts would not question the employee's impartiality in acting in the matter. 5 C.F.R. § 2635.501, et. seq. In certain circumstances, however, an employee may be authorized to participate in the foregoing types of matters if authorized by the agency.

You are also subject to the provisions of Executive Order 13770 (January 28, 2017) (the "Executive Order"). Under Section 1, paragraph 6, of the Executive Order, you are restricted for two years, beginning with your appointment date, from participating in any particular matter involving specific parties in which your former client, the Government of Australia, ("Australia"), is a party or represents a party. The White House determined that it was in the public interest to grant a waiver of this restriction, enabling you to participate in all matters involving the Government of Australia.

Analysis and Conclusion

The regulatory provisions are designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties. Towards that end, 5 C.F.R. § 2635.502 provides for an employee to seek authorization in certain circumstances in which his participation may call into doubt his impartiality. With respect to the Government of Australia, you have requested authorization to participate in all matters involving the Government of Australia, including particular matters involving specific parties in which the Government of Australia ("Australia") is a party or represents a party.

As Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving the Government of Australia. In light of your recent teaching position with Australia, and your recent honorarium payment from Australia, a reasonable person might question your impartiality in making critical decisions on sensitive matters of homeland and national security.

Accordingly, as instructed by the regulation, I have followed the process set forth in § 2635.502(d), to consider authorizing your participation in matters involving Australia. I have considered the isolated, short-term nature of your teaching position; the fact that you no longer have a personal financial interest that is affected by Australia; the critical need for your engagement in homeland and national security; and the probability that DHS's role could be undermined on a national and international scale or could be detrimentally affected by significant inefficiencies if you are restricted from interacting with any national or international group or official solely due to the Government of Australia's involvement or participation. Based on the foregoing considerations, as more fully set forth in the attached White House Waiver Certification, I have determined that it is necessary and appropriate to authorize you to participate in all matters involving the Government of Australia.

Attachment: Waiver of Executive Order 13,770 for Secretary John F. Kelly

Authorization

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.502(d), I authorize Secretary John F. Kelly to participate in all matters involving the Government of Australia, including any particular matter involving specific parties in which the Government of Australia (“Australia”) is a party or represents a party. In granting this authorization, I have determined that in light of all relevant circumstances, the interest of the Government in Secretary Kelly’s participation in all matters involving the Government of Australia outweighs the concern that a reasonable person may question the integrity of DHS’s programs and operations. I have considered relevant factors including the Government’s critical need for Secretary Kelly to effectively carry out his duties as Secretary of DHS. The role of the Secretary is at the center of the Department’s important national security and related missions. The successful accomplishment of these DHS missions relies on extensive, open, and collaborative communications within the Department and between the Secretary and the President, United States Government officials and foreign government officials. I have also considered the limited nature of Secretary Kelly’s involvement with the Government of Australia, while he was a retired military officer, and the critical national interest served by authorizing Secretary Kelly to freely communicate with all members of the national and international community regarding all aspects of DHS’s mission and operations. This authorization will significantly promote and protect the public interest by enabling Secretary Kelly to freely carry out the responsibilities of his office.

I have also considered the White House Counsel Waiver Certification, granted to Secretary on March 10, 2017, pursuant to Executive Order 13770, Section 3.

This waiver does not otherwise affect Secretary Kelly’s obligation to comply with all other pre-existing government ethics rules, other provisions of the Executive Order and with the other commitments he made in his Ethics Agreement and amendments to his Ethics Agreement.

3/13/17

Date

(b)(6)

Joseph B. Maher
Designated Agency Ethics Official



Homeland Security

DATE: August 25, 2017

MEMORANDUM FOR: William Brockman Long
Administrator
Federal Emergency Management Agency
(b)(6)

FROM: Joseph B. Maher
Designated Agency Ethics Officer &
General Counsel (acting)
U.S. Department of Homeland Security

SUBJECT: Authorization Pursuant to 5 C.F.R. § 2635.502 to Participate in Any
Matter with Former State and Local Government Clients

This memorandum reviews the applicable ethics regulation and, pursuant to that regulation, authorizes your participation in all Government matters in which certain state and municipal government entities, which were your clients prior to your present role as FEMA Administrator, are a party or represent a party (hereafter, the "local government entities.") Without this Authorization you would be prohibited from participation in government matters involving the local government entities, with which you have a "covered relationship" as defined by Title 5 ethics regulations.

Background

In accordance with your Ethics Agreement, dated April 24, 2017, you committed to recusing from participating in any particular matter involving specific parties in which your former clients are or represent a party, in accordance with 5 C.F.R. § 2635.502(a). Pursuant to that regulation, employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a "covered relationship" with that entity. This covered relationship will last for a period of one year after the employee last provided service to that entity. When an employee has a covered relationship with an entity, he should not participate in a particular matter involving specific parties if a party with whom he has a covered relationship is a party to the matter or represents a party to the matter, if he determines that a reasonable person with knowledge of the relevant facts would question the employee's impartiality in acting in the matter. 5 C.F.R. § 2635.501(a), *et seq.* In certain circumstances, however, an employee may be authorized to participate in the foregoing types of matters if authorized by the agency.

