UNITED STATES OFFICE OF
GOVERNMENT ETHICS

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PROGRAM ADVISORY

TO: Designated Agency Ethics Officials

FROM: David J. Apol
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SUBJECT: Acceptance Date for Termination Filings

The U.S. Office of Government Ethics (OGE) is issuing this Program Advisory to clarify the circumstances under which an agency may accept a termination public financial disclosure report ("termination report") prior to the termination of the employment of a public filer in a position subject to public filing requirements ("public filing position").

Section 2634.201(e) requires a public filer to file a termination report "on or before the thirtieth day" after terminating employment in a public filing position, unless the filer assumes employment in another public filing position within 30 days. Although the regulation does not prohibit filing before the termination date, the reporting period for a termination report extends through the termination date. *See* 5 C.F.R § 2634.308(c). At the same time, the practical experience of reviewing ethics officials has been that many filers' financial interests are relatively static and do not change every month. In addition, collecting a termination report after a filer has left Government service can present logistical challenges.

To promote timely filing, OGE has determined that a Designated Agency Ethics Official (DAEO) may permit an agency's departing public filers to file termination reports up to 15 days before their termination date, provided that the filers agree to update these reports in the event that there are changes to reportable information before or on their termination dates.[1] In such cases, ethics officials should counsel the filers and emphasize their affirmative obligation to update the reports as agreed. As always, specific attention should be paid to ensure that any agreement or arrangement for future employment that is entered into prior to termination is fully reported.

If an agency accepts a termination report before the termination date, the report should include a public annotation indicating that the filer has agreed to update the report if there are

[1] Ethics officials may accept current value and income as a good faith estimate of the value and income at the time of termination.

changes before or on the termination date. In addition, ethics officials should be aware that most electronic filing systems for public financial disclosure reports do not permit modification of a report after certification. Therefore, as a practical matter, agency ethics officials will normally need to wait to certify a report filed through an electronic filing system until after the filer's termination date.

Although this guidance authorizes conditional acceptance of termination reports prior to termination, DAEOs should exercise judgment in individual cases. A DAEO could reasonably decline to accept a termination report prior to a filer's termination date if the DAEO doubts the filer's commitment to updating the report or if it appears likely that there will be significant changes to the report. For example, early filing may not be appropriate if the filer is an active securities trader, the filer is currently engaged in negotiations for future employment, the filer has ever failed to timely comply with a commitment in an ethics agreement, or the filer has exhibited a pattern of incomplete or untimely disclosures. Alternatively, the DAEO might condition advance acceptance of a termination report on the filer scheduling a call or a meeting with the DAEO on the filer's termination date to confirm that there have been no changes to the report.

Agency ethics officials with questions regarding this Program Advisory should contact their OGE Desk Officers.