

OGC-89-50916  
21 April 1989



MEMORANDUM FOR: Deputy Director for Administration

FROM: Russell J. Bruemmer  
General Counsel

SUBJECT: Recent Ethics Reform Legislation and  
Executive Order

1. On 12 April, the President introduced two major initiatives to strengthen ethics within the Government. First, the President signed an Executive Order entitled "Principles of Ethical Conduct for Government Officers and Employees." Second, the President sent to the Hill comprehensive ethics reform legislation entitled the "Government-Wide Ethics Act of 1989."

2. I cannot hope to summarize in this short paper the full range of provisions contained in these initiatives. The proposed ethics bill is 97 pages long, and we will be working with OCA to prepare a summary of the key provisions. I would like, however, to emphasize below some of the major provisions of the Executive Order that will affect Agency employees and management. (I am attaching, for your use, a copy of the Executive Order signed by the President, which is effective as of 12 April.) A similar memorandum is being sent to each regular attendee of the Tuesday morning staff meeting.

3. The provisions of the Executive Order include the following:

- The new Executive Order sets forth fourteen fundamental principles of ethical conduct for employees of the executive branch. These principles, which are very similar to those currently in effect, generally prohibit the use of official office and information for personal or private gain.

- In particular, the Order prohibits full-time non-career Presidential appointees from receiving any earned income for outside employment or activity during their Presidential appointments. This prohibition, which is stricter than a provision of the proposed legislation, does not apply to preexisting contractual obligations entered into before the effective date of the order.

DATA REGISTRY

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SUBJECT: Recent Ethics Reform Legislation and Executive Order

- The Order tasks the Office of Government Ethics (OGE) with developing a single set of regulations governing executive branch conduct, with issuing regulations concerning confidential financial reporting, and with issuing regulations interpreting certain criminal statutes.

- Federal agency responsibilities are greatly increased under the Order. Significantly, each agency will now be responsible for providing mandatory annual training briefings on ethics for all senior officials and certain designated employees and for obtaining approval from OGE for such training plans. The Order also requires all agencies to evaluate their ethics programs and to provide adequate support for such programs, including the use of a separate budget line item, where applicable.

- Agencies are directed to consult, where practicable, with OGE prior to granting waivers of conflict-of-interest requirements, and to provide OGE with a copy of any waiver granted.

- All agency heads are directed to ensure the review by all employees of the Executive Order and regulations promulgated thereto.

- Executive Order 11222, signed during the Johnson Administration, is repealed.

4. If you should have any questions concerning this matter, please contact [redacted] of my staff on [redacted]

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Russell P. Bruemmer

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General Counsel  
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THE WHITE HOUSE  
Office of the Press Secretary

For Immediate Release

April 12, 1989

EXECUTIVE ORDER

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PRINCIPLES OF ETHICAL CONDUCT  
FOR GOVERNMENT OFFICERS AND EMPLOYEES

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish fair and exacting standards of ethical conduct for all executive branch employees, it is hereby ordered as follows:

PART I - PRINCIPLES OF ETHICAL CONDUCT

Section 101. Principles of Ethical Conduct. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

(b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(c) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

(d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(e) Employees shall put forth honest effort in the performance of their duties.

(f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

(g) Employees shall not use public office for private gain.

(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(i) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

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(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those -- such as Federal, State, or local taxes -- that are imposed by law.

(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

Sec. 102. Limitations on Outside Earned Income. No employee who is appointed by the President to a full-time noncareer position in the executive branch, including all full-time employees in the White House Office and the Office of Policy Development, shall receive any earned income for any outside employment or activity performed during that Presidential appointment.

## PART II - OFFICE OF GOVERNMENT ETHICS AUTHORITY

Sec. 201. The Office of Government Ethics. The Office of Government Ethics shall be responsible for administering this order by:

(a) Promulgating, in consultation with the Attorney General and the Office of Personnel Management, regulations that establish a single, comprehensive, and clear set of executive-branch standards of conduct that shall be objective, reasonable, and enforceable.

(b) Developing, disseminating, and periodically updating an ethics reference manual for employees of the executive branch describing the applicable statutes, rules, decisions, and policies.

(c) Promulgating, with the concurrence of the Attorney General, regulations interpreting the provisions of the general conflict-of-interest statute, section 208 of title 18, United States Code, and the statute prohibiting supplementation of salaries, section 209 of title 18, United States Code.

(d) Promulgating, in consultation with the Attorney General and the Office of Personnel Management, regulations establishing a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public disclosure under the Ethics in Government Act of 1978. Such regulations shall include criteria to guide agencies in determining which employees shall submit these reports.

