

考試院出國報告

(出國類別：專題研究)

行政倫理法制之研究

服務機關：考試院

出國人職稱：專員

姓名：陳起雲

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內容摘要: 鑒於政治價值分配的壟斷性特質，為避免參與政府行政事務的人有貪污腐化及濫權弊端，本研究以首開行政倫理法制規範先河的美國為研究對象，經由對美國相關行政倫理相關規定沿革以及一九七八年政府倫理法、一九八九年倫理改革法相關規定，追溯美國倫理規法制發展的軌跡與概貌，再探索聯邦政府倫理局和其他涉及倫理規範之機構，瞭解倫理法制在中央與地方上實務運作之情形，最後從公務人員的角度檢視倫理規範的意義與目的，並提出研究建議，以供參考。

本文電子檔已上傳至出國報告資訊網

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出國計畫主辦機關名稱：行政院人事行政局	
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鑒於政治價值分配的壟斷性特質，為避免參與政府行政事務的人有貪污腐化及濫權弊端，本研究以首開行政倫理法制規範先河的美國為研究對象，經由對美國相關行政倫理相關規定沿革以及一九七八年政府倫理法、一九八九年倫理改革法相關規定，追溯美國倫理規法制發展的軌跡與概貌，再探索聯邦政府倫理局和其他涉及倫理規範之機構，瞭解倫理法制在中央與地方上實務運作之情形，最後從公務人員的角度檢視倫理規範的意義與目的，並提出研究建議，以供參考。

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第一章 緒論

政府存在的歷史有多長，貪污腐化的歷史大概就有多長，人們致力於反貪污腐化的努力與奮鬥也就有多久。行政倫理意識的覺醒，正是源於政府機構貪污腐化的橫行。行政倫理大師泰瑞·庫伯（Terry Cooper）將行政倫理的規範分為內在規範與外在規範（Cooper, 1990, p153），和與其他專業領域一樣，從事行政工作者除法令規定外，也有其在道德層面上應遵循的倫理守則。但即如著名政治學者伊斯頓（David Easton）：「政治是價值得權威性分配」之名言，政治與生俱來的壟斷性特質，使得參與政府行政事務的人不但在運用其專業與職權時，影響常較一般人深遠，其所受到濫權的誘惑也更多。因此，行政倫理的規範，除內在的道德的反省制約外，對外在法律強制約束的仰賴，更較其他專業為甚。

論及行政倫理法制的發展，美國無疑是舉世最具代表性的國家。十九世紀蓬勃於美國都會地區的「黨機器政治」與隨之而來的分贓制，啟迪了美國文官制度改革運動。當時主張改革的人士以為，經由特殊訓練或競爭性考試進用人員，並建立具有政治中立及升遷、薪俸、退休等身份保障特色的文官功績制度，將可使公共行政和腐化之源—政黨政治脫鉤。然而遺憾的是，文官制度的建立並沒有讓貪污腐化消聲匿跡的事實，以及其後接踵而來的醜聞，使人們對於文官可以自我監督的信心受到打擊，並尋求經由科學行政來控制官員行為的新理論取而代之。

科學行政改革者強調官僚體系的控制多於政治改革，他們認為腐化是組織結構設計的問題，而非政治或倫理問題。政府官員不誠實或不倫理的行為並為肇因於人的個性，而是「缺乏適當的政府機制」，因此主張把經濟和效率的原則運用在政府上，把腐化的定義擴及到浪費與不當管理。科學行政學者認為：「腐化者偷錢，道德者在無知和輕忽的情況下浪費錢，兩者最終並無差別。」在科學行政理論的影響之下，各級政府紛紛採行最佳控制幅度、層級節制體制、以及會計審計技術等方法，防止弊端的發生。科學管理的策略最初或僅著眼於經濟與效

率層面，減少因浪費或不當管理滋生的問題，但隨時勢的發展，卻逐漸演變為提倡廣泛監督與調查的模式與態度。這種觀點明顯地表現在訂定各種行政法規，將所有例行作業程序無所不包地加以規範。各種防弊措施與法令的訂定，將公務人員當成潛在的罪犯，假設公務人員一有機會便可能貪贓枉法，必須採取各種防微杜漸的措施，防堵貪瀆的可能性。從某個角度而言，行政倫理法制的建立，就是在這種防弊心態下逐步發展而成 (Anechiarico & Jacobs, 1996, pp.19-23)。

行政倫理的課題真正受到各界廣泛的重視，實際上是一九六〇年代美國新公共行政興起之後。尤其一九七五年水門案的發生，使得學者以往要求強化行政倫理規範的大聲疾呼與剴切建言，在各界形成沛然莫能禦的力量。卡特總統一九七六年競選時，即將行政倫理改革作為其競選主軸之一，就職後隨即向國會提出政府倫理法草案，經國會通過為一九七八年政府倫理法(Ethics in Government Act of 1978)。此一法案的通過不但象徵美國政府對行政倫理法制的重視，更在世界各國造成示範性影響。

過去十餘年來，臺灣社會隨著經濟的起飛與政治的解嚴，逐步朝民主、自由與國際化的方向邁進；但日益嚴重的金權掛勾問題以及層出不窮的弊案，卻腐蝕人民對政府的信心。根據國際透明組織 (Transparency International)八十八年就企業人士對於全球十九個出口國貪污感受指數調查結果，台灣排名第三 (江明修，民國八十八年，p.246)。弔詭的是，貪污腐化絕和民主自由原應是背道而馳的兩個概念。研究與統計資料在在顯示，愈是民主的國家，其公務員所獲廉潔的評價愈高，貪污腐化乃落後國家的特色，臺灣在發展民主自由的過程中，卻出現愈趨嚴重的行政倫理問題，包括法務部自八十六年開始委託國立政治大學選舉研究中心所做的「台灣地區對政府廉政主觀指標之評價」統計調查，今(九十)年度也出現較去年更低的評價分數 (聯合報，民國九十年八月二十七日，第八版)，現示臺灣民眾對「清廉政府」的信心水準下降，實為值得注意的警訊。

先進國家公務員有廉潔的操守，一方面固然出於自發反省的道德觀，但法律規範強制的力量更不容忽視。有鑒於行政倫理的內涵隨時

空環境背景改變而不同，規範的對象與範圍亦有與日俱增之勢。包括競選經費、政治活動、檢舉人(Whistleblower)、會計審計、以及政府採購等等，均有人將其納入行政倫理法制的範疇，本研究限於時間及資源之限制，爰以與人事行政最密切相關的「利益衝突」事項為核心，並選定行政倫理法制先驅之美國為研究對象，旨在經由蒐集美國政府機關行政倫理法制，探討民主先進國家對於行政倫理事項規範的內涵，以收攻錯之效。

美國不但創行政倫理法制規範風氣之先，也是各國中對於行政倫理事項規定最為廣泛及嚴謹國家之一，其倫理法規範的基本要素，綜合學者看法，主要有以下四方面：(一)明定禁止行為，並提供迴避利益衝突的程序；(二)設置獨立機構職掌政府機構之倫理事項，並賦予首長有效執行的權力；(三)完整的財產申報要求；(四)嚇阻非法行為之罰責，使落網者無法自有違倫理的行為中獲益。為瞭解美國行政倫理法制之全貌，兼顧理論與實際，本研究於獲得佛羅里達大學(University of Florida)政治系訪問學者身分於該校就政府倫理(Ethics in Government)進行專題研究期間，曾先後洽赴美國聯邦政府倫理局(US Office of Government Ethics)、司法部倫理辦公室(Departmental Ethics Office)、紐約州政府倫理委員會(New York State Ethics Commission)、舊金山市及郡倫理委員會(City & County of San Francisco Ethics Commission)、以及賓州州立大學(Penn State University)等機關學校實地參觀訪問，俾對美國聯邦、州及地方等各級政府在行政倫理規範的運作有更深入的瞭解。

本研究有關美國行政倫理規範的探討，係以一九七八年政府倫理法(Ethics in Government Act of 1978)及依該法設立的聯邦政府倫理局(Office of Government Ethics)為主軸，首先透過倫理規範的濫觴、一九七八年政府倫理法與一九八九年倫理改革法的介紹，追溯美國倫理規法制發展的軌跡與概貌，再經由對聯邦政府倫理局和其他涉及倫理規範機構職掌事項的探索，並佐以參訪時見聞聯邦及地方機關提供之資訊，同時強化對其實務上運作之橫向與縱向瞭解；最後經由探討頗析倫理規範的意義與內涵，以一個接近從業者(practitioner)的角

度，從有別於學者的觀點檢視當前倫理規範，並提出研究建議，俾供將來我國研修相關法規之參考。

第二章 倫理法制的發展

今日美國不論聯邦、州或地方政府，都訂有許多與行政倫理相關的法令，規範內容大多集中在利益衝突上，這種規範被稱為「最低限度的倫理」(minimalist ethics)，也就是對於行政行為的最低標準(Cody, 1992, p.xviii)。不過這些最低標準，也曾是高標準的道德要求，經過長久的潛移默化而逐漸形成一般接受的觀念。

第一節 規範的濫觴

基本上，聯邦政府有關行政倫理的規定，都是為因應個案不當行為，加以立法禁止，逐漸累積而來。十九世紀中期以前，政府官員涉及利益衝突的情形不但司空見慣，甚至被視為理所當然。最著名的案例之一，就是曾有某地方官員因預知都市計畫，廉價購買計畫區土地出售致富，仍洋洋自得的稱之為「誠實的貪污所得」(honest graft)。這種作法在當時雖然並不違法，不過由「誠實的」與「貪污所得」這兩個顯然衝突的概念，卻足以點出問題的核心：即使在法無明文規範的情況下，這種行為仍被認為是有瑕疵的。不論當事人如何以「誠實的」一詞矯飾，仍然無法否認經由此獲得的財富，本質上就是一種「貪污所得」。分贓制度之盛行，雖然把這種風氣帶至頂點，卻也促使有識之士反思這種行為對於國家利益可能造成的損害，並因而開啟提倡行政倫理之門與嗣後逐步改革契機。

美國雖是三權分立的國家，但從某種角度而言，卻是司法至上。幾乎所有爭議最後都訴諸法院解決的事實，足以證明美國人把法院當作價值裁決者的信心 (Rohr, 1998, p28)。於是小至一般普羅大眾好為興訟，大至公元二千年總統大選結果竟取決於法院判決，在在都顯示出美國重視司法的態度與傾向。因此，其有關行政倫理的規範，最早也是出現在與訴訟有關的事務上。首先是對現職人員的約束。一八五三年，國會立法禁止聯邦政府及國會議員，協助平民向美國政府行使請求權。一八六四年立法禁止聯邦官員，包括國會議員在內，就美

國政府為當事人一方、且正在進行中的任何服務接受報酬。然而在非永業化公務員與民間機構人才交流頻仍情況下，僅僅約束現職人員顯然是不夠的，離職人員的行為對於政府的形象與利益也可能產生重大影響，於是聯邦政府在一八七二年禁止行政部門離職官員協助平民百姓向美國政府行使請求權。