You currently have a covered relationship with fourteen local government entities, which were your clients while you were employed at Hagerty Consulting, Inc. While some of this work was funded by FEMA grants, you were not involved in the management of those grants, and you neither communicated with FEMA on behalf of these entities regarding the terms of the grants nor requested funding for these grants. In addition, although all of these local government entities were your "clients," you did not personally provide services for several of these local government entities. The

following is a brief summary of the local government entities, the services Hagerty Consulting, Inc. performed for each client, and the professional services you personally provided to each client:

<i>Client</i>	<i>Hagerty Consulting Services</i>	<i>Personal Professional Services</i>	<i>Relationship with Client ended on -</i>
Brunswick/Glynn County, GA Water and Sewer Commission	Climate resilience adaptation strategy.	You personally provided no services to this client	6/20/2017
Chatham County Emergency Management Agency	Pre-disaster recovery planning, continuity of operations planning, HSEEP exercises, response and recovery support for Hurricane Matthew.	Project Executive; Finance Section Support. Provided advice on pre-disaster recovery planning.	4/30/2017
City of Danville, VA City Manager's Office	Active threat planning.	Project Executive and Subject Matter Expert. Advised client on planning and execution.	6/20/2017
Cook County Department of Homeland Security and Emergency Management	Active threat program support.	Project Executive and Subject Matter Expert. Advised client on training, planning and execution.	12/8/2016
Georgia Department of Natural Resources	Recovery plan guide development	Project Executive. Advised the client on planning and execution.	12/31/2016
Horry County, SC County Manager's Office	Flood and Hurricane Matthew recovery support.	You personally provided no services to this client	6/20/2017
Houston, TX METRO	Cost recovery planning, recovery financial support, hazard mitigation planning	Project Executive. Advised the client on plans and execution.	6/20/2017
Lee County, FL Emergency Management Agency	Evacuation planning.	Project Executive and Subject Matter Expert. Advised the client regarding plans	5/12/2017
NYC Office of Emergency Management	Post-Sandy recovery support.	You personally provided no services to this client	6/20/2017
Rhode Island Department of Environmental Management	Evacuation planning.	Project Executive. Advised the client regarding planning.	6/20/2017
Rhode Island Emergency Management Agency	Planning and EMAP Accreditation support.	You personally provided no services to this client	6/20/2017
San Diego County, CA Emergency Management Agency	Regional active threat exercises.	Project Executive and Subject Matter Expert. Advised the client on training, plans, and execution of exercises.	9/16/2016

Santa Barbara County, CA Emergency Management Agency	Post-oil spill after-action reporting.	Project Executive and Subject Matter Expert. Assisted the client create after action reports.	9/30/2016
Tarrant County, TX Public Health Department	Tabletop exercise	Project Executive and Facilitator. Facilitated plans and discussions for the exercise.	9/15/2016

FEMA Administrator Responsibilities

FEMA’s primary mission is to “reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.” 6 U.S.C. § 313. Congress specifically tasked FEMA to “partner with State, local, and tribal governments and emergency response providers . . . to build a national system of emergency management.” *Id.* The national system of emergency management includes actions to promote or assist with the five elements of emergency preparedness (prevention, protection, response, recovery, and mitigation).

To that end, the FEMA Administrator engages in a whole-community approach to emergency management, which seeks to consolidate and combine the contributions of various stakeholders comprising the entire community in an area, including individuals, the private and nonprofit sectors, faith-based organizations, and all levels of government (including state, local, and tribal government organizations). *National Preparedness Goal*, 2nd Ed. (September 2015); *see* PPD-8 (National Preparedness).

In order to effectively and efficiently carry out the FEMA mission, the Administrator may direct or engage in a broad variety of actions on matters which impact a state or local government organization, including, but not limited to the following:

- Making recommendations to the President on how to respond to a request for a Stafford Act disaster or emergency declaration from a state governor. 44 C.F.R. § 206.37, implementing 42 U.S.C. §§ 5170, 5191.
- Establishing and promoting emergency preparedness compacts for mutual assistance by states in emergency management matters. The Administrator assists and encourages states to engage in these compacts, and assists and coordinates activities under the compacts. 42 U.S.C. § 5196(h).
- Promoting emergency management training to officials, including to state and local government emergency management officials. 42 U.S.C. § 5196(f).
- Making financial contributions to states for emergency preparedness purposes, including the procurement or construction of facilities. 42 U.S.C. § 5196(j).

Analysis and Conclusion

The regulatory provisions at 5 C.F.R. § 2635.501 *et. seq.* are designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties. Toward that end, 5 C.F.R. § 2635.502 provides for an employee to seek authorization in certain circumstances in which his participation may call into doubt his impartiality. With respect to the local government entities listed above, you have requested authorization to participate in all matters involving these entities, including particular matters involving specific parties in which the local government entities are a party or represent a party.

As the Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving the local government entities. In light of your recent position as the Executive Vice President of Hagerty Consulting, and the fact that the local government entities were your clients during the last year of your service with Hagerty Consulting, a reasonable person might question your impartiality in making critical decisions on sensitive government matters involving the local government entities.

The Standards of Ethical Conduct provide a process for balancing the needs of the government in the employee's participation outweighs the potential that the integrity of the agency's operations may be questioned. Section 2635.502(d) instructs that where an employee's participation in a particular matter involving specific parties would raise a question in the mind of a reasonable person about his impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. This authorization is effectively a waiver to the impartiality rule at Section 2635.502(a). Factors which may be taken into consideration include:

- (1) The nature of the relationship involved;
- (2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- (3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) The sensitivity of the matter;
- (5) The difficulty of reassigning the matter to another employee; and
- (6) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

I have considered that, although these local government entities are your former clients, you did not personally provide services to all of them. With regard to the entities for which you provided personal professional services, the extent of your involvement was to provide advice pertaining to emergency management planning, assist with facilitating security exercises and evaluation exercises,

and to provide technical subject matter expertise regarding various phases of emergency management. You were not involved in the application for or management of any grants on behalf of any of the local government entities, and you did not make requests to any Federal agency for any Federal funding on behalf of your clients. You do not currently have any ongoing commitments to these local government entities, and you also have no personal financial interests involving any of these local government entities.

