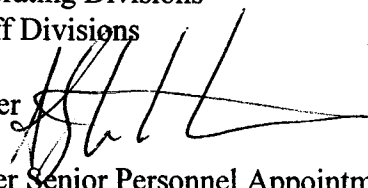




OCT 1 2004

MEMORANDUM

TO: Heads of Operating Divisions
Heads of Staff Divisions

FROM: Scott Whitaker 

SUBJECT: SES and Other Senior Personnel Appointments Subject to the SF-278
Public Financial Disclosure Report Filing Requirements- ACTION

The Secretary is strongly committed to ensuring public confidence in the integrity and impartiality with which we administer the health care, medical research, and social services programs that are critically important to our citizens. As part of that effort, the Department implements a public financial disclosure reporting system required by the Ethics in Government Act. As you know, the filing of an SF-278 Public Financial Disclosure Report by our senior employees is designed to detect potential conflicts of interest and to resolve these issues before problems arise.

The annual filing requirement allows a systematic review of the financial holdings of incumbent employees. However, under current law, new employees hired into filing positions are allowed thirty (30) days within which to file a new entrant form, with the possibility of two sequential filing extensions of forty-five (45) days each. Any period during which a new employee is on board and performing federal duties without the prior review of that employee's assets, income sources, and outside affiliations poses a risk of potential conflict of interest violations.

To avoid this possibility, the hiring and appointment process for senior level employees must be changed to incorporate an ethics clearance prior to placing any new employee in an SF-278 filing position. I have consulted with the Assistant Secretary for Administration and Management (ASAM), the White House Liaison, and the Associate General Counsel for Ethics and Designated Agency Ethics Official (DAEO) concerning these issues. I am directing that any "start date" assigned after October 1, 2004, for the employment of any non-career SES, Schedule C, career SES, O-7 uniformed service, or equivalent position that is subject to the SF-278 Public Financial Disclosure Report filing requirements must be set at a date subsequent to the completion of the steps enumerated below:

The selected individual must have: (1) filed a completed new entrant form with the Office of the General Counsel, Ethics Division; (2) executed an ethics agreement, where appropriate, that is satisfactory to the DAEO or his designee; (3) received an initial ethics orientation or similar briefing from that office in person, by telephone, or other means; and (4) received a final ethics clearance from the DAEO or his designee.

I have been assured by the DAEO that, assuming prompt and full cooperation from prospective employees, these requests will not impede timely hiring. To reiterate, new entrant individuals in the above categories may not be placed on the rolls of the Department until the above listed conditions are satisfied. The ASAM, the Program Support Center, the White House Liaison, and the DAEO shall coordinate to ensure that this change in processing is effected. The financial disclosure report forms submitted prior to official appointment shall be treated as "drafts" or "proposed forms for pre-clearance" that will be treated as being "filed," assuming certification by an ethics official, on the day of appointment. This process is similar to that employed when Presidential appointees are being vetted for Senate confirmation.

Additionally, each operating and staff division shall ensure that the designation of any current employee to serve on an acting basis in an SF-278 filing position where such service is expected to exceed 14 days shall be immediately reported to the Office of the General Counsel, Ethics Division, in order to verify whether the added responsibilities would pose a conflict with the employee's assets, income sources, and affiliations. For temporary acting service of 14 days or less, the official designating the employee to serve in an acting capacity shall obtain a copy of the employee's SF-278 public financial disclosure report (or the OGE-450 confidential form, if applicable) and review the employee's financial holdings and any outside affiliations with the employee to ensure that there is no financial conflict of interest with the duties of the acting position. Any questions concerning possible financial conflicts of interest should be referred to the Office of the General Counsel, Ethics Division.

Thank you for your support in implementing these new requirements, and in your continuing commitment to our ethics program.