禮物與薪資外收入的限制，則是遲至二十世紀才有規定。由於早年低收入官員收受好處或禮物的情形相當公開，一九〇六年肉品檢查法（The Meat Inspection Act）在賦予農業部檢查全國肉品衛生責任的同時，一併禁止所有農業部員工收受肉品包裝公司的禮物。一九一七年，國會通過一項薪資補助的限制，禁止所有行政部門官員接受來自非官方的薪資。

隨著政府職能擴充與戰爭的發生，政府成為市場上最大需求者之一，對民間企業而言，更是一塊具有無限的商機與潛能的大餅。採購事項的迴避，尤其是金額往往十分龐大的軍事採購，就成了新的關注焦點。一九一九年，國會立法禁止軍事採購官員，在離開聯邦政府二年內，利用內線消息向聯邦政府尋求與採購有關的機會；同時也禁止在一九一七年七月十一日至一九一九年七月十一日間任職行政部門的員工，在離職二年期間內，代表非官方利益與其原任職單位交涉。二次大戰期間，國會進一步立法禁止離職聯邦官員在離職後二年內，協助私人就涉及其原單位所轄的業務，對聯邦政府提出請求。

聯邦政府行政倫理規範就雖然在本世紀便已初略具雛型，系統性的規範得提出，主要歸功於甘迺迪總統。一九六一年甘迺迪總統發布第一〇九三九號行政命令：「對政府官員提供倫理標準指南」（To Provide a Guide on Ethical Standards on Government Officials），對於總統提名、任命及其他高級聯邦官員之財務，提出新的利益衝突規範。禁止前述人員接受任何非官方來源、在外觀上或實際上將造成以下結果之有價饋贈：（一）用公職營取私益；（二）給予任何人優惠待遇；（三）有損獨立或公平；（四）在官方外另形成政府決策管道；（五）影響大眾對政府廉潔之信心。

一九六二年國會通過一系列修正聯邦政府有關賄賂及利益衝突法

律，主要內容為即為甘迺迪總統提出的以下七項原則：

- (一)公務員不得因執行公務而接受非官方、或因政府之作為或不作為有直接利益者之有價饋贈。
- (二)公務員就與其有財務上利益之事務，均不得採取任何行為。
- (三)公務員在外兼職不得與其所任公職之責任衝突。
- (四)公務員不得利用非公開資訊獲取個人財務上利益。
- (五)離職公務員不得利用其與政府之關係，為個人客戶獲得較優惠待遇。
- (六)公務員不得代表私人與政府交涉。
- (七)公務員不得涉入外觀上有任何偏差或不公之前述各項行為。

一九六五年，詹森總統發布第一一二二二號行政命令：「政府員工倫理行為之說明標準」(Prescribing Standards of Ethical Conduct for Government Officers and Employee)，範圍涵蓋行政部門的所有官員，重點如次：

- (一)指示行政部門員工避免任何「可能導致或外觀上有」利用公職獲取私益、給予任何團體或個人優惠待遇、防礙政府效率或經濟、不完全獨立或公平、由官方以外管道制定政策、以及讓大眾對政府清廉信心有負面影響的行為。
- (二)每個聯邦機構均任命一名倫理官員 (DAEO)，負責執行新的行為標準規定；各機關均須依其需求訂定相關規範。
- (三)要求總統提名人員申報財產，並賦予文官委員會(Civil Service Commission)命令其他聯邦員工申報財產之權。

第二節 政府倫理法

一九七七年，卡特總統為兌現其在競選時所提出的諾言，向國會提出「政府倫理法」草案，並於一九七八年經國會通過。一九七八年政府倫理法可以說是美國行政倫理法制建立的一個分水嶺，該法共有七條條文，其中前三條分別規定立法、行政及司法部門人員財產申報事宜；第四條在人事管理局下(Office of Personnel Management)設置政府倫理局；第五條為對離職人員利益衝突之規範；第六條設置

特別檢察官；第七條則設立參院法律諮詢辦公室。除有關政府倫理局部分將於下章討論外，謹將本法重點簡要敘述如後。

一、財產申報

(一)申報對象：

1. 立法機關：國會議員及其候選人、全年任職超過六十日且報酬相當或超過一般俸表十六級的國會議員，包括任職預算局、印刷局、國會圖書館或成本會計委員會等相關機構之人員、國會議員雇用員工無達上開薪俸標準者時，應由一名主要助理提出申報。
2. 行政機關：總統、副總統以及總統、副總統候選人、0-7 級以上高階軍官、總統提名經參院同意任命人員、行政部門薪資相當或超過一般俸表十六級以上之人員，包括特殊雇用員工(special government employee，按：指在過去連續三百六十五日期間，任職不超過一百三十日，履行暫時性任務之人員，不論其是否支薪)、以及其他倫理局長認有必要之人員。其中最後一項，賦予政府倫理局局長相當大的認定裁量權限。
3. 司法機關：最高法院法官、聯邦法院法官、哥倫比亞特區法院法官、總統提名經參院同意的司法官員、以及報酬相當或超過一般俸表十六級以上司法部門員工。

(二)申報內容：

1. 除任職美國政府以外之收入，其來源、種類、及數額或價值；車馬費(honoraria 按：指給予發表演說或出席活動貴賓之酬勞)合計超過一百美元者，其來源、日期及金額；租金、利息、股利及資本獲益等收入合計超過一百美元者，依其金額多寡勾選適當之類別(category，按：指金額多寡之區間，例如：一千美元以下、一千美元至二千五百美元或二千五百美元至五千美元等，最高申報金額為十萬元以上)。
2. 收受交通、食宿、娛樂、或與旅行相關費用等饋贈之禮物，其合計價值超過二百五十美元者；或其他禮物合計價值達一百美元者，其來源與簡要敘述。但親戚贈與或依規定毋須申報或計入

者，不在此限。

3. 在事業機構或企業擁有資產或投資之獲益，其市場價值超過一千美元者。但親戚向申報人之個人借貸或個人儲蓄帳戶合計五千美元以下之存款，不在此限。
4. 超過一萬美元以上之債務，但向親戚借貸者、本人或配偶自用住宅之抵押貸款、傢俱或設施不超過其購價之貸款，不在此限。
5. 超過一千美元之不動產、股票、債券、期貨或其他證券之交易，其日期、金額、與簡要敘述；但本人與配偶之自用住宅、僅在本人、配偶或未成年子女間之移轉，均不在此限。
6. 申報日前，於當年度（行政機關人員首次申報時，尚須申報之前二年）擔任之所有職務，包括員工、主管、信託受託人、合夥人、業主代表、顧問等均屬之；但宗教、社會、兄弟會、政治團體或榮譽職，均不在此限。非民選之申報人如在任職前二年期間，曾接受美國政府以外來源超過五千美元報酬時，須申報報酬來源及申報人提供相對服務性質之簡述。
7. 任何與下列事項有關之約定的日期、關係人、以及相關條件之簡述：(1)未來雇用；(2)出任公職係向原任職單位請假；(3)接受美國政府以外之前雇主繼續支付酬勞；(4)繼續參加前雇主提供之員工福利。
8. 除另有規定外，配偶與未成年子女所有前開第 1. 項至第 5. 項財產，亦須申報；盲目信託或不僅為其本人、配偶或未成年子女設立之信託、或來源不明的收入或財產，可毋須申報，但依第一項規定申報收入類別時，仍應將信託收入計入；同時於交付信託或終止信託三十日內，均須檢附經移轉財產之清單通知相關倫理單位。

基本上，申報內容依職務而有不同，對於未上市股票、未經鑑價或估價無法判斷其價職之財產，例如不動產，得列出購買日期及價格或課稅之估價（如價差超過一倍時得調整之，但申報內容不得為課稅依據），或其他接近市場價格之估算方式調整，但須明列估算方式。

(三)受理申報單位及處理方式：

1. 立法機關：新進人員應於任職三十日內申報，並於其後每年五月十五日定期申報。候選人應於成為候選人三十日內或五月十五日，兩者較遲之日前申報。參、眾兩院議員、候選人及員工之受理申報單位分別為眾院書記官(Clerk)及參院秘書(Secretary)，其於收受議員或候選人申報表後，應依一九七一年選舉法規定，在七日內一份送其選區所在州政府官員，一份送眾院或參院指定之委員會審查（眾院部分應於七日內送委員會），並於申報日或五月十五日後之十五日內，提供大眾索閱。除非進行之調查所必要，議員之申報資料應於申報六年後銷毀；未連任議員之申報資料，則於其不再為候選人一年後銷毀。參、眾兩院指定委會應依程序審核，提供申報人諮詢意見，並通知未依限申報、不實申報或錯誤申報者補正，申報人依諮詢意見所為之善意行為，不罰。
2. 行政機關：總統、副總統與總統副總統候選人、總統提名經參院或兩院同意任命人員、聯邦郵局局長、副局長等向政府倫理局申報，其餘人員除另有規定者外，向服務機關倫理官員申報。至於申報的時間，總統提名人員應於接受提名後、聽證會五日前申報；其餘應申報人員除機關有更嚴格之規定，否則應於任職三十日內作就職申報，其後並於每年十月三十一日前作年度申報。除了參與情報工作或應總統要求、本法規定以外之行政部門人員所為之申報外，所有申報資料均應公開。申報資料須於申報後六十日內審查，建檔並通知、協助申報人依法完成申報之程序。機關首長、主管部會首長、以及倫理局局長應將其認有故意謊報、未申報或未依法申報情形者，移司法部長處理。
3. 司法機關：由聯邦司法會議成立的司法倫理委員會受理申報，監督是否依法申報，提供公開查閱管道，研究決定應申報財產價值的方法，以及查核申報內容是否違法。

(四)罰則：

1. 授權司法部長將違反申報規定者，移送轄區地方法院。地方法院對於知情並故意謊報、未申報或未依規定申報，得處五千元以下

罰款；對於違反信託規定，其知情並故意者處五千元以下罰款，疏失者處一千元以下罰款。倫理局長及機關首長，應將其認為有知情並故意謊報、未申報或未依規定申報者，移交司法部長。

2. 授權總統、副總統、主管部會首長、機關首長、或公務員委員會對行政機關未依法申報人員採取適當的人事或其他懲處。
3. 禁止將自申報表取得資訊用於商業、信用、募捐或任何非法之用途，違者處五千美元以下罰款。

二、離職雇用利益衝突

(一)永久限制：

曾任職美國政府行政部門、任何獨立機構或哥倫比亞特區之員工，包括特殊雇用員工，離職後不得代理或以其他方式代表美國以外之任何他人，就任何有關司法或其他訴訟程序、申請、判決或其他決定之請求、合約、主張、爭議、調查、起訴、逮捕、或其他有明確當事人，且美國或哥倫比亞特區為當事人一方、或有直接且實質利益事項，並為其任職時曾經由決策、許可、否准、推薦、提出建議、調查或其他方式，親身且實質參與者，以任何正式或非正式方式，接洽美國政府或哥倫比亞特區之任何行政機關、法院或軍事機構，或前述機關任何員工，或意圖影響而與其作任何口頭或書面之溝通。

