

## Summary of Ethics Pledge for Political Appointees Executive Order No. 13770

Under the ethics pledge, political appointees commit to:

- not, within five years after termination of his or her employment as an appointee, engage in lobbying activities<sup>1</sup> with respect to the agency<sup>2</sup> to which he or she was appointed to serve
- abide by the senior employee post-Government employment restriction in 18 U.S.C. § 207(c) regarding communicating with employees of his or her former agency to the extent that he or she is covered by this restriction at the time of his or her departure from Government
- not, upon leaving Government service, engage in lobbying activities<sup>3</sup> with respect to any covered executive branch official<sup>4</sup> or non-career Senior Executive Service appointee for the remainder of the Trump Administration
- not, at any time after termination of employment in the U.S. Government, engage in any activity on behalf of any foreign government or foreign political party, which if undertaken

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<sup>1</sup> “Lobbying activities” has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedures Act, as amended. For purposes of this portion of Executive Order 13770, (Section 1, Paragraph 1), “lobbying activities” are deemed to be carried out with respect to an agency only to the extent that they involve: (a) any oral or written communication to a covered executive branch official of that agency or (b) efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official of that agency.

<sup>2</sup> For purposes of Executive Order 13770, “agency” means the entire agency for political appointees confirmed by the Senate. Other political appointees are eligible to take advantage of the separate component designations authorized in 18 U.S.C. § 207(h). For the Department of the Interior, the following have been designated as separate components: Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, National Park Service, Office of Surface Mining Reclamation and Enforcement, U.S. Fish and Wildlife Service, and U.S. Geological Survey. All designated components under the jurisdiction of a particular Assistant Secretary shall be considered a single component as applied to appointees serving on the immediate staff of that Assistant Secretary. An appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

<sup>3</sup> “Lobbying activities” has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedures Act, as amended. For purposes of this portion of Executive Order 13770 (Section 1, Paragraph 3), “lobbying activities” involve (a) any oral or written communication to a covered executive branch official or non-career Senior Executive Service appointee or (b) efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official or non-career Senior Executive Service appointee.

<sup>4</sup> For the purposes of Executive Order 13770, “covered executive branch official” means: the President; the Vice President; any official in the Executive Office of the President; any Executive Schedule official (EL I-V); any uniformed officer at pay grade 0-7 or above; and any Schedule C employee, 2 U.S.C. § 1602(3).

on January 20, 2017, would require registration under the Foreign Agents Registration Act of 1938

- not, for the duration of his or her service as an appointee, accept gifts from registered lobbyists or lobbying organizations (subject only to a limited number of the exceptions provided in the Standards of Ethical Conduct for Employees of the Executive Branch promulgated by the Office of Government Ethics (OGE), as well as other exceptions that OGE may authorize in the future for situations that do not implicate the purpose of the gift ban)
- not, for two years after appointment, participate in any particular matter involving specific parties in which a former employer<sup>5</sup> or client<sup>6</sup> is or represents a party, if the appointee served that employer or client during the two years prior to the appointment
  - this includes any meeting or other communication with a former employer or client relating to the appointee's official duties, unless the communication applies to a particular matter of general applicability (there are no specific parties to the matter) and participation in the meeting or other event is open to all interested parties (five or more stakeholders are in attendance)
- not, if the appointee was a registered lobbyist during the two-year period prior to the date of appointment, participate in any particular matter on which he or she lobbied during the two years prior to appointment or in the specific issue area<sup>7</sup> in which that particular matter falls for a period of two years after the date of appointment
- agree that any hiring or other employment decisions will be based on the candidate's qualifications, competence, and experience

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<sup>5</sup> "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, a Native American tribe, or any United States territory or possession.

<sup>6</sup> "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services, nor does it include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, a Native American tribe, or any United States territory or possession.

<sup>7</sup> The term "specific issue area" means a "particular matter of general applicability." For example, an appointee was a lobbyist during the two-year period before she entered Government. In that capacity, she lobbied her agency against a proposed regulation focused on a specific industry. Her lobbying was limited to a specific section of the regulation affecting her client. Her recusal obligation as an appointee is not limited to the section of the regulation on which she lobbied, nor is it limited to the application of the regulation to her former client. Instead, she must recuse for two years from development and implementation of the entire regulation, subsequent interpretation of the regulation, and application of the regulation in individual cases.