(e) Ensuring that any implementing regulations issued by agencies under this order are consistent with and promulgated in accordance with this order.

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Sec. 202. Executive Office of the President. In that the agencies within the Executive Office of the President (EOP) currently exercise functions that are not distinct and separate from each other within the meaning and for the purposes of section 207(e) of title 18, United States Code, those agencies shall be treated as one agency under section 207(c) of title 18, United States Code.

#### PART III - AGENCY RESPONSIBILITIES

Sec. 301. Agency Responsibilities. Each agency head is directed to:

(a) Supplement, as necessary and appropriate, the comprehensive executive-branch-wide regulations of the Office of Government Ethics, with regulations of special applicability to the particular functions and activities of that agency. Any supplementary regulations shall be prepared as addenda to the branch-wide regulations and promulgated with the concurrence of the Office of Government Ethics.

(b) Ensure the review by all employees of this order and regulations promulgated pursuant to the order.

(c) Coordinate with the Office of Government Ethics in developing annual agency ethics training plans. Such training shall include mandatory annual briefings on ethics and standards of conduct for all employees appointed by the President, all employees in the Executive Office of the President, all officials required to file public or nonpublic financial disclosure reports, all employees who are contracting officers and procurement officials, and any other employees designated by the agency head.

(d) Where practicable, consult formally or informally with the Office of Government Ethics prior to granting any exemption under section 208 of title 18, United States Code, and provide the Director of the Office of Government Ethics a copy of any exemption granted.

(e) Ensure that the rank, responsibilities, authority, staffing, and resources of the Designated Agency Ethics Official are sufficient to ensure the effectiveness of the agency ethics program. Support should include the provision of a separate budget line item for ethics activities, where practicable.

#### PART IV - DELEGATIONS OF AUTHORITY

Sec. 401. Delegations to Agency Heads. Except as provided in section 402 and except in the case of the head of an agency, the authority of the President under section 208(b) of title 18, United States Code, to grant exemptions to individuals, is delegated to the head of the agency in which an individual requiring an exemption is employed or to which the individual is attached for purposes of administration.

Sec. 402. Delegations to the Counsel to the President. The authority of the President under section 208(b) of title 18, United States Code, to grant exemptions for Presidential appointees to committees, commissions, boards, or similar groups established by the President is delegated to the Counsel to the President.

Sec. 403. Delegation Regarding Civil Service. The Office of Personnel Management and the Office of Government Ethics, as appropriate, are delegated the authority vested in

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the President by 5 U.S.C. 7301 to establish general regulations for the implementation of this Executive order.

PART V - GENERAL PROVISIONS

Sec. 501. Revocations. The following are hereby revoked:

- (a) Executive Order No. 11222 of May 8, 1965.
- (b) Executive Order No. 12565 of September 25, 1986.

Sec. 502. Savings Provision.

(a) All actions already taken by the President or by his delegates concerning matters affected by this order and in force when this order is issued, including any regulations issued under Executive Order 11222, Executive Order 12565 or statutory authority, shall, except as they are irreconcilable with the provisions of this order or terminate by operation of law or by Presidential action, remain in effect until properly amended, modified, or revoked pursuant to the authority conferred by this order or any regulations promulgated under this order. Notwithstanding anything in section 102 of this order, employees may carry out preexisting contractual obligations entered into before the date of this order.

(b) Financial reports filed in confidence (pursuant to the authority of Executive Order No. 11222, 5 C.F.R. Part 735, and individual agency regulations) shall continue to be held in confidence.

Sec. 503. Definitions. For purposes of this order, the term:

(a) "Contracting officers and procurement officials" means all such officers and officials as defined in the Office of Federal Procurement Policy Act Amendments of 1988.

(b) "Employee" means any officer or employee of an agency, including a special Government employee.

(c) "Agency" means any executive agency as defined in 5 U.S.C. 105, including any executive department as defined in 5 U.S.C. 101, Government corporation as defined in 5 U.S.C. 103, or an independent establishment in the executive branch as defined in 5 U.S.C. 104 (other than the General Accounting Office), and the United States Postal Service and Postal Rate Commission.

(d) "Head of an agency" means, in the case of an agency headed by more than one person, the chair or comparable member of such agency.

(e) "Special Government employee" means a special Government employee as defined in 18 U.S.C. 202(a).

Sec. 504. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

GEORGE BUSH

THE WHITE HOUSE,  
April 12, 1989.

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