It is also significant that a Deputy Administrator for FEMA has not yet been appointed.

To effectively carry out the agency's mission of leading and supporting the nation in emergency management, the FEMA Administrator must be free to engage and coordinate with all community members and stakeholders. It is essential for the FEMA Administrator to communicate directly with local government leaders and officials both for emergency preparedness and to carry out any disaster recovery mission. In an emergency situation, this direct coordination must be done quickly and as efficiently as possible to fulfill the mission of the Agency in accomplishing recovery operations. Similarly, the importance of preparation, planning, and other resilience mission activities, make it critical that the FEMA Administrator engage with government leaders and officials at all levels to ensure all parties can coordinate and implement recovery plans effectively. Overall, the FEMA Administrator plays a unique role in emergency management which requires the ability to engage in robust interactions with state and local government officials. The FEMA Administrator is responsible for providing leadership and direction to FEMA employees as they coordinate and support state and local government officials in all aspects of emergency management (preparedness, protection, response, recovery, and mitigation). The significant public interest in the agility of FEMA to support first responders and communities in need of emergency management assistance, planning, and coordination requires that the Administrator be able to fully exercise his leadership role in ongoing oversight and direction for FEMA coordination and collaboration with government entities. That significant public interest, in combination with the other factors described above, leads me to make the authorization described below. Based on the foregoing considerations, I have determined that it is the government's need for you to participate in all matters involving the local government entities that were your clients while you were employed at Hagerty Consulting outweighs the concern that a reasonable person might question your impartiality.

Authorization

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.502(d), I authorize FEMA Administrator William Brockman Long to participate in all matters, including particular matters involving specific parties in which the following state and municipal entities are a party or represent a party:

Brunswick/Glynn County, GA Water and Sewer Commission
Chatham County Emergency Management Agency
City of Danville, VA City Manager's Office
Cook County Department of Homeland Security and Emergency Management
Georgia Department of Natural Resources
Horry County, SC County Manager's Office
Houston, TX METRO
Lee County, FL Emergency Management Agency
NYC Office of Emergency Management
Rhode Island Department of Environmental Management
Rhode Island Emergency Management Agency
San Diego County, CA Emergency Management Agency
Santa Barbara County, CA Emergency Management Agency
Tarrant County, TX Public Health Department

In granting this authorization, I have determined that in light of all the relevant circumstances, the interests of the Government in Administrator Long's participation in all matters involving these state and municipal entities outweighs the concern that a reasonable person may question the integrity of FEMA's programs and operations. I have considered relevant factors including Government's critical need for Administrator Long to effectively carry out his duties as Administrator of FEMA and the lack of an appointed Deputy Administrator. The role of Administrator is at the center of FEMA's mission to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents. The FEMA Administrator has a statutory duty to coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation. The successful accomplishment of FEMA's mission relies on the Administrator's active leadership and facilitation of a healthy partnership between the federal government and state, local, and tribal government and emergency response providers. I have also considered the fact that Mr. Long does not have a personal financial interest that is affected by these state and municipal entities, and the critical national interest served by authorizing Administrator Long to freely communicate with all members of state and municipal government regarding all aspects of FEMA's mission and operations. This authorization will significantly promote and protect the public interest by enabling Administrator Long to freely carry out the responsibilities of his office.

This authorization does not otherwise affect Administrator Long's obligation to comply with all other pre-existing government ethics rules, provisions of the Executive Order 13770, and with other commitments he made in his Ethics Agreement.

Aug. 25, 2017
Date

(b)(6)

Joseph B. Maher
Designated Agency Ethics Official



Homeland Security

DEC 01 2017

MEMORANDUM FOR: Daniel Kaniewski
Deputy Administrator, Protection and National Preparedness
Federal Emergency Management Agency (FEMA)

FROM: Joseph B. Maher (b)(6)
Designated Agency Ethics Official

SUBJECT: Authorization Pursuant to 5 C.F.R. § 2635.502 to Participate in Any
Matter with the City of Dallas, Texas

This memorandum reviews the applicable ethics regulation and, pursuant to that regulation, authorizes your participation in all government matters in which the City of Dallas, Texas (hereafter, "City of Dallas") is a party or represents a party. Without this Authorization you would be prohibited from participation in certain government matters involving the City of Dallas, as a result of your "covered relationship" with the City of Dallas as defined by Title 5 of the Federal ethics regulations.

Background

Pursuant to 5 C.F.R. § 2635.502(a), employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a "covered relationship" with that entity. This covered relationship lasts for a period of one year after the employee last provided service to that entity. When an employee has a covered relationship with an entity, he should not participate in a particular matter involving specific parties if a party with whom he has a covered relationship is a party to the matter or represents a party to the matter, if he or his agency designee determines that a reasonable person with knowledge of the relevant facts would question the employee's impartiality in acting in the matter. 5 C.F.R. § 2535.501(a), *et seq.* In certain circumstances, however, an employee may be authorized to participate in the foregoing types of matters if authorized by the agency. 5 C.F.R. § 2635.502(a).