(二)兩年限制：

曾任職美國政府行政部門、任何獨立機構或哥倫比亞特區之員工，包括特殊雇用員工、薪資相當或高於首長俸表（Executive Schedule）規定之職位、待遇相當或超過一般俸表第十七級，具相當決策或監督責任，並經倫理局長與機關首長會商後指定職位、薪資為 0-7 級或以上之軍官或其他倫理局長指定之職位，於離職後兩年內，不得代理或以其他方式代表美國以外之任何他人，就任何有關司法或其他訴訟程序、申請、判決或其他決定之請求、合約、主張、爭議、調查、起訴、逮捕、或其他有明確當事人，且美國或哥倫比亞特區為當事人一方，或有直接且實質利

益事項，並於其離職前一年內曾在其法定職掌範圍內等候決定，或親身且實質參與者，以任何正式或非正式方式，接洽美國政府或哥倫比亞特區之任何行政機關、法院或軍事機構，及任職前述機關之員工，或意圖影響而與其作任何口頭或書面之溝通。

(三)一年限制：

薪資相當或高於首長俸表規定之職位、待遇相當或超過一般俸表第十七級，具相當決策或監督責任，並經倫理局長與機關首長會商後指定之職位、薪資為 0-7 級或以上之軍官或其他倫理局長指定之職位，除任職少六十日之特殊雇用員工外，於離職後一年內，不得代理、為其律師或以其他方式代表美國以外之任何他人，就任何有關司法、制定法規、或其他訴訟程序、申請、判決或其他決定之請求、合約、主張、爭議、調查、起訴、逮捕、或其他特殊事項，且正於其原任職機關等候決定，或涉其原任職機關直接且實質利益者，以任何正式或非正式方式，接洽該機關或其員工，或意圖影響而與其作任何口頭或書面之溝通。但有關個人之事務，例如個人所得稅，或該名前員工就其在特定領域所具專門知識無償提供聲明者，均不在此限。

(四)對現職員工合夥人之限制：

任何美國政府行政部門、任何獨立機構或哥倫比亞特區員工（包括特殊雇用員工）之合夥人，不得代理或以其他方式代表美國以外之任何他人，就任何關司法或其他訴訟程序、申請、判決或其他決定之請求、合約、主張、爭議、調查、起訴、逮捕、或其他涉及明確對象，且美國或哥倫比亞特區政府為當事人一方，或有直接且實質利益事項，並為該員工任職時曾透過決策、核准、否決、推薦、提出建議、調查或其他方式，親身且實質參與者，以任何正式或非正式方式，接洽美國政府或哥倫比亞特區任何行政、司院或軍事機構，或前述機關任何員工，或意圖影響而與其作任何口頭或書面之溝通。

(五)罰責：

除經相關機關同意，單純為充實科學或技術資訊之接觸；或該前

員工在科學、技術上有傑出資格條件，從事於須具備該等資格條件之特殊事務，且該名前員工參與符合國家利益時，經機關首長會商倫理局長書面同意並刊登聯邦公報者，得不受前三項規定之限制外，違反離職迴避規定者，應受以下處罰：

1. 違反第一項至第三項規定者，處一萬元以下罰款或兩年以下有期徒刑，或兩者併罰。原任職機關首長經通知並給予聽證會機會後，如認該員工有違反前三項規定情形，得禁止其五年期間內代表美國以外之任何他人，就在該部門等候決定之案件，以任何正式或正式方式面對該部門，或意圖影響而作任何口頭或書面之溝；或採取其他必要之懲處。
2. 違反第四項規定者，處五千元以下罰款或一年以下有期徒刑，或兩者併罰。

三、其他重要規定

(一)特別檢察官 (Special Prosecutor)

1. 任命：

司法部長必須對所接獲具體指出下列人員涉及違反聯邦刑法之資訊，作不超過九十日之初步調查，並決定是否有進一步調查或起訴之必要：(1)總統、副總統；(2)高級行政職位 (Senior Executive Service)；(3)總統行政辦公室薪資水準不低於首長俸表第四級基本俸給人員；(4)司法部薪資水準不低於首長俸表第三級人員、副部長、中情局局長、副局長；(5)任何於現任或前任總統（如前任總統與現任總統為同黨籍時）任內擔任第(1)項至第(4)項職務人員；(6)將於下次總統選舉全國性競選委員會中擔任重要職務人員。司法部長經初步調查結果，如認為沒有實質須進一步調查或起訴之必要時，即以備忘通知法院結案，調查結果亦不對外公開；但如司法部長未能於九十日內作成前述決定，或其經初步調查結果認確有進一步調查或起訴之必要時，即須向法院相關單位申請任命特別檢查官。法院收到司法部長申請後，應任命一名特別檢察官並劃定其起訴權限 (prosecutorial

jurisdiction)。此外，參議院或眾議院司法委員會多數黨之多數成員，或少數黨之多數成員，亦得以書面要求司法部長申請任命特別檢察官。在這種情形下，司法部長必須於收受前述要求三十日或完成初步調查十五日內，書面回復其所將採取行動；如不擬申請任命特別檢察官，其理由。

2. 權限：

除法律明定須由司法部長本人行使之職權外，特別檢察官就所有與其起訴權限有關事項，享有完全而獨立之權威，以履行其調查與起訴功能。包括：(1)在陪審團前進行訴訟程序或其他調查；(2)參與法院訴訟程序與任何訴訟，包括民事及刑事事件；(3)就法院於其依職權參與任何事件或訴訟程序所為之任何決定，提出上訴；(4)檢視所有從任何來源可得之資料證據；(5)決定是否對任何證據特權之主張提出抗辯；(6)適當接觸國家機密，必要時，在法院對任何以國家機密為由而主張特權或企圖保留證據，提出抗辯；(7)為任何符合法律規定要件之證人，向聯邦法院提出豁免申請；(8)在符合現行法律規範下，檢查、取得或利用任何退稅資料；(9)就其權限在任何有管轄權的法院提出起訴並簽署起訴文件。對於屬於特別檢察官起訴權限範圍之事項，司法部、司法部長、以其該部所有員工，除政府倫理法另有規定或特別檢察官以書面同意外，均應暫停所有調查與訴訟程序。

3. 待遇及享有資源

特別檢察官支領相當首長俸表第四級薪俸之待遇，並有權任命其認為有必要、薪資水準不超過一般俸表十八級之人員，和指派前述人員任務。除此之外，特別檢察官尚得向司法部請求必要之協助，包括檔案、紀錄或其他與其起訴權限有關物品，以及使用其執行職務所需之人力與資源。

4. 監督

特別檢察官得公開或向國會報告其依職權所為之任何陳述或報告，向並眾議院提出其接獲可能構成彈劾基礎的實質或可靠資訊。國會相關委員會對於特別檢察官之職務行為有監督權，特別

檢察官對此監督權則有合作之義務。任務完成之後，特別檢察官必須向法院相關部門提出完整之工作報告，內容包括對於所有事件之處置以及未予起訴事項不起訴之理由。法院得依職權決定將前述報告或其一部公開於大眾、國會或任何其他人，或保護相關當事人而不公開其姓名，並於特別檢察官完成調查與起訴行為後，隨時終止其任命。

(二)參院法律顧問：

1. 參院法律顧問辦公室設顧問與副顧問各一人，均由代理議長自參院多數黨及少數黨領袖推薦人選中任命，其任命案自參院議決後生效。顧問支領相當首長俸表第三級基本薪俸之待遇，副顧問支領相當首長俸表第四級基本薪俸之待遇，顧問得在預算額度內選任參院助理顧問，並在不超過首長俸表第五級薪俸範圍內定其待遇。顧問、副顧問及助理顧問之任命均須超出黨派，並完全以是否適合其職務為考量，前述人員必須為法律專才及哥倫比亞特區律師公會成員，同時於其任職期間不得經營事業或兼職。
2. 參院法律顧問辦公室人員與參院議員或員工間溝通，為「律師—當事人」關係，其職務之履行直接向參院聯合領導團(Joint Leadership Group)負責。參院聯合領導團成員則包括：(1)參院代理議長；(2)參院多數黨及少數黨領袖；(3)參院司法委員會主席及少數黨首席議員；(4)參院負責預備金監督之委員會主席及少數黨首席議員。參院法律顧問須依參院領袖團三分之二同意或參院決議，為參議院、委員會、次級委員會、參議員或參院員工辯護，扮演參院「法庭之友」的角色。

政府倫理法於一九七八年制定後，復於一九七九年(PL. 96-191；PL. 96-28)一九八二年(PL. 97-409)、一九八三年(PL. 98-150)、一九八八年(PL. 100-508)及一九九六年(PL. 104-179)多次修正，主要修正內容除延長政府倫理局授權撥款年限外，還包括限制個人兼職收入不得超過其年薪的百分之十五，規範白宮高級助理、總統提名經參院同意任命人員財產申報及信託程序、將聯邦部分執行幕僚功能之人員納入應申報財產人員範圍、排除部分政黨與選舉活動於離職迴避

限制事項之外、以及將「外觀」上有損廉潔形象者一併納入規範等。該法最近一次修正案是在一九九九年提出，不過迄未經國會通過。

第三節 倫理改革法

一九八九年一月二十五日，布希設置總統聯邦倫理法改革委員會(President's Commission on Federal Ethics Laws Reform)，任命傑出法律學者與公共倫理專家威爾凱(Malcolm Richard Wilkey)為主席，卡特政府的司法部部長貝爾(Griffin B. Bell)為副主席，並具體指示以下四項關鍵原則：

- (一)公務員的倫理標準必須明確，以確保官員行為合於最高廉潔標準以及大眾對他們的信賴。
- (二)標準必須公平、客觀並符合常識。
- (三)聯邦政府三個部門的標準必須平等。
- (四)國家無法承擔影響有能力的公民服公職意願的不合理限制條件。

該委會於同年三月九日提出報告指出，行政部門的倫理規範沒什麼問題，倒是國會的倫理管理有許多問題存在。依據該委員會的建議，布希總統於一九八九年四月五日提出倫理改革法(The Ethics Reform Act of 1989)，國會當時受困於一連串的醜聞，在無法抗拒外界壓力情況下，於同年十一月通過該項法案。一九八九年倫理改革法總共有十一條條文，主要在使聯邦政府行政、立法及司法三個部門的倫理標準一致，該法修正重點包括：

(一)離職人員迴避限制

在政府倫理法有關離職人員一年迴避事項，增加下列限制：1. 禁止行政部門得接觸毋須依資訊自由法(Freedom of Information Act)公開與談判有關資訊之官員，就其離職前一年內，曾親身且實際參與任何代表美國之貿易或協定有關事項，協助或提供諮詢意見；2. 禁止行政部門支領相當一般俸表第十七級以上高層人員或軍官，意圖影響其原任職機關或人員之公務行為，而與其溝通接觸；3. 禁止國會議員及國會之民選人員，意圖影響國會議員或任何國會員工之公務行為，而與國會議員、國會員工或助理人員溝通接觸；4. 禁止國會議員之個

