



## Five Unanswered Questions on Trump Transition Policies

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November 23, 2016 – The first week of work for President-elect Donald Trump's transition team was punctuated by news reports that the team was swarming with lobbyists, Washington insiders and others with ties to special interests. This prompted widespread allegations that Trump was renegeing on his cornerstone promise to “drain the swamp.”<sup>1</sup>

Eight days after the election, the transition released an ethics policy. Among other things, the policy prohibited team members from performing transition work on matters upon which they had lobbied in the previous six months, and from lobbying the administration on matters relating to their transition work for six months after leaving the transition.<sup>2</sup>

The issuance of an ethics code answered some questions about the transition team's policy, but left others unanswered, particularly regarding transparency. Here are five remaining questions.

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<sup>1</sup> <https://www.donaldjtrump.com/press-releases/trump-pledges-to-drain-the-swamp>

<sup>2</sup> <http://blogs.wsj.com/washwire/2016/11/16/trump-transition-teams-code-of-ethics-takes-aim-at-lobbyists/>

**1. Will the Trump transition team, including President-elect Trump, disclose meetings with people from outside the transition and make public the policy papers submitted by outside groups and people?**

Beginning in the first week of December 2008, the Obama-Biden transition team began disclosing its meetings with people from outside the transition and posting documents received from outside groups on its web site.<sup>3</sup>

The experts with whom a transition team meets are arguably as important as the team members, themselves. For instance, we know from news reports that the Trump transition team has conducted a series of meetings with lobbyists.<sup>4</sup>

But the team has offered no insight into its policy on disclosing meetings or making policy documents submitted to it by outside people and groups available to the public. Will it do so?

**2. Will the Trump transition retain documents for archival in a presidential library, and will the Trump administration declare transition team documents eligible for Freedom of Information Act requests?**

The law does not require documents prepared by transition teams to be maintained for future archival at a presidential library. Further, administrations prior to Obama's did not treat documents generated by their transition teams as being subject to Freedom of Information Act (FOIA) requests. In 2008, however, the Obama-Biden transition team announced that the ensuing administration's policy would be to treat any document "in possession of a federal agency" as subject to FOIA.<sup>5</sup>

The Trump transition team's application page says: "One should assume that all of the information provided during this process is ultimately subject to public disclosure, if requested under the Freedom of Information Act."<sup>6</sup>

Additional clarity on the team's policy toward its records would be helpful. When will documents become available under the Freedom of Information Act? Will the comprehensive records of the transition be retained for historians?

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<sup>3</sup> <http://www.politico.com/story/2008/12/transition-to-disclose-meetings-016264> and [https://web.archive.org/web/20081208022002/http://change.gov/newsroom/entry/seat\\_at\\_the\\_table/](https://web.archive.org/web/20081208022002/http://change.gov/newsroom/entry/seat_at_the_table/)

<sup>4</sup> <https://www.washingtonpost.com/news/powerpost/wp/2016/10/06/trump-transition-team-and-gop-lobbyists-are-inching-toward-mutual-acceptance/>

<sup>5</sup> [https://www.govexec.com/media/gbc/docs/pdfs\\_edit/011916cc1.pdf](https://www.govexec.com/media/gbc/docs/pdfs_edit/011916cc1.pdf)

<sup>6</sup> <https://www.greatagain.gov/serve-america.html>

### **3. What is the Trump transition team's policy on accepting contributions to supplement funding it receives from the federal government?**

Starting in the period after major party nominees are chosen, transition team work is partially funded by the federal government. The government funds transition work to a greater degree – but not necessarily completely – after the president-elect is identified.<sup>7</sup> The Obama transition team had a policy of accepting outside contributions, but not from lobbyists.<sup>8</sup>

A report in *Politico* in late August on the pre-election Trump transition effort indicated that the team was offering a “look inside” transition planning efforts in exchange for contributions of \$5,000. The *Politico* story said that the team was accepting corporate contributions.<sup>9</sup> The Trump transition team, however, has not released any details on its outside contributions.

The public should know: Is the transition team still accepting outside contributions? If so, what policies govern those contributions?

### **4. When will the Trump transition team disclose its contributors?**

Federal law calls for contributions to transition teams to be disclosed 30 days after the inauguration.<sup>10</sup> Will the Trump transition team release that information sooner to illustrate its commitment to transparency?

### **5. Is the Trump transition team requiring participants to sign nondisclosure agreements?**

Many former employees of Trump's businesses and his campaign have reported that Trump has required them to sign nondisclosure agreements.<sup>11</sup> The agreement he required campaign employees and volunteers to sign forbade signatories from ever making disparaging comments about Trump or his family.<sup>12</sup>

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<sup>7</sup> <https://ourpublicservice.org/publications/download.php?id=118>

<sup>8</sup> <http://abcnews.go.com/Politics/story?id=6234613&page=1>

<sup>9</sup> <http://www.politico.com/tipsheets/playbook/2016/08/scoop-team-trump-gives-republicans-a-look-inside-transition-for-5k-donation-hackers-targeted-arizona-election-system-huma-calls-it-quits-bday-warren-buffett-216115#ixzz4IoYEd7M7>

<sup>10</sup> <https://www.fas.org/sgp/crs/misc/RS22979.pdf>

<sup>11</sup> <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/09/03/trumps-adhesion-contract-from-hell/>

<sup>12</sup> [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/09/03/trumps-adhesion-contract-from-hell/?utm\\_term=.bde4ee28a178](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/09/03/trumps-adhesion-contract-from-hell/?utm_term=.bde4ee28a178)

During the presidential campaign, Trump told *The Washington Post* that he planned to require high-ranking government officials to sign nondisclosure agreements.<sup>13</sup>

Has the Trump transition team required participants to sign a non-disclosure agreement, and, if so, what are its terms?

Note: Federal law requires the White House chief of staff and the chief of the transition team to sign a memorandum of understanding that includes a nondisclosure agreement about the inner workings of the government.<sup>14</sup> The questions we ask here do not refer to that nondisclosure agreement but, rather, to any nondisclosure agreements that Trump himself has required team members to sign.

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The answers to these questions are intrinsic to Trump's pledge to clean up Washington because transparency is an essential component of a government that not only acts ethically but seeks to avoid appearances of unethical behavior.

*This is part of an [ongoing series](#) of writings by Public Citizen on the presidential transition.*

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<sup>13</sup> [https://www.washingtonpost.com/politics/in-turmoil-or-triumph-donald-trump-stands-alone/2016/04/02/8c0619b6-f8d6-11e5-a3ce-f06b5ba21f33\\_story.html](https://www.washingtonpost.com/politics/in-turmoil-or-triumph-donald-trump-stands-alone/2016/04/02/8c0619b6-f8d6-11e5-a3ce-f06b5ba21f33_story.html)

<sup>14</sup> <http://www.nytimes.com/2016/11/16/us/politics/trump-transition.html>