



Auto Safety Group • Congress Watch • Energy Program • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

June 17, 2009

President Barack Obama
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

RE: Implementation of the recusal arrangements for executive appointees

Dear Mr. President:

As you are well aware, Public Citizen heartily applauds your first-ever reverse revolving door policy, which imposes strict recusal requirements on presidential appointees to remove themselves from official matters that directly and substantially affect former employers and clients within the last two years and any issues on which they may have lobbied. Executive Order 13490 is a landmark ethics policy designed in part to prevent businesses and lobbyists from “capturing” the federal agencies that regulate those interests.

The problem is that few executive agencies seem to have any plans to implement the ethics policy or monitor compliance. Some agencies appear to be confused about the scope and nature of the policy. Only one federal agency – the Department of Energy – posts the recusal arrangements on its web site. None of the agencies surveyed are posting any records of whether officials are complying with the recusal arrangements.

The single greatest obstacle to implementation of the ethics policy is the radical decentralization of ethics authority in the executive branch. There are some 6,000 individual ethics officers in the executive branch, each with varying degrees of authority to interpret, implement, monitor and enforce the ethics rules. There is no central ethics authority in the executive branch, and so implementation of the ethics rules, such as your landmark Executive Order, are carried out erratically and inconsistently, if at all.

The Office of Government Ethics (OGE) should be restructured to establish the agency as the central authority for interpreting, monitoring and enforcing executive branch ethics rules and laws. But this requires statutory action, which Public Citizen plans on pursuing.

For the purpose of implementing Executive Order 13490, however, transparency of the conflicts of interest and recusal process would be more than enough to make this policy work.

Public Citizen recommends that the Administration establish a simple three-step procedure to ensure implementation of the reverse revolving door policy. These three steps are as follows:

- The White House should identify potential conflicts of interest with appointees involving former employers, clients and issues lobbied within the last two years, and work out written recusal arrangements with the appointees in which they agree to remove themselves from official actions that directly and substantially affect those employers, clients or issues.
- The recusal arrangements should then be delivered to the ethics officers in charge of each relevant agency, division or department, as well as to the Office of Government Ethics, and posted on each agency's web site.
- Any formal matters pending before each agency that may be subject to the recusal arrangements should be posted on the agency's web page, along with any recusal actions taken or ethics waivers granted.

This system of transparency would inform appointees, ethics officers and agency staff of the scope and nature of the executive order and lay out a clear road map on how to monitor compliance. It would also inform the public as to the conflict of interest obligations of presidential appointees and help build the public's confidence in the decision-making process of the Administration.

You have fought too hard in promulgating the landmark Executive Order 13490 to let it be squandered in implementation. Transparency in government operations is a principle we all agree will strengthen the integrity of the federal government. Transparency is the tool needed to ensure that this and other ethics rules are carried through to fruition.

Sincerely,



David Arkush
Director of Congress Watch,
Public Citizen



Craig Holman, Ph.D.
Government Affairs Lobbyist,
Public Citizen