Prior to your current FEMA position, you were the Vice President of Global Resilience with Air Worldwide. Because the City of Dallas was one of your clients, you currently have a covered relationship with the City of Dallas. AIR Worldwide provided company services generally, as well as your services, to the City of Dallas pro bono, and no other party covered the cost for AIR Worldwide's, or your services, to the City of Dallas. These services to the City of Dallas were performed as part of the company's role as a Platform Partner to the 100 Resilient Cities Initiative (see, <http://www.100resilientcities.org/>). Your specific role was to support a study and a report related to the City of Dallas' resilience to a variety of hazards (termed as "shocks and stresses"),

which include natural hazards (e.g., weather) and society-induced stresses (such as, poverty and civil unrest). Your relationship with the client ended on June 29, 2017.

Responsibilities of FEMA Deputy Administrator for Protection and National Preparedness

FEMA's primary mission is to "reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation." 6 U.S.C. § 313. Congress specifically tasked FEMA to, among other things, "partner with State, local, and tribal governments and emergency response providers... to build a national system of emergency management." *Id.* The national system of emergency management includes actions to promote or assist with the five elements of emergency preparedness (prevention, protection, response, recovery, and mitigation).

Protection and National Preparedness (PNP) is the organization within FEMA which is responsible for the coordination of preparedness and protection-related activities throughout FEMA, including grants, planning, training, exercises, individual and community preparedness, assessments, lessons learned, and continuity. In order to effectively and efficiently carry out the FEMA mission, the Deputy Administrator for Protection and National Preparedness may direct or engage in a broad variety of actions on matters which impact a state or local government organization, including, but not limited to the following:

- Establishing and promoting emergency preparedness compacts for mutual assistance by states in emergency management matters. The Deputy Administrator for PNP assists and encourages states to engage in these compacts, and assists and coordinates activities under the compacts. *See* 42 U.S.C. § 5196(h).
- Promoting emergency management training to officials, including to state and local government emergency management officials, as well as exercises to evaluate and verify preparedness. *See* 42 U.S.C. § 5196(f).
- Providing federal assistance through various grant portfolios to support the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. *See, i.e.,* Homeland Security Grant Programs, 6 U.S.C. § 603; Urban Area Security Initiative, 6 U.S.C. § 604; Emergency Management Assistance Compact Grants, 6 U.S.C. § 761.

Analysis and Conclusion

The regulatory provision at 5 C.F.R. § 2635.501 et. seq. is designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties. Towards that end, 5 C.F.R. § 2635.502 provides for an employee to seek authorization in certain circumstances in which his participation may call into doubt his impartiality. You have requested authorization to participate in all matters involving the City of Dallas, including particular matters involving specific parties in which the City of Dallas is a party or represents a party.

As a Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving a former client. In light of your recent position as Vice

President, Global Resilience for AIR Worldwide, and the fact that the City of Dallas was your client during the last year of your service with AIR Worldwide, a reasonable person might question your impartiality in making critical decisions on sensitive government matters involving the local government entities.

The Standards of Ethical Conduct provides a process for evaluating whether the government's need to have an employee participate in a matter outweighs the potential that the integrity of the agency's operations may be questioned. Section 2635.502(d) instructs that where an employee's participation in a particular matter involving specific parties would raise a question in the mind of a reasonable person about his impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. This authorization is effectively a waiver to the impartiality rule at Section 2635.502(a). Factors which may be taken into consideration include:

- (1) The nature of the relationship involved;
- (2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- (3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) The sensitivity of the matter;
- (5) The difficulty of reassigning the matter to another employee; and
- (6) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

I have considered the circumstances involving your work for the City of Dallas. The extent of your involvement was to provide support for a study and follow up report on resilience for a variety of hazards and societal stresses found to be impacting the City of Dallas. Your services were provided on a pro bono basis, and you had no involvement or interaction with any part of the Federal government in performing this work. You were not involved in the application for or management of any Federal grants on behalf of the City of Dallas, nor did you make any request to any Federal agency for any Federal funding on behalf of the City of Dallas. You do not currently have any ongoing commitments to the City of Dallas, and you also have no personal financial interests involving the City of Dallas.

To effectively carry out the agency's mission of leading and supporting the nation in emergency management, the FEMA Deputy Administrator for Protection and National Preparedness must be free to engage and coordinate with all community members and stakeholders. It is essential for the FEMA Deputy Administrator for Protection and National Preparedness to communicate directly with local government leaders and officials regarding all aspects of emergency preparedness, readiness, and protection. The importance of preparation, planning, and other resilience mission activities, make it critical that the FEMA Deputy Administrator for Protection and National Preparedness engage with government leaders and officials at all levels to ensure all parties can coordinate and implement recovery plans effectively and engage in activities prior to disasters or emergencies which may prevent or mitigate the effects of those situations. Overall, the FEMA Deputy Administrator for Protection and National Preparedness plays a unique role in emergency

management which requires the ability to engage in robust interactions with state and local government officials. The FEMA Administrator Deputy Administrator for Protection and National Preparedness is responsible for providing leadership and direction to FEMA employees as they coordinate and support state and local government officials in the key emergency management aspects of preparedness, protection, and mitigation. The significant public interest in the agility of FEMA to support first responders and communities requires that the FEMA Deputy Administrator for Protection and National Preparedness be able to fully exercise his leadership role in ongoing oversight and direction for FEMA coordination and collaboration with government entities.

As instructed by the regulation, I have followed the process set forth in 5 C.F.R. § 2635.502(d) to consider authorizing your participation in matters involving the City of Dallas. I have considered the fact that you do not have a personal financial interest that is affected by the City of Dallas, the critical need for your engagement with local government entities to be able to carry out the FEMA mission, and the possibility that the nation's emergency management capabilities for the City of Dallas metropolitan area could be detrimentally affected by significant inefficiencies if you are restricted from interacting with the City of Dallas. Based on the foregoing considerations, I have determined that the government's need for you to participate in all matters involving the City of Dallas outweighs the concern that a reasonable person might question your impartiality.