人、委員會或次級委員會、領袖人士之及員工及立法部門官員，意圖影響其原僱主、委員會或次級委員會成員、國會領袖人士等之公務行為，而與相關議員或其員工接觸；5. 禁止行政及立法部門員工，代表外國政府或政黨，意圖影響任何政府機構或其員工之公務行為，或為其提供協助為諮詢意見。但以美國聯邦或地方政府機關員工或民選官員或國際機構、教育機構、醫療機構等機構員工身分從事公務之行為、涉及個人事務與專業知識領域、科技資訊及證詞等行為，均不受前述迴避規定之限制。

(二) 齊一行政、立法、司法三部門財產申報規定

1. 廢止一九七八年政府倫理法第二條及第三條有關立法及司法部門財產申報相關規定，修正原第一條規定之範圍，將適用對象擴及總統、副總統、國會議員及其候選人、總統提名經參院同意任命人員、總統或總統當選人公開宣布準備提名擔任須申報財產職位之人員、行政部門（含聯邦郵局）一般俸表第十六級以上職位或支領相當待遇人員、相當或超過第 0-7 級薪俸軍官、其他政府倫理局局長認為層級相當之職位、行政法法官、基於機密或政策因素不受任用資格限制人員、各機關之倫理官員、參眾兩院議員、立法部門相當或超過一般俸表第十六級以上待遇人員、參眾兩院議員支領待遇相當或高於一般俸表十六級之助理（如該議員未雇用支領相當待遇人員，則至少需有一名主要助理申報）、司法部門待遇相當或超過一般俸表十六級以上人員、首席法官、上訴法院及最高法院法官、以及其他政府倫理局局長認為應申報之人員等。
2. 修正申報內容，申報各項收入最高金額由原先「十萬美元以上」提高為「一百萬美元以上」，應申報收入及車馬費之金額由現行一百美元提高為二百美元，並將部分投資公開上市且投資組合多樣化之基金排除於應申報內容之外。另提高罰則，知情且故意謊報、未申報、未依規定申報、以及違反信託規定者，最高可處一萬美元以下罰款，疏忽者處五千美元以下罰款；另未經核准而延持申報得處二百美元之罰款。

3. 受理申報單位經審核後，須於符合現行法律規定之申報資料簽署。對於不符規定者則須提供改進建議（包括交付盲目信託、依美國法典第十八篇相關規定請求豁免、自請調職、重新指派職務、限定職權範圍或辭職等等），並就其是否依改進建議處理複查，對已遵行者簽署，未遵行者通知任命人或倫理官員。
4. 將倫理主管單位得於其職權範圍內，以法規明定要求所屬員工為秘密申報之規定，擴大適用至立法及司法部門，亦即參眾兩院相關委員會及司法會議亦得要求所屬為秘密申報。

(三)修正接受禮物與旅遊補助之規定

1. 放寬對長官饋贈的規定，允許在婚禮或退休等特殊場合得致贈禮物；廢止違反此項規定者應予調整職務之規定，改為採取適當之懲處。要求行政首長訂定接受非聯邦來源支付其員工因公執行職務或參與活動所需之旅費或相關費用，但應於每年五月三十一日及十一月三十日，一年兩次就本機關收授禮物超過二百五十美元者，詳列其金額、支付方式、贈與人及受贈人之姓名、費用及會議或類似活動之性質、或其他法令規定事向倫理局長提出報告，並公開供大眾檢視。
2. 禁止聯邦官員與國會議員接受下列人士之饋贈或向其勸募：(1) 尋求公務員之職務行為或從事受公務員任職機關規範活動者；(2) 該人員職務行為之作為或不作為，對其利益有實質影響者。
3. 禁止國會議員、官員接受禮物以回報影響任何公務行為之履行，違者須受適當懲處或其他矯正處分。

(四)將獨立檢察官的調查範圍以及百分之十五兼職收入限制之適用對象，擴及國會議員。

(五)加重有關罰責規定，違反相關規定最高可處一年或五年以下有期徒刑、五萬美元以下或其收受金額較高者之罰金，或兩者併罰。

第四節 聯邦規範體系

總的來說，聯邦政府行政倫理規範約有以下四類：國會通過的法

律、總統公布的行政命令、聯邦政府各機關發布的規章、以及相關機關對個案諮詢或疑義所作的函釋或備忘。

(一)法律(Statutes)

國會通過的法律案，包括一九七八年政府倫理法及其歷次修正，以及一九八九年倫理改革法等，其規範對象可涵蓋行政、立法及司法三個部門，均併入美國法典(United State Code)相關章節。

(二)行政命令(Executive Order)

總統發布的行政命令，是以行政部門員工為對象。除前述甘迺迪總統發布的第一〇九三九號行政命令、詹森總統發布的第一一二二二號行政命令外，布希總統與柯林頓總統先後於一九八九年、一九九〇年及一九九三年、二〇〇〇年，分別二度發布與行政倫理相關行政命令。

布希總統於一九八九年四月十二日發布第一二六四七號行政命令「行政部門員工之倫理行為原則」(Principles of Ethical Conduct for Government Officers and Employees)，一九九〇年十月十七日再度發布同名的第一二七三一號行政命令。依據布希總統的說法，這項行政命令規範的目的僅在於確保每個公民對於聯邦政府的廉潔能完全的信心。該號行政命令限制總統任命的專職非永業公務員，除部分薪資低於一般俸表九級的人員外，並不得在外兼職兼薪；此外，任何兼職都必須符合相關規定的行為標準。(Rohr, 1998, p. 77)。

柯林頓總統於一九九三年一月二十日甫上任之初即發布第一二八三四號行政命令「行政部門任命人員倫理承諾」(Ethics Commitments by Executive Branch Appointees)，對離職高級官員增加以下限制：1. 禁止於離職五年期間遊說；2. 禁止於離開聯邦公職後，參與代表外國政權的活動；3. 禁止於參與美國政府貿易協商五年內，代表外國政府或政權。不過柯林頓總統在二〇〇〇年十二月二十八日卸任前夕，發布的第一三一八四號行政命令，則廢止第一二八三四號行政命令，使原受該號行政命令限制之聯邦行政部門現任或離職員工，自二〇〇一年一月二十日起，不再受其拘束。

(三)聯邦規章：(Code of Federal Regulation)

除政府倫理局就所有公務員均應遵守的倫理規範定有共通性的規定外，各機關依政府倫理法相關規定，就其本身業務性質之不同，亦訂有相關行政規章，規定本機關應遵循行政倫理規範。其中政府倫理局所發布的「行政部門員工倫理行為準則」(Standard of Ethical Conduct of Employees of the Executive Branch)，被編入聯邦規章第五章的B子章；又依政府倫理局網站提供資訊，目前就倫理事項訂有補充規定者，共有財政部、聯邦存保公司、能源部、聯邦能源管理委員會、內政部、國防部、聯邦通訊委員會、農業信用制度保險公司、農業信用局、人事管理局、州際商業委員會、期貨交易委員會、勞工部、國家科學基金、健康與人力服務部、郵政費率委員會、聯邦貿易委員會、核能管理委員會、運輸部、聯邦入出口銀行、教育部、環境保護局、聯邦儲備董事會、國家航太局、聯邦郵局、國家勞工關係董事會、平等就業委員會、住宅及都市發展部、國家檔案局、田納西流域管理局、消費產品安全委員會、聯邦礦業安全與健康審核委員會、聯邦退休基金投資董事會、預算管理局等三十九個機關。

(四)函釋與備忘(Memoranda)

行政倫理觀念與法制的發展，雖然已有相當長的一段時間，但法令規定的鉅細靡遺與日新月異，使得一般公務員在面臨相關倫理情境時，往往仍有不知所措。因此，當公務員面臨某種倫理情境而不知如何處理時，為避免違反倫理規範，最好向機關倫理單位或政府倫理局政府請求提供諮詢意見；又在涉及刑事責任情況下，則可向司法部法律顧問室求助，受理諮詢的機關或單位即會以函釋諮詢意見或備忘，告訴該公務員應該怎麼做。然而由於受理機關或單位對於求助的個案必須儘速提供意見，在查無往例或未及詳慎討論的情況下，可能會先提供非正式意見(Informal opinion)，告訴公務員應如何處理其所面對的倫理情境。這類非正式意見雖不能保證絕對正確，提出詢問的人也不須遵循照辦，但其可為提出疑義的公務員撐起一道法律的保護傘。也就是說，如果求助的公務員按照相關機關或單位的建議意見去做，在詢問者已提供真正事實且未有隱瞞或誤導情況下，萬一將來其行為被認為是違法時，即可免責。

對於公務員比較常面臨的倫理情境，政府倫理局則於蒐集彙整後，對各機關的倫理官員不定時下達相關的函釋與備忘，供所有公務人員參考。

第三章 倫理法制的執行

第一節 聯邦倫理機構

一、聯邦政府倫理局

一九七八年十月二十六日通過的政府倫理法，授權在人事管理局 (Office of Personnel Management) 轄下成立政府倫理局 (Office of Government Ethics)，並自一九七八年起，每年撥給該局二百萬美元經費，為期五年，至一九八三年九月三十日為止。倫理局局長由總統提名，經參院同意任命，其在人事管理局監督下，負責提供行政部門所有與防止員工利益衝突相關之政策。依據政府倫理法的規定，倫理局局長在擬訂政策、法規、程序及申報表時，應會商相關機關及司法部長。行政部門各機關須應倫理局長之要求，提供服務、人力及設施，俾使政府倫理法發揮最大功效。又除法律禁止外，應提供倫理局長認為履行其職務所需之該機關持有資訊及資料。倫理局局長法定職掌共有以下十四項：

- (一) 會商司法部長，擬訂並向人事管理局提出由總統或人事管理局頒布、與行政部門利益衝突或倫理相關法規之建議，包括行政部門員工依政府倫理法所為之申報、審核程序，以及申報資料公開等規定。
- (二) 會商司法部長，擬訂並向人事管理局提出由總統或人事管理局頒布，與利益衝突事項及其解決途徑相關法規之建議。
- (三) 監督並調查行政部門員工、以及負責收受、審查與公開申報資料之行政機關官員是否遵守政府倫理法第二條有關財產申報之規定。
- (四) 審查財產申報表有無違反現行利益衝突法規，並對審查結果所顯示之任何利益衝突或倫理問題，提出適當的矯正建議。
- (五) 監督並調查個人與機關遵守法律有關行政部門其他財產申報與內部審查之規定。

- (六)解釋人事管理局或總統發布有關利益衝突、倫理問題、以及財產申報之法規。
- (七)接受機關倫理顧問或其他主管官員要求，會商有關利益衝突個案之解決途徑。
- (八)建立正式諮詢意見服務(formal advisory opinion service)制度，俾於通案性事項提供諮詢意見，或就重要事項提供關係人請求提供諮詢意見之機會，並彙整、出版前述諮詢意見，提供機關倫理官員及大眾。
- (九)指示機關或員工倫理局局長認為必要之矯正措施。
- (十)向行政機構要求倫理局局長認為必要之相關報告。
- (十一)協助司法部長評估利益衝突法律之效果與適當之修正建議。
- (十二)在司法部長協助下，從是否與利益衝突法律一致並有效補充之的觀點，評估人事管理局與其他機關發布之利益衝突與倫理問題相關規定有無修正必要。
- (十三)與司法部長合作建立一套向司法部長報告有關違反利益衝突法律指控言論的有效機制。
- (十四)提供行政機關倫理標準之資訊，並促進其瞭解。