Authorization

In accordance with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635.502(d), I authorize Dr. Daniel Kaniewski, Deputy FEMA Administrator for Protection and National Preparedness, to participate in all matters, including particular matters involving specific parties, in which the City of Dallas is a party or represents a party.

In granting this authorization, I have determined that in light of all the relevant circumstances, the interests of the Government in Dr. Kaniewski's participation in all matters involving the City of Dallas outweighs the concern that a reasonable person may question the integrity of FEMA's programs and operations. I have considered relevant factors including Government's critical need for Dr. Kaniewski to effectively carry out his duties as FEMA Deputy Administrator for Protection and National Preparedness. His role is at the center of FEMA's mission to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents. This role directly supports the FEMA Administrator's statutory duty to coordinate the implementation of a risk-based, all-hazards strategy that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation. The successful accomplishment of FEMA's mission partly relies on the active leadership and facilitation of a healthy partnership between the federal government and state, local, and tribal government and emergency response providers. I have also considered the fact that Dr. Kaniewski does not have a personal financial interest that is affected by the City of Dallas, and the critical national interest served by authorizing Dr. Kaniewski to freely communicate with the City of Dallas regarding all aspects of FEMA's mission and operations. This authorization will significantly promote and protect the public interest by enabling Dr. Kaniewski to freely carry out the responsibilities of his office.

This authorization does not otherwise affect Dr. Kaniewski's obligation to comply with all other pre-existing government ethics rules, provisions of the Executive Order 13770, and with other commitments he made in his Ethics Agreement.

12/1/17

Date

(b)(6)

Joseph B. Maner
Designated Agency Ethics Official

DEC 4 - 2017



**Homeland
Security**

MEMORANDUM FOR HEADQUARTERS DIRECTORATE AND OFFICE HEADS

FROM:

Joseph B. Mahoney
Acting General Counsel and
Designated Agency Ethics Official

(b)(6)

SUBJECT:

2018 Government Ethics Program Liaison

As the Office of General Counsel Ethics Law Division (ELD) prepares to close out this year's ethics program, I wanted to extend my gratitude to you for your organization's continued support of the DHS standards of conduct program and to request certain, specific support for CY18 from your organization. The importance of Government ethics extends far beyond compliance with the baseline mandatory requirements of filing disclosures and training. Ethics rules are designed to ensure our employees incorporate these principles into all DHS mission activities and objectives so that the public can rely on the integrity and impartiality in our stewardship of DHS' mission.

A necessary part of improving the ethics program is greater involvement of your offices so we can increase program effectiveness and efficiencies. Like many programs, the DHS ethics program cannot fulfill its mission without timely, accurate personnel information. Accordingly, I am requesting that you designate at least one individual in your office to liaise with the Ethics Law Division on Government ethics program requirements—most notably to identifying financial disclosure filers, as well as track and assist with enforcement of their filing and training compliance. Your designee should be an individual who is directly involved in personnel changes for your organization. We are also asking for a designee who has the ability to assign required training within your organization.

The Ethics Law Division has deployed electronic financial disclosure filing systems for senior executive filers and all other employees who are required filers. In addition, the Ethics Law Division is working with OCHCO to utilize PALMS to make necessary training more accessible. To that end, I appreciate your continued patience as ELD works with supporting organizations, to include the Chief Human Capital Office and the Office of the Chief Information Officer, to remediate technical challenges and improve these resources.

Please forward the designees' names to Erica Dornburg, Deputy Associate General Counsel for Ethics, at (b)(6) not later than **December 17, 2017**. Erica Dornburg is available to assist your offices with questions about mandatory financial disclosure and training requirements and to re-assess the filing status of all personnel in your organization.

Thank you for your continued leadership in advancing the DHS Government ethics program.

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Scott Falk
Chief Counsel
Customs and Border Protection

FROM: Joseph B. Mahe
Acting General
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the Customs and Border Protection (CBP). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ *See also* 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career CBP attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to CBP employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the CBP Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: David Brunjes
Chief Counsel
Federal Law Enforcement Training Center

FROM: Joseph B. Mahe
Acting General (b)(6)
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the Federal Law Enforcement Training Center (FLETC). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career FLETC attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to FLETC employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the FLETC Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Michael Davis
Deputy Principal Legal Advisor
Immigration and Customs Enforcement

FROM: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Deputy Principal Legal Advisor, to assist in managing and coordinating the Department's ethics program within the Immigration and Customs Enforcement (ICE). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career ICE attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to ICE employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the ICE Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Francine Kerner
Chief Counsel
Transportation Security Administration

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the Transportation Security Administration (TSA). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career TSA attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to TSA employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the TSA Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Calvin Lederer
Deputy Judge Advocate General/Deputy Chief Counsel
United States Coast Guard (b)(6)

FROM: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the United States Coast Guard (USCG). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USCG attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USCG employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USCG Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Molly Groom
Deputy Chief Counsel
U.S. Citizenship and Immigration Services

FROM: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

(b)(6)

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Deputy Chief Counsel, to assist in managing and coordinating the Department's ethics program within the U.S. Citizenship and Immigration Services (USCIS). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ See also 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USCIS attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USCIS employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USCIS Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics

DEC 14 2017



Homeland Security

MEMORANDUM FOR: Donna Cahill
Chief Counsel
United States Secret Service
(b)(6)

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel, to assist in managing and coordinating the Department's ethics program within the United States Secret Service (USSS). Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ *See also* 5 C.F.R. part 2638, subpart B and C (2017). Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USSS attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USSS employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USSS Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics



Homeland Security

JAN 07 2018

MEMORANDUM FOR: Steven J. Andersen, RDML
Judge Advocate General and Chief Counsel
United States Coast Guard

FROM: Joseph B. Maher
Acting General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Chief Counsel and Judge Advocate General, to assist in managing and coordinating the Department's ethics program within the United States Coast Guard (USCG). Subject to the Associate General Counsel for Ethics and my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ *See also* 5 C.F.R. part 2638, subparts B and C. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career USCG attorneys in the Office of the Chief Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to USCG employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me, by way of the Ethics Law Division, with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the USCG Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics



Homeland Security

January 16, 2018

Memorandum To: David Pekoske
Transportation Security Agency Administrator

From: Joseph B. Maher
Acting General Counsel
Designated Agency Ethics Official
Department of Homeland Security

Subject: Clarification and Authorization to Participate in Matters involving
the Naval Postgraduate School

This memorandum clarifies that you may participate in official Transportation Security Agency (TSA) matters involving the Naval Postgraduate School (NPS), notwithstanding the language included in your Ethics Agreement signed on May 31, 2017.

Background

As you know, as part of the Ethics Agreement and upon your confirmation, you appropriately resigned from your positions and professional affiliations with various entities, including NPS. For one-year after your resignation from each of the entities, you agreed to not participate in any particular matter involving specific parties in which any such entity is a party or represents a party to the matter, unless you are first authorized to participate, pursuant to 5 C.F.R. § 2635.502. Your Ethics Agreement erroneously included NPS in the list of entities from which you are recused for a year. However, because NPS is a federal entity, the impartiality rules do not require such recusal. This is because the impartiality rule and recusal apply to "persons" an employee served prior to government employment and the definition of "persons" does not include any agency or entity of the federal government. 5 C.F.R. § 2635.102(k) ("...It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity.").

Hence, upon the advice of the U.S. Office of Government Ethics, we are issuing this memo and authorization to make it clear that neither this rule nor any other rule (including the ethics pledge) requires you to recuse from official matters involving NPS.¹ Moreover, as described in more detailed below, even if a reasonable person were to question the integrity of the agency's programs and operations because of your participation in an official matter involving NPS, we would still authorize it based on a

¹ We conferred with the U.S. Office of Government Ethics (OGE) and rather than amending the Ethics Agreement, they recommended that we issue a clarifying memorandum and, as necessary, an authorization.

David Pekoske
January 16, 2018

determination that the Government's interest in your participation outweighs any potential appearance concern.

Analysis

The appearance of impartiality rule, among other things, bars an employee from participating in a particular matter involving specific parties without authorization from an agency designee when the employee knows that a person with whom he or she has a covered relationship is or represents a party to such a matter and the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter. 5 C.F.R. § 2635.502(a). Further, employees with circumstances that are not identified within the rule but would still cause a reasonable person with knowledge of the relevant facts to question the employee's ability to be impartial are directed to seek a determination from an agency designee as to whether or not they should participate in matters involving the parties to those circumstances. 5 C.F.R. § 2635.502(a)(2).

Absent a conflict of interest under 18 U.S.C. §208, which is not present here, an agency designee (including an Ethics Attorney) may authorize an employee to participate in a matter, notwithstanding the information above upon a determination that, in light of all relevant circumstances, the interest of the Government in the employee's participation outweighs the concern that a reasonable person might question the integrity of the agency's work. 5 C.F.R. § 2635.502(d).

In this instance, a reasonable person with knowledge of the relevant circumstances is unlikely to question your impartiality. Here, you performed work for NPS as an independent contractor (i.e., adjunct professor) within the last year prior to your appointment as TSA Administrator on August 11, 2017. However, as discussed, NPS is a federal entity and the impartiality rule does not apply to former employers who are federal entities.² Moreover, DHS' interest in your participation outweighs any concern that a reasonable person may question the integrity of the agency's programs and operations. In making this determination, we considered relevant factors outlined in 5 C.F.R. § 2635.502(d). As the TSA Administrator, it is of utmost importance for you to be visible and an active participant throughout the federal community (and other outside stakeholders), especially in those instances in which you can provide leadership and share TSA's mission and focus. Further, we are convinced that you have and will continue to make yourself available as appropriate to other federal (and non-federal entities) that may request your presence.

Additionally, your recusal under the Ethics Pledge from participating in matters involving former employer and clients do not apply to NPS. *See*, Executive Order 13770, 82 Fed. Reg. 9333, Paragraph 6 (January 28, 2017) (describing two year ban for political appointees on participating in particular matters directly and substantially related to former employers and clients); *see also*, Office of Government Ethics DAEOgram DO-09-011 (March 26, 2009; *applied to current Executive Order 13770 via OGE Legal*

² You resigned from NPS on June 9, 2017.

David Pekoske
January 16, 2018

Advisory LA-17-03 (March 20, 2017) (concluding that the definition of former employers in the Ethics Pledge is meant to also exclude Federal Government entities for former clients).

Accordingly, neither the impartiality rule nor the ethics pledge requires you to abstain from participating in TSA matters impacting NPS. Still, given the language included in the Ethics Pledge regarding the impartiality rules, out of an abundance of caution, we are issuing this authorization for you to participate in official TSA matters involving NPS.

Authorization

For these reasons, you are hereby authorized to participate in official matters involving NPS. Authorization is granted based on the facts described, in accordance with 5 C.F.R. § 2635.502(d), that “the interest of the Government in the employee’s participation outweighs the concern that a reasonable person may question the integrity of the agency’s programs and operations.”

Acknowledgement:

TSA Administrator David Pekoske

Date

FEB 2 2018



Homeland Security

MEMORANDUM FOR: Erica Dornburg
Acting Associate General Counsel for Ethics

FROM: Joseph B. Mahe (b)(6)
Acting General
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the acting Associate General Counsel for Ethics (AGC (Ethics)), to assist in managing and coordinating the department's ethics program for Headquarters and responsibility for oversight of the department's ethics program as a whole. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice.¹ *See also* 5 C.F.R. part 2638, subparts B and C. As the acting AGC(Ethics), formerly known as the Legal Advisor for Ethics, pursuant to Delegation Number 0420, you are the Alternate Agency Ethics Official, and notwithstanding the above, you may perform all of the functions described in 5 C.F.R. § 2638.104 in my absence. *See also* 5 C.F.R. § 2638.104(d). You are specifically delegated the responsibility to make the determination and authorize compensated teaching by covered non-career employees, pursuant to 5 C.F.R. § 2636.307. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career Ethics Law Division attorneys and attorneys in the Office of the General Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Headquarter employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career attorneys in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

¹ Referrals to the Department of Justice shall be forwarded to the Associate General Counsel for Ethics for action.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s). Prior delegations of my authority under 5 C.F.R. §§ 2638.104 and 2636.307 to the Associate General Counsel for Ethics are hereby revoked.

cc:

Chief of Staff, Office General Counsel



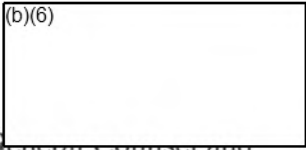
Homeland Security

APR - 2 2018

MEMORANDUM FOR: Kirstjen Nielsen
Secretary

FROM: Joseph B. Maher
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Authorization Pursuant to Participate in DHS Matters Related to
the North American Treaty Organization



This memorandum reviews the applicable ethics authorities and, pursuant to those authorities, authorizes your participation in all Government matters involving the North American Treaty Organization (NATO), including particular matters involving specific parties in which the NATO is a party or represents a party. Doing our analysis, we considered a number of laws, including two laws that restrict acting when conflicts arise: President Trump’s Executive Order on ethics (which this memorandum determines does not prohibit your engagement) and Title 5 ethics regulations (which this memorandum waives). Based on the all relevant facts concerning your prior association with NATO and your critical role in ensuring the accomplishment of the DHS mission and homeland and national security for the United States, we have determined that NATO does not qualify as a former client or former employer. Further, due to a lapse of time, you no longer have a “covered relationship” with NATO that would require your recusal from participation in Government matters where NATO is a party or represents a party. But, even if you did have a “covered relationship” with NATO, the DHS interest in your participation outweighs any concerns that your participation would lead a reasonable person with knowledge of the facts to question your impartiality in matters involving NATO.

Background

In May 2015, NATO appointed you as a civilian expert to NATO. The U.S. Government – specifically, a DHS Deputy Assistant Secretary in National Protection and Programs Directorate – identified you to NATO as a subject matter expert for appointment by NATO as a civilian expert. Your service to NATO was purely advisory in nature, without fiduciary responsibilities, and was uncompensated. At most, you would have been eligible for

reimbursement for expenses such as travel. You resigned from the position in January 2017 before assuming a position with the Department. I understand that besides from perfunctory administrative discussions, you only provided expertise to NATO on one discrete matter review and comments on the book “Resilience and Risk, Methods and Application in Environment, Cyber and Social Domains.” As part of this, you contributed as one of nine authors to Chapter 14, Bridging the Gap from Cyber Security to Resilience. This work was completed on or about July 2016.

In accordance with your Ethics Agreement, dated October 23, 2017, unless you were authorized to participate, you committed to recusing from participation in any particular matter involving specific parties in which NATO is a party or represents a party. This commitment was made based on your prior role as a civilian expert for NATO.

In addition to your Ethics Agreement, you are subject to the provisions of the ethics regulations regarding impartiality in performing official duties. Pursuant to these provisions, employees who, within the last year, acted as a consultant or contractor to an entity are considered to have a “covered relationship” with that entity. When an employee has a covered relationship with an entity, the employee should recuse herself from participating in specific party matters involving that entity unless the Designated Agency Ethics Official or the employee’s supervisor determines that a reasonable person with knowledge of the facts would not question the employee’s impartiality in acting in the matter. 5 C.F.R. § 2635.501, et. seq. In certain circumstances, however, an employee may be authorized by the agency to participate in the foregoing types of matters.

You are also subject to the provisions of Executive Order 13770 (January 28, 2017) (the “Executive Order”). Under Section 1, paragraph 6, of the Executive Order, you are restricted for two years, beginning with your appointment date, from participating in any particular matter involving specific parties in which any former employer or former client is a party or represents a party.

Analysis and Conclusion

Pursuant to the U.S. Office of Government Ethics (“OGE”) Legal Advisory, DO-09-011, and validated by OGE Legal Advisory, LA-17-03,

[t]he definition of former client specifically excludes “instances where the service provided was limited to a speech or similar appearance.” Exec. Order No. 13490, sec. 2(j). In addition to excluding all activities that consist merely of speaking engagements, this provision is intended to exclude other kinds of discrete, short-term engagements, including certain de minimis consulting activities. Essentially, the Pledge is not intended to require a two-year recusal based on activities so insubstantial that they are not likely to engender the kind of lingering affinity and mixed loyalties at which the Executive Order is directed.

Based on your discreet and short-term engagement as a NATO civilian expert, I have determined that your de minimis consulting activity with NATO constitutes a limited appearance. The

activity was insubstantial and did not engender a lingering affinity or create mixed loyalties so as to make NATO a former client under the Executive Order. I therefore find that you do not have a two-year recusal based on the Executive Order, which would otherwise prohibit your participation in Government matters where NATO is a party or represents a party.

Further, the regulatory provisions designed to ensure that employees take appropriate steps to avoid an appearance of loss of impartiality in the performance of their official duties, provide that you have a covered relationship with NATO for one year after you last provided services. This impartiality recusal however is no longer applicable to you as more than a year has lapsed since you last provided services to NATO. 5 C.F.R. § 2635.502.

This same regulation provides that where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question her impartiality in the matter, the employee should not participate in the matter unless she has informed the agency designee of the appearance problem and received authorization.

As Designated Agency Ethics Official, I may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question your impartiality in participating in all matters involving NATO. I find that a reasonable person with knowledge of the relevant facts would not question your impartiality if you participated in Government matters where NATO was a party or represented a party.

This does not otherwise affect your obligation to comply with all other pre-existing government ethics rules, other provisions of the Executive Order, and with the other commitments you made in your Ethics Agreement.

AUG 22 2018



Homeland
Security

MEMORANDUM FOR: Diana R. Shaw
Assistant Inspector General for Legal Affairs and Counsel to the
Inspector General
Office of Inspector General

FROM: Joseph B. Mahe (b)(6)
Principal Deputy General Counsel and
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as a Chief Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e) to you in your capacity as the Assistant Inspector General for Legal Affairs and Counsel to the Inspector General to assist in managing and coordinating the Department's ethics program within the Office of Inspector General (OIG). Subject to the Associate General Counsel for Ethics and my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f). You have the authority to make referrals to the Department of Justice and submit Notifications of Conflict of Interest Referral (U.S. Office of Government Ethics Form 202), pursuant to 5 C.F.R. § 2638.206 to the U.S. Office of Government Ethics, with notification to me. *See also* 5 C.F.R. part 2638, subparts B and C. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding the ethics program and its functions.

The authorities granted in this delegation may be re-delegated in writing to career attorneys in the OIG who demonstrate sufficient expertise to advise, counsel, and provide ethics training to OIG employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate in writing the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career employees in accordance with written policy I have issued in my capacity as the Designated Agency Ethics Official, except that submitting Notification of Conflict of Interest Referrals to the Department of Justice may not be further delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions.

Upon delegating ethics authority, please promptly furnish me, by way of the Ethics Law Division, with a copy of the delegation(s) and annually provide me with a list of all your delegates to include their authorities, locations, and contact information. Prior delegations to serve as the OIG Chief Deputy Ethics Official are hereby revoked.

cc:

Associate General Counsel for Ethics



Homeland Security

SEP 11 2018

MEMORANDUM FOR: Erica Dornburg
Associate General Counsel for Ethics

FROM: Joseph B. Mahe
Principal Deputy
Designated Agency Ethics Official

SUBJECT: Delegation to Serve as Alternate Designated Agency Ethics
Official and Deputy Ethics Official

This is a delegation of my authority as outlined in 5 C.F.R. § 2638.104(e), to you in your capacity as the Associate General Counsel for Ethics (AGC (Ethics)), to assist in managing and coordinating the department's ethics program for Headquarters and responsibility for oversight of the department's ethics program as a whole. Subject to my oversight, direction, and guidance, I delegate to you the authority to perform the duties referred to in 5 C.F.R. § 2638.104(c) except for the functions set forth in 5 C.F.R. § 2638.104(f) and excluding the authority to make referrals to the Department of Justice. *See also* 5 C.F.R. part 2638, subparts B and C. As the AGC(Ethics), formerly known as the Legal Advisor for Ethics, pursuant to Delegation Number 0420, you are the Alternate Designated Agency Ethics Official, and notwithstanding the above, you may perform all of the functions described in 5 C.F.R. § 2638.104 in my absence. *See also* 5 C.F.R. § 2638.104(d). You are specifically delegated the responsibility to make the determination and authorize compensated teaching by covered non-career employees, pursuant to 5 C.F.R. § 2636.307. Notwithstanding, the authorities I am delegating to you, I retain the authority to make final decisions regarding ethics matters, the ethics program, and its functions.

The authorities granted in this delegation may be re-delegated in writing to career Ethics Law Division attorneys and attorneys in the Office of the General Counsel who demonstrate sufficient expertise to advise, counsel, and provide ethics training to Headquarter employees on the ethics laws and regulations and to collect, review, and certify financial disclosure reports under your supervision.

You are further authorized to re-delegate the authority to implement the financial disclosure program as set forth in 5 C.F.R. § 2638.104(c)(8) to career attorneys in accordance with written policy I have issued in my capacity the Designated Agency Ethics Official, except that referrals to the Department of Justice may not be delegated.

All delegations of ethics authority must identify the individuals with delegated authority by name. Your delegation of authority to these individuals indicates that you have personally assessed that each individual with delegated authority has sufficient expertise in ethics laws and regulations to carry out the duties associated with the authorities delegated and that you are exercising personal oversight to ensure that these individuals are competently performing the delegated functions. To the extent that you previously, in your acting AGC(Ethics) capacity, issued delegations, those delegations remain valid and do not require reissuance as a result of this new delegation.

Upon delegating ethics authority, please promptly furnish me with a copy of the delegation(s). The prior delegation, dated February 2, 2018, of my authority under 5 C.F.R. §§ 2638.104 and 2636.307 to the acting Associate General Counsel for Ethics is hereby revoked.

cc:

Chief of Staff, Office General Counsel