一九八三年十一月十一日，國會通過政府倫理法再授權法案，繼續撥給該局五年的經費，至一九八八年九月三十日止；同時也提高該局的地位與權限。包括：(一)明定局長任期五年；(二)賦予政府倫理局更大的自主權，同意該局於「諮商」(in consultation with)人事管理局後訂定行政部門利益衝突與倫理相關法規，而非在其「監督」之下運作；(三)獨立預算，將未來五年預估支出、維持該局所須之經費及各項變動的影響，均列入送交國會之政府預算；(四)允許局長在涉及財產申報事項的調查中，向機關的督察長 (Inspector General) 請求協助；以及(五)要求局長審核白宮高級幕僚的財產申報表。

一九八八年十一月三日國會再度通過法案，延長撥款該局六年的經費，至一九九四年九月三十日止；同時讓政府倫理局脫離人事管理局管轄，成為一個獨立機關，局長應於每年三月三十一日前向國會報告該局之運作情形。此次修正之其他重點包括：(一)提高局長職務的

地位，將其由原支領行政首長俸表的第三級待遇，提升為第四級；(二)要求局長保證行政部門各機關均就機關如何受理、審核、評估及公開其員工財產申報表之程序，以及各行政機構應向該局提出報告，說明、評估本機構倫理方案等，訂定相關規範。對於機關未依規定建立或修正倫理方案，或個人違反相關倫理法規者，倫理局局長對於機關或個人，分別有命令或建議「矯正行動」(Corrective action)之權；(三)將局長請求督察長協助的範圍擴及任何依據該局法定職責所進行的調查；以及(四)將該局一九八九年的預算增加至二百五十億美元，其後的五年並增為每年三百億元。

政府倫理局的授權撥款期限於一九九四年屆滿後，國會經過二年延宕，始再度修正政府倫理法，並通過自一九九七年至一九九九年，為期三年的授權撥款。一九九六年政府倫理修正的重點主要為允許局長除在於法不合之情況外，得收受禮物及捐款。除此之外，局長應以書面訂定標準，用以判定收受金錢、服務、設施等，是否對於政府倫理局或其員工，以公平客觀的態度執行職務的能力，有不利影響；或在實際上或外觀上，有損相關業務或涉及該項業務員工廉潔。

依據參院法案審查報告之說明，一九九六年政府倫理法修正授權期間的選擇，其主要是為使下次再授權的時間避開總統任期的第一年與第四年。因為在這段期間，該局須投入大量人力在總統大選與新舊總統交接所衍生的問題上。然而政府倫理局依法授權撥款的年限於一九九九年屆滿後，參眾兩院雖分別有法案提出(S. 1503 與 H. 2904)，擬將授權撥款期限延長至二〇〇三年，不過相關法案仍未完成立法程序。據詢政府倫理局及司法部倫理辦公室的官員，咸表示此種情形在美國為司空見慣。司法部倫理辦公室主任 Mary A. Braden 女士更舉數年前美國曾因未及時通過預算，造成舉世罕見的政府部門暫時停止辦公的特殊現象，以及司法部迄至筆者參訪當時(十月中旬)仍未通過撥款，來說明這種立法撥款延遲情形在美國聯邦政府甚為常見。

總的來說，自一九七八年政府倫理法制定以來，相關法令的修訂不但逐步擴大財產申報適用對象，同時在禮品、演講費、兼職收入、離職人員等各方面增加更多的限制，使得政府倫理局的職權範圍與工

作量均大幅成長。在實地參訪過程中，受訪的政府倫理局的管理分析師 Colin C. Christian 亦證實表示，新舊政權交接過程中，確實是該局業務量大增的時刻。因為政府倫理局不但須依法對所有定期申報之財產申報表逐一審核，在總統提名人選未就職、未任命、甚至為獲提名之前，就已經在協助過濾擬任人員資料並提供諮詢意見了。當總統準備任命或提名某個公職職位時，白宮往往會就該職位擬任人選是否有違反相關倫理法制規定，涉及利益衝突之虞，請給政府倫理局提供諮詢意見。雖然如此，政府倫理局基本上仍是聯邦行政部門中的一個小單位，所轄人力及預算都極為有限。以公元二〇〇〇年來說，其正式編制員額不過八十四人，預算九百一十一萬四千美元。該局組織以局長辦公室為首，其下設有以下四個部門：

(一)政府關係與特殊計畫室(OGRSP)：

負責國會聯絡、促進國技倫理與反腐化合作活動、協助局長在總統廉潔與效率會議中扮演角色、發起或協助該局之特殊活動等。

(二)一般諮詢與法律政策室(OGC&LP)：

負責為行政部門建立並維持一致的政府倫理法制、擬定並解釋行政部門倫理政策及法規、協助其他機關有關倫理法制與政策之執行、對利益衝突法規之修正提出建議、回應媒體對於相關資訊之需求。

(三)機構計畫室(OAP)：

分為教育及計畫服務、財產申報及計畫審核等三個部門，分就其職掌事項協助聯邦機構執行、辨別與解決問題、以及提供教育訓練材料等方面，並與其密切合作。

(四)行政與資訊管理室(OAIM)：

提供人事、薪資、財政資源管理等基本行政事務之支援服務。

二、其他涉及倫理規範的機構

依據一九六九年的第一一二二二號行政命令，聯邦政府每個機構都必須設置一位倫理官員(DAEO)，負責本機關倫理相關事項。事實上，許多機關不單置有倫理官員，甚至本身就設有倫理機構。例如本次研

習計畫中所拜訪的司法部倫理辦公室，其職掌事項包括受理除首長或其他依法須向倫理局申報者外，司法部其他相關人員之財產申報、協助本機關人員處理涉及倫理疑義之情境、訂定本機關適用的倫理規範、提供教育訓練資料、以及蒐集提供倫理法規資訊等等，工作性質與內容和政府倫理局相仿。據辦公室主任 Braden 女士表示，該辦公室對於司法部同仁提出倫理疑義提供之諮詢意見，同樣具有法律保護傘的作用。

行政部門其他和行政倫理關係較為密切的機構，包括為聯邦機構解釋涉及刑事犯罪法律的司法部法律顧問室(Office of Legal Counsel)；依據一九七八年通過之 Inspector General Act 規定設置，負責調查機關內部欺騙、浪費與管理不當的督察長室(Inspector General Office)；以及專為協助處理白宮及總統任命人員倫理問題的白宮顧問醜聞管理及總統辦公室。

除了前述行政部門相關單位外，還有幾個主管犯罪偵防的機構，也和行政倫理的執行有密切的關係。首先是司法部的廉政單位(The Public Integrity Section of the Department of Justice)，一九七六年成立，與司法部長維持獨立而合作的關係；其次是前面在政府倫理法中已經介紹過的獨立檢察官；最後是與聯邦犯罪調查有關的聯邦調查局。以上三個機構，在不同情況下都可能負責違反倫理法規的犯罪偵查工作。

第二節 地方政府倫理機構

自從聯邦政府於一九七八年制定政府倫理法以來，美國各級地方政府紛紛效尤頒布相關倫理法規，並設置倫理機構。不過基於美國分權制度的特色，各地方政府的倫理規範雖大多參考聯邦政府的規定，但亦因各地風土民情與政治情況有別，其規定仍有不一之處。此外，地方倫理機構的組織，包括本研究參訪的兩地方倫理機構－紐約州倫理委員會與舊金山市及郡倫理委員會，都是以「委員會」的方式行之。以下謹就該兩地方政府倫理機構簡要介紹如次：

一．紐約州倫理委員會

紐約州倫理委員會係於一九八七年，依該州政府倫理法而成立，其主要功能有以下五項：(一)為其管轄範圍之公務員提供諮詢意見；(二)教育員工瞭解其倫理義務；(三)受理制定政策及高待遇人員之財產申報；(四)調查可能違反倫理法規的行為；(五)評估知情且故意違反倫理法規的罰款。紐約州倫理委員會以州長為主席，五位委員均由州長任命，但其中須有一名由主計官(Comptroller)提名，一名由檢察長(Attorney General)提名，另三人毋須先經提名。五位委員中，同一政黨者不得超過二人，政府官員不得超過一名，且均不得擔任黨職或受雇為遊說者。委員任期五年，非有失職或無法執行職務情形，不得去職，俾其超出政治活動，保持獨立。

委員均為無給職，僅開會時得支領出席旅費。為避免受外界影響，開會時採秘密會議。依該委員會自己的界定，其基本任務係教育及提供諮詢意見。對於州員工提出的倫理疑義，倫理委員會提供的諮詢意見分為正式諮詢意見與非正式諮詢意見兩種。其中正式諮詢意見須經委員會多數委員議決通過，在詢問者係善意且未省略或誤述任何事實情況下，正式諮詢意見對於委員會及詢問之個人，均具有拘束力。這種正式諮詢意見的拘束力雖僅限於個案，但卻很可能成為將來類似案件的先例。因為委員會往往會依據過去所作成的正式諮詢意見，對其後提出類似疑義的個人，提供非正式諮詢意見。非正式諮詢意見對於雙方均無拘束力，僅為一種指導。在委員會成立的前幾年，為因應該州公務人員提出疑義，陸續發布正式諮詢意見不少，不過在各類正式諮詢意見累積相當數量後，對於州政府員工提出的疑義，大多即可參考以往發布的正式諮詢意見，逕行提供非正式諮詢意見。因此，在該會成立之初，正式諮詢意見較多，在累積相當數量之後，非正式諮詢意見已逐漸取而代之。一九九九年提供的諮詢意見中，正式諮詢意見僅有十七則，非正式諮詢意見則有一七七則。

受理財產申報案件是紐約州倫理委員會重要工作項目之一。在參訪位於紐約首府 Albany 的紐約州倫理委員會時，據該委員會公關主任

Walter C. Ayres 表示，紐約州倫理委員會對於該州員工的財產申報資料均須逐件審核；其並在引導參觀時，特別介紹該會撥出相當大的辦公區域，專門儲存財產申報資料。不過限於人力，該會一九九九年受理一萬七千件財產申報書中，實際完成審核的僅數百件。

二．舊金山市及郡倫理委員會

和嚴謹的紐約州倫理委員會比較起來，位於舊金山市繁華鬧區 Market Street 的舊金山市及郡倫理委員會，則有著西岸的休閒風格。舊金山市及郡倫理委員會於一九九五年籌設，一九九六年一月一日正式運作。其名義上雖冠以「市」及「郡」之名，不過其實際上其管轄範圍為市憲章中與競選經費、遊說、利益衝突與政府倫理之法規。對於同一事項之規範，市法規須受聯邦及州法令之節制，不得與其牴觸，但在未規範之部分，則可作進一步或較嚴格之規定。

和紐約州倫理委員會一樣，舊金山市及郡倫理委員會的主要任務為教育公民及大眾有關倫理法規以及市府員工財產申報事項。各機關依法須申報財產之人員，除首長向倫理委員會申報外，均由其所屬機關受理財產申報，申報資料有限度之公開，公眾可向受理申報機關查閱。基本上該會對於財產申報資料並不作審查。依據委員會官員 Joe Lynn 的說法，該委員會受理財產申報資料後，其應予公開的資料就放在其辦公室外的檔案櫃中，供民眾申請查閱，但除 Common Cause 此一專門從事倫理問題的研究機構外，查閱者不多。

有關違反倫理事項的申訴或舉發，原則上由該委員會的調查官先予檢查，其認為確有疑義存在之案件，即移交市與郡檢察官處理；認為所檢舉事項並無疑義者，則提經倫理委員會同意後逕予結案。送檢察官處理之案件，如經檢查官決定無調查必要移回者，調查官即再進行初步審查，對於審查後認確無疑義者予以結案，認為仍有進一步瞭解必要者，則進行調查。對於可能違反倫理法規案件之調查應予保密，但調查結果予以罰款或和解之案件，則得予公開，不過該市迄今尚無因違反倫理法規而遭定罪之案例。

第四章 檢討分析

在陽光法案與杜絕貪污腐化的訴求下，要求公職人員揭露財產、對於現職人員接受禮物、兼職與離職人員再任等事項加以限制等行政倫理法制逐步建立。經由對於公職人員重重監督與限制，以往政府官員種種不法濫權或藉職務牟利的行為，一一現形；甚至過去司空見慣的作法，也因禁不起公眾和輿論嚴格的檢視，暴露其中利益衝突的本質，而受到法律的規範與禁止。然而福兮禍所倚，凡事物極必反，禍福往往相隨而僅一線之隔。正因為倫理規範的正當性與必要性不證自明，贊成者的聲浪與理由遠比反對者充分而響亮，然而隨著強化行政倫理規範的聲浪愈來愈大，規範內容愈來愈嚴格的同時，反省的思潮也隨之而來。

第一節 規範的意義與目的

訂定法律規範，首要探究並確立規範的意義與目的，方能具體評估其所達到之成效，而不致本末倒置，形成手段與目標的置換。基於政府存在最重要且根本的目的之一，即在為人民提供服務。因此，當代民主國家提倡行政倫理法制，旨在經由廉能政府的建立，為人民提供更好的服務，至於公務員的權益則往往不在考量範圍之內。如果從這個觀點出發，吸引有才華與誠實的人進入政府服務雖然也是一項可欲的目標，但為社會創造最大的利益，包括經濟、效率、最好的公共安全與其他服務，提升尊榮感、愛國心、以及國家自我意識價值，則更形重要(Cody & Lynn, 1992, p7)。

從另一個角度來看，腐化的環境會導致難以吸引優秀人才進入政府服務的結果，前麻州州長 William F. Weld 曾說，如果我們默認政治與公共生活是種「骯髒的事」這種看法超過某種程度，將會打一開始便把誠實及有能力的公民阻絕於公職門外。如此，行政倫理的追求，對吸引優秀人才進入政府機構服務而言，似又未必全然是負數。但擔任公職即須將個人，甚至家人的隱私完全攤在陽光下供人檢視，無所遁形這種愈趨嚴格的倫理規範真的有利無弊嗎？或許羅爾（John

Rohr) 以下發人深省一段論述，足以讓吾人為惕：

「恣意對待公務員的隱私權可能會在他們看待隱私權的整體態度上，造成一種不健康的影響。因為政治揭露儀式的特性，使公僕很難在對此加以抱怨的同時，又能讓自己看起來於德行無虧。這裡潛藏的危險在於：最後公僕可能只好默默地屈從於政府插足其隱私，而使我們有一群對隱私權價值毫無所覺的公僕；既然他們必須為公益犧牲自己的隱私權，那麼或許他們也就不吝於要求我們其他人做同樣的犧牲。然而由一群對民主自由體制下公民應有隱私權需求毫不在乎的人所組成的官僚體系，是不可能妥善維護公眾的福祉。我們並不希望經由體制對公僕本身隱私權的破壞，使政府官員習慣於這種感覺。財產申報絕對不能被政府人事官員用來鼓吹隱私權只有對那些有什麼要隱瞞的人才有關聯的觀念。」(Rohr, 1998, pp. 47-48)

「君子無事不可對人言」，只要不貪贓枉法就沒什麼好隱瞞的觀念，與視個人隱私為基本人權之一的民主社會價值，實有其格格不入之處。因此，如何在公務人員的基本人權與公眾利益之間，慎求衡平，比起一味地嚴格規範乃至侵犯公務人員的私領域生活，更值得吾人深思。由是觀之，行政倫理法制規範的核心概念唯有建立在防止「利益衝突」的角度上，強調「廉潔形象」的重要性，而非無視於公務人員的基本權利，或粗暴地加以限制或侵犯、踐踏公務人員尊嚴、甚至將公務人員視為潛在罪犯，所有的規範才有其正當性與合理性。

即以財產申報為例，要求特定職位公務人員公開其財產，其目的在經由公開申報人員之財務狀況，監督申報人財產變動、收受饋贈或車馬費等收入等，使貪污受賄者現形；並可藉以檢視申報人持有財產與其公務職責內容，有無利益衝突而須迴避之情形，而非在探知申報人有多少家產；對於兼職、與前僱主關係、以及離職迴避規範之精神則分別在於避免公務人員因體力及精神不足，影響工作績效、以及避免因過去、現在或未來之僱傭關係，圖利特定私人而影響公益或人民對政府的觀感，而不是剝奪公務人員選擇職業的自由。同樣地，禁止公務人員接受特定來源的禮物或招待，是為維護政府廉潔形象的外觀，而不是限制公務員的正常社交活動。

這樣的見解，或許在一九八七年，Donald Campbell 擔任倫理局代理局長時，發布備忘錄禁止聯邦員工接受特定來源食物（包括吃飯在內）與車馬費，所引起討論可獲得具體闡明。起初，聯邦員工對於這項禁令大為反彈，因為在許多情形下，政府官員與業者可能是朋友，這項禁令如以聯邦員工和其在業界朋友的尋常一頓社交午餐，便認為其中可能有洵私舞弊可能，無疑對公務員尊嚴有相當大的傷害。更何況在某些專業領域中，政府官員與業者往往很容易有同學、校友或師生關係，在此情形下，這樣的規定更顯得不近人情。

然而前述反彈聲浪在政府倫理局體察時勢，將規範目的地導向合理的方向後，終於成功地平息各方的質疑。Campbell 局長的解釋為：「禁止接受政府有業務往來者邀請午餐和公務員的廉潔無涉，其目的僅在員工廉潔可能受質疑的情境建立一道屏障。」問題焦點於是由對公務員廉潔的質疑，轉向「外觀不當」以及大眾可能的疑慮(Rohr, 1998, p78)。易言之，禁止公務員工接受業者招待未必表示其中有不可告人之事存在，或可能影響其公務之執行，而是廉潔的外觀和廉潔的行為同樣重要。廉潔的行為有助於實質上提昇政府行政效率，廉潔的外觀則可強化公眾對政府廉潔的信心，二者實有相輔相成之效。

第二節 規範的內化

徒法不足以自行，尤其對倫理法制這種具有高度道德性的規範而言，發自內心的信仰與服膺，才是達到規範目標的不二法門。即如布希總統一九八九年設置的總統聯邦倫理法改革委員會，在其提出報告中廣為人引述的一段話所言：「倫理的政府不光是法律而已，而是一種精神，一套耳濡目染的行為規則，一種風氣。它是一種氣氛，從最高層到最基層的政政與決策官員，某些行為直覺上就被認為正確的，而另一些行為則是不能被接受的。法律或規則無法窮盡倫理的規範，它們只能建立行為的最低標準。各種行為的變化是無限的，根本不可能以條文來完全規範或禁止，以法律強制人遵守是最昂貴的方法。」(Cody & Lynn, 1992, p. 2)。

如何將行政倫理的規範內化於一般大眾與公職人員心中，即使不

比倫理規範本身重要，起碼也有同等的重要性。因此，對於聯邦或各級地方政府倫理機構而言，教育訓練都是其最重要的任務之一。即以此次參訪的各倫理機構而言，均針對倫理法規、常見倫理情境疑義與相關事項，引製各種宣導品、手冊、錄音帶、錄影帶、光碟，供大眾索取或購買。在網際網路無遠弗屆的今日，各機關也都將相關法規及其他訊息刊登機關網站或相關網頁，甚至有網路版供下載。此外，定期或不定期舉辦或參加各種宣導活動，諸如座談、講習、研討會等，以及參加國際反腐化活動，都是各倫理機構例行辦理，進一步提倡並強化行政倫理觀念的作法。

印製出版品和舉辦或參與或活動，除了喚起包括公務員在內的社會大眾對倫理規範的關注，還有一個非常實際的功能。紐約州倫理委員會公關主任 Walter C. Ayres 即幽默地表示，該會出版許多手冊及說明，係將財產申報、利益衝突等相關倫理法規以「英文」寫下來。因為多數法律條文的規定對一般公務員來說，實在過於晦澀難解，以淺顯易懂、平鋪直敘的文字將法律條文重新加以詮釋，讓公務人員真正瞭解其應遵守的倫理規範，有時比徒具規範本身更為重要。助理顧問 Suzanne M. Dugan 在受訪時也表示，嚴格的倫理規範確實引致公務人員的反彈與不滿，為使州管轄之公務員更瞭解倫理規範的意涵與內容，經常的教育訓練有其必要性，其本人每年都有相當長的時間巡迴紐約州各地參加講習會。

規範內化的重要性在適法與否間的模糊地帶，以及「外觀」不致引發不當聯想上更為彰顯，這或許由前台北市政府高層官員與業者一起出國考察的例子中可以窺見端倪。有指示所屬接受廠商投標權限的副市長與主管都市發展開發案件的一級機關首長，和參與管轄範圍內公共工程投標，或有案件於管轄權限下等待審查的業者一起出國考察，不論是否有實質違反倫理規範之情節，從其外觀上來看，卻很難不引起大眾的質疑。即使現行法令未有規範，如果行政倫理規範能深入內化政府官員心中，上述情節是否涉及「利益衝突」疑慮的湧現，毋寧是必然會有的自省，如果再考量到「外觀不當」將引致大眾對政府廉潔信心的侵蝕，有操守的公務員是否應知所迴避，自不待言。

即如觀念潛移默化的力量讓人訝異，其影響的方向往往也出人意料。美國政府倫理法制定之初，因法令規範細密繁瑣，大量從私人企業挖角的雷根政府於一九八七年下台後，面臨在職或離職不當言行的指控，包括：財產申報、盲目信託、外觀不當、違反接受禮物限制、以及業外收入限制的官員，竟達數百名之多。當時許多新聞界人士相信，把焦點放在政府倫理上，經由各種弊端的揭發，大眾對於政府倫理的信心終將回復。但很不幸的，此一理想並未成真，將來似乎也不太可能成真。柯林頓在緋聞案及白水案均有相當事證的情況下，不受影響地兩度當選美國總統，似乎顯示泥漿摔跤似地打混仗已經成為美國政治人物的共同特徵，美國大眾對於公眾人物不當行為的新指控失去興趣，連帶使得有關行政倫理弊端的揭發，不再具有成為政治利器的潛力 (Roberts & Doss, 1997, p. 112)。

然而當太多行為失檢的例子，使人民對於這類訴求麻痺，民眾對於倫理問題不再關心，甚至認為「天下烏鴉一般黑」時，民主政治即危如卵石。因為政治效能感是民主政治最重要的特徵之一，民主國家的人民相信，一般平民百姓透過政治參與有能力影響政府的政策。如果這種信心遭打破，人民認為有權有勢的人可以經由賄賂或其他不正當的受段影響政府決策，政治效能感將隨社會正義消逝無蹤。因此，惟有透過不斷的宣導與教育訓練，讓公務員以及一般大眾持續保持對公務倫理的信仰與堅持，使倫理的行為內化為公務員自省的標準，而非僅是外在的法律規範；把不倫理行為的揭發當作必要的自清與監督，與向上提升達致更高倫理要求的動力，而非司空見慣的新聞標題，行政倫理法制規範的目標才有達成的可能

第三節 研究建議

我國有關行政倫理事項，向無統一的規範，而係散見於各相關法規。除公職人員選舉罷免法、貪污治罪條例、公務人員任用法、政府採購法等相關法規外，與本研究範圍有關者，主要為公務員服務法、公職人員財產申報法以及利益衝突迴避法三法。然而如將前述三法及其相關規定和美國相比，其條文篇幅著實在少得可憐；但深入探究其

規定範疇，卻又發覺其內容似有無所不包之情形。質言之，我國目前有關行政倫理的規範，彷彿只要儘量擴大限制的範圍，便自然能阻絕貪污腐化之門；或者明知其不可，但為求杜大眾悠悠之口，仍儘可能作最大的規範。以上不論何種情形，由於缺乏對於規範意涵、目的及達致效果的深層思考，致使規定內容籠統含混，重形式而輕實際，不但公務人員的基本人權受到忽略，具體適用又常無法達到規範的真正目的。

從倫理規範的目的與前述美國倫理法制規範的重點來看，當前我國倫理法制似可朝以下幾個改進的方向：

(一)規範對象：

不論公務員服務法、公職人員財產申報法或公職人員利益衝突迴避法，規範對象大致為：政務人員、常任文官以及民意代表，而忽略了一群不具公職身分或僅暫時從事公職，但卻常具有相當實質影響力的人，包括各機關以機要方式進用隨首長進退、以聘任、聘用或其他方式遴聘擔任高級職務或高待遇職缺人員、以及國會助理人員等。事實上，常任文官永業化的特性，不但使其可能涉及職務上及離職迴避的情況較少，在職位上也比較能秉持其專業並勉力維護業務推展一慣性。反觀隨選舉成敗進退，或仰賴有任命權者個人好惡進用人員，因為缺乏身分的保障，與外界互動（包括任用前與離職後任職機構或職務安排）較為密切，不具永業公務員將公職視為終身志業的使命感與忠誠，且因接近決策者而往往對政策形成有較永業公務員為高的非正式影響力，故不但應將其納入行政倫理規範對象，前述人員所應受規範的強度，尚應較一般不負政策決定的永業公務員為高。

(二)申報內容：

由於公務員實際擁有的多少資產或債務，與該名公務員本人是否廉潔並無必然關係，因此其資產或債務的明細，除非與其職務有利益衝突可能，否則似不應為審視財產申報資料時所欲知悉的重點。舉例而言，一般公務員住豪宅、穿華服、開名車、出入高級場所，除非與其公務職責之履行有利益衝突情形，或有貪污受賄

或因職務行為不當獲益之嫌疑，否則似乎不是民眾或政府所應關心或過問的，亦無將其公告周知之必要。然而如前所述，隱私的維護並非絕對的，而須建立在前述公益與私利的衡平上。因此，職務愈高、知悉資訊愈多及影響力愈大的人，所享有或掌控權力愈大，其所受規範的密度應愈高，其行為及財務關係，也應愈透明公開，俾大眾檢視。至於不負政策決定責任人員，即使因其職務性質，有申報之必要，亦應財產揭露之必要性應與其可能產生利益衝突成比例。據悉行政、考試及監察三院函送立法院審議的公職人員財產申報法修正草案，除了增加信託規定外，也擴增了應申報財產人員的範圍。在此同時，除應考量擴大申報範圍在審查人力有限的情況下，有無增添實務上困擾，並稀釋了各界注意力外外，基於對公務員隱私權的維護，似應慎思對於部分人員採取秘密申報規定的可能性。

(三)授權規定：

公務員服務法及公職人員利益衝突迴避法對於兼職、饋贈、離職迴避及其他利益衝突事項，多屬概括性的規定。最近行政院研擬修正公務員服務法時，基於現行離職迴避事項採「職務禁止」無法確實達成禁止離職公務員從事不當利益輸送目的，而擬修正採「行為禁止」方式。實際上，現代民主國家各類政府事務龐大繁雜，各機關職掌業務各不相同，基於業務性質與機關特性，其可能涉及利益衝突之種類與型態各有不同；然而對於現職或離職人員利益衝突迴避事項之規定，不論在政府遂行政務、公務員執行職務與工作權利、以及民眾觀感上，均有重大影響，倘規定徒成具文或有過於嚴苛，均有所不宜。因此，除就具有一體適用事項作原則性及全面性作概括性的規範外，更應授權各主管機關須就其所屬人員，針對本機關業務與人員特性，訂定更詳盡周密的規範。

(四)調查程序：

目前我國有關倫理的規範多偏向靜態的禁止規定，除涉及刑事犯罪部分應由檢察官主動偵察外，對於違反倫理規範的指控或事證

時，行政機關並無相關之調查機制與權限，因此，機關往往無法具體掌握及瞭解相關情節，適時加以處理或提出澄清，反而坐視媒體發布其主動查證或根本未經證實之消息，任令事態擴大。除影響各界觀感外，有時甚至使公務員之人格、名譽及隱私權，受到無法彌補之重大傷害。因此，當有政府官員受到違反倫理行為的質疑時，適當的調查程序即有其必要。當然，如前所一再強調，公務員的隱私應受適當的保障，不過如果其廉潔受到合理的質疑時，尤其是擔任職位有具體或特定之影響力者，極可能會造成人民對政府信心的侵蝕，相關單位自應即時且積極地以公正、客觀的程序進行調查。惟此處所應進行的調查，如涉及財務問題時，其重點應不在該名公務員本身財產多寡，而在其職務行為是否因原有資產或債務，或接受財務或其他安排而受到影響。對於接受調查的當事人，應規範其配合調查之義務。惟經調查結果如查無不法情事時，其調查內容是否公開宜有彈性之規定。

(五) 罰責：

目前有關違反倫理規範之罰則，有刑事罰及行政罰兩種。然而部分規定不論情節輕重均予一致之處罰，例如違反公務員服務法第十三條第一項至第三項規定者，先予撤職；違反同法第十四條之一者，處二年以下有期徒刑，得併科罰金；部分行為無罰則規定，缺乏強制約束力量，似有輕重失衡之虞。似宜考量規範本身目的，授與機關相當裁量權限，對於情節輕微之案件，按其違反規範之主客觀因素與條件，予以適當行政罰鍰之裁罰權或行政上懲處權限，以收因地制宜之效。

除了以上法規修正之方向外，欲期倫理法制之落實與踐行，當然仍有賴教育訓練的加強與宣導，自基礎觀念紮根，才是最有效的解決之道。

第五章 結語

民調專家哈里斯(Luis Harris)在一九八六年所作的調查中發現，民眾聯邦政府行政部門的信心水準，已從二十年前的41%跌落至18%。一九八五年一份針對聯邦高級行政職位官員的研究也反映了哈里斯的調查結論，將近百分之六十三的前聯邦高級官員建議社會新鮮人進入私人企業而非公務部門服務，即使這些受訪的前官員們表示樂在工作。一九八八年的一份報告也顯示，大眾對於公務員的尊重陡然直落。該報告指出，過去二十年來一連串公職候選人在競選時倡言反對“華盛頓垃圾”，這些候選人通常把政府的問題和不負責任與無能的公務員劃上等號，而隨著社會對公務員的尊重和評價愈低，就愈少有能力的人會進入政府部門服務 (Steinberg, 1990, pp.23-25)。

類似貶抑公務人員能力與工作態度的情形，同樣也出現在當前臺灣社會。雖然臺灣在國人「鐵飯碗」刻板印象深植的情況下，尚不致使公務人力的來源出現短缺的窘境，但對於公務員低評價的看法如果成為社會主流，不但將嚴重打擊目前公務人力士氣，對於吸引優秀人才投身公務部門亦將是無形的阻力，反而強化只想追求「錢多事少」者投身公職考試的意願。官僚體系的良窳，關涉國家形象及整體發展甚鉅。尤其近年來國際間有關臺灣投資環境評比結果，屢屢出現官僚體系效率低落、清廉評價低落的負面評價。在國家競爭力優勢不再的今日，更有賴行政倫理法制的革新與落實，建立廉潔而有能力的公務人員形象，與高品質官僚體系，使貪污腐化在公務體系中無所遁形，俾達致行政效率提昇之根本目標。

參考資料

一、政府出版品：

銓敘部編譯，各國人事法制叢書第三輯，台北：銓敘部，民國八十四年一月。

江明修等，健全我國行政倫理法制之研究，銓敘部委託研究，未出版，民國八十八年六月。

United States. Congress. House. Committee on Government Reform. Amending the Ethics in Government Act of 1978 to reauthorize funding for the Office of Government Ethics: report together with minority views (to accompany H.R. 2904), (including cost estimate of the Congressional Budget Office) Washington D.C.: U.S. G.P.O., 1999.

United States. Congress. Senate. Committee on Governmental Affairs. Office of Government Ethics Act of 1999: report of the Committee of the Governmental Affairs, United States Senate, to Accompany S. 1503, to amend the Ethics in Government Act of 1978, (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2003, Washington D.C.: U.S. G.P.O., 1999

The Disclosure to Congress Act of 1998: report (to accompany S. 1668), Washington D.C.: U.S. G.P.O., 1998.

United States. Federal Employee Representation Improvement Act of 1996 (An Act to Amend Title 18 of the United States Code to Allow Member of Employee Associations to Represent Their Views before the United States Government), Washington D.C.: U.S. G.P.O., 1996.

OGE Form 450: a review guide / U.S. Office of Government Ethics,

Washington D.C.: The Office, 1996.

United States. Office of Government Ethics Authorization Act of 1996, Washington D.C.: U.S. G.P.O., 1996.

United States. Congress. House. Committee on the Judiciary. Office of Government Ethics Authorization Act of 1996: report (to accompany H.R. 3235) (including cost estimate of the Congressional Budget Office), Washington D.C.: U.S. G.P.O., 1996

United States. Congress, Senate. Committee on Governmental Affairs. Office of Government Ethics Authorization Act of 1996: report of the Committee on Government Affairs, United States Senate, to accompany S. 699, to amend the Ethics in Government Ethics for 7 years, and for other purpose, Washington D.C.: U.S. G.P.O., 1996.

United States. Ethics in government act of 1978: an act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes, Washington D.C.: U.S. G.P.O., 1978.

United States. Congress. Conference Committees, 1978. Ethics in government act of 1978: conference report as corrected by Senate Concurrent Resolution 112 to accompany S. 555, Washington D.C.: U.S. G.P.O., 1978.

United States. Congress. Conference Committees, 1978. Ethics in government act of 1978: conference report to accompany S. 555, Washington D.C.: U.S. G.P.O., 1978

United States. Congress. House. Committee on the Judiciary. Ethics in government act of 1977: report together with minority, additional, separate and supplemental views to accompany H.R. 1, Washing D.C.: U.S. G.P.O., 1977.

United States President (1977-1981:Carter), Ethics in government act of 1977: a message from the President of United States, Washington D.C.: U.S. G.P.O., 1977.

二、期刊論文：

Bigelow, Page E., "From Norms to Rules: Regulating the Outside Interests of Public Officials", 141-157.

Brownstein, Ronald, "Agency Ethics Officers Fear Meese Ruling Could Weaken Conflict Laws", National Journal (March 23 1985): 639-42.

Newman, Robert C., "New York's Ethics Law: Turning The Tide on Corruption", Hofstra Law Review, Vol. 16:319(1988): 319-344.

University of Virginia School of Law, "Symposium on Partisan Influences on Ethics Investigations", Journal of Law and Politics, Vol.XI, No.3 (Summer, 1995): 411-554.

Walter, J. Jackson, "The Ethics in Government Act, Conflict of Interest Laws and Presidential Recruiting", Public Administration Review 41 (Nov/Dec 1981): 659-65.

三、書目

蕭武桐著，行政倫理，台北：國立空中大學，民國八十四年。

Anechiarico, Frank and James B. Jacobs. *The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective*, Chicago: The University of Chicago Press, 1996.

Benson, George C. S. *Political Corruption in America*, Lexington (Massachusetts): D. C. Heath and Company, 1978.

Cooper, Terry L. *The Responsible Administrator: An Approach to Ethics for the Administrative Role* (3rd ed.) San Francisco: Jossy-Bass, 1990.

Cody, W. J. Michael and Richardson R. Lynn. *Honest Government: An Ethics Guide for Public Service*, Westport (Connecticut): Praeger Publishers, 1992.

DeLeon, Peter ed. *Thinking about Political Corruption*, Armonk (New York): M. E. Sharpe, 1993..

Donahue, Anne Marie ed. *Ethics in Politics and Government*, New York: The H. W. Wilson Company, 1989.

Frederickson, H. George ed. *Ethics and Public Administration*, Armonk (New York): M. E. Sharpe, 1993.

Gawthrop, Louis C. *Public Service and Democracy: Ethical Imperatives for the 21st Century*, New York: Seven Bridges Press, 1998.

Lewis, Carol W. *The Ethics Challenge in Public Service*, San Francisco (California): Jossey-Bass Inc., Publishers, 1991

Miller, Nathan *Stealing from American: A History of Corruption from Jamestown to Reagan*, New York: Paragon House, 1992.

Neely, Alfred S. *Ethics-in-Government Laws Are They too "Ethical"?* Washington D.C.: American Enterprise Institute for Public Policy Research, 1984.

Rohr, John A. *Public Service, Ethics, and Constitutional Practice*, Lawrence (Kansas): University of Kansas, 1998.

Roberts, Robert N. and Doss Martin T. *From Watergate to Whitewater: The Public Integrity War*, Westport (Connecticut): Praeger Publishers, 1997.

Stan Sangweni and Daryl Balia ed. *Fighting Corruption: Strategies for Prevention*, Pretoria (Cape town): University of South Africa, 1999.

Steinberg, Sheldon S. and David Austin. *Government, Ethics, and Managers*, Westport (Connecticut): Quorum Books, 1990.

Timperlake, Edward and William C. Triplett II. *Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash*, Washington D.C.: Regnery Publishing: 1998.

Vaughn, Robert G. *Conflict-of- Interest Regulation in the Federal Executive Branch*, Lexington (Massachusetts): D. C. Heath and Company, 1979.

四、相關網站：

聯邦倫理局網站(<http://www.usoge.gov>)

司法部倫理辦公室網頁(<http://usdoj.gov/jmd/ethics>)

舊金山市及郡倫理委員會網頁 (<http://www.ci.sf.ca.us/ethics/index.htm>)

紐約州倫理委員會網頁(<http://www.dos.state.ny.us/ethc/ethics.html>)

June 4, 1999

SUMMARY OF GOVERNMENT ETHICS RULES
FOR NEW DEPARTMENT OFFICIALS

Laws and Regulations

Most of the ethics restrictions are found in sections 202 to 209 of Title 18 of the U.S. Code and in Executive Order 12674 as modified by EO 12731. The Executive Order is implemented by regulations at 5 CFR 2635. The Justice Department has supplemented these branch-wide regulations with specific rules that apply to Department employees at 5 CFR 3801. This document is only a summary. You should refer to the actual laws and regulations cited below when you have a question.

Seeking Advice

The Designated Agency Ethics Official (DAEO) for the Department is the Assistant Attorney General for Administration, and the Alternate DAEO is the Deputy Assistant Attorney General, Law and Policy, Justice Management Division. The ethics program is managed centrally by the Departmental Ethics Office which coordinates the Department program through a network of Deputy DAEOs in all components. You may call the ethics office at (202) 514-8196 for general advice or to obtain the name and telephone number of your Deputy DAEO who will be your main source of information and advice on the rules discussed below. You will receive approval and waivers referred to in this document from your determining official¹ in concurrence with your Deputy DAEO.

You will not be subject to disciplinary action for violating the standards of conduct for actions taken in reliance on the advice of an ethics official as long as you provide the ethics official with all the relevant facts concerning your proposed action.

Conflicts of Interest

The governing statute on financial conflicts of interest is 18 U.S.C. § 208. It prohibits participating in matters that affect your financial interests as well as those of your spouse,

¹For most employees, the determining official is the head of their component. The Deputy Attorney General is the determining official for component heads reporting to him, for the Associate Attorney General and for employees in the Office of the Attorney General. The Associate Attorney General is the determining official for component heads reporting to him and for the Deputy Attorney General. The determining officials for U.S. Attorneys and for U.S. Trustees and their employees are the Directors of their respective Executive Offices.

minor child, or a general partner; an organization which you serve as an officer, director, trustee, partner or employee; or an organization you are negotiating with for future employment.

Remedies to section 208 include an automatic exemption for an interest in a diversified mutual fund, for an interest in certain employee benefit plans, and for interests in securities that do not exceed \$5000 when participating in a matter having parties and \$25,000 (\$50,000 for all affected interests) when participating in a matter of general applicability. A determining official may also grant an individual waiver when an interest is not large. The most used remedy for a conflict is disqualification from participation in the matter. Only rarely would you be required to sell an asset, but if you are, you may qualify for a tax deferral on gains from an asset sold to prevent a conflict of interest. 5 CFR 2634.1001-.1004.

If you have a continuing financial interest in your former employer, to include a law firm, you would have to disqualify yourself from or seek a waiver for any matter affecting the former employer's interests. If your spouse is a partner in, or owner of, a firm, you also would have to disqualify yourself or seek a waiver before participating in any matter affecting that firm.

Impartiality in Performing Duties

The standards of conduct address matters that do not affect your financial interests but which could reflect on your impartiality. You may not participate, without a waiver, in a particular matter involving specific parties which you know is likely to affect the financial interests of a member of your household. You also may have to disqualify yourself from a matter if someone with whom you have a personal or business relationship is a party or represents a party to the matter. This would include a former employer, even without a continuing financial interest, your former clients, an organization you worked for actively in the last year and your spouse's employer. 5 CFR 2635.501 & .502.

If you are an attorney, you would have to disqualify yourself from any case in which you participated before entering government. Generally, you would not be allowed to remain on leave of absence from a law firm while with the Justice Department.

If you received a payment in excess of \$10,000 from a former employer prior to entering government service that is not part of an established benefits program, you will have to disqualify yourself for two years from any matter in which your former employer is a party or represents a party. 5 CFR 2635.503.

Financial Disclosure

Officials appointed by the President, members of the Senior Executive Service and most Schedule C employees will be required to submit an initial financial disclosure report and annual reports thereafter that are available to the public. Such officials are notified each year of the requirement to file an annual report by May 15. One more report must be filed upon leaving government service.

Outside Activities in General

Generally, you should not engage in outside employment that conflicts with your duties. 5 CFR 2635.802. A Justice Department rule prohibits the outside practice of law unless it is uncompensated and in the nature of community service or on behalf of yourself, your parents, spouse or children. You are also prohibited from engaging in employment that involves a criminal matter or a matter in which the Department is or represents a party. These prohibitions may be waived by the Deputy Attorney General in unusual cases. You must obtain approval for the outside practice of law that is not otherwise prohibited and any outside employment, including unpaid service as an officer or board member, which involves the responsibilities of your component. 5 CFR 3801.106.

Representations Before the Federal Government

Generally, you may not represent someone before a court or agency of the federal government or accept compensation for someone else's representation on a matter in which the U.S. is a party or has an interest. There are exceptions for testifying under oath, for representing yourself or members of your immediate family, for representing someone in personnel administration proceedings and for representing a nonprofit organization that is composed substantially of government employees. 18 U.S.C. §§ 203 & 205.

You may not serve as an expert witness in any proceeding before a court or agency of the U.S. in which the U.S. is a party or has an interest unless it is authorized as being in the interest of the government. 5 CFR 2635.805.

Teaching, Speaking and Writing

The following restrictions must be considered by an employee who would like to engage in teaching, speaking and writing for pay.

Presidential appointees are subject to an absolute ban on the receipt of outside earned income, although this does not include income from military service; pensions; investment activities; royalties; or travel expenses. The outside earned income of a

noncareer (political) official above GS-15 is limited to 15% of the Executive Level II salary. Executive Order 12674, § 102 and 5 U.S.C. app. 7 § 501(a).

All employees are prohibited from accepting compensation, to include royalties and travel expenses², for speaking or writing, and in some cases, teaching³ that relates to official duties. These activities relate to your official duties if you were invited to speak or write because of your official position or by someone whose interests you may affect in performing your duties, if the information you convey is not publicly available or the subject deals with:

1. Any matter to which you are presently assigned or have been assigned during the previous one-year period;
2. Any ongoing or announced policy, program or operation of the Department; or
3. In the case of a noncareer (political) employee above GS-15, the general subject matter, area, industry or economic sector primarily affected by the programs and operations of the Department. In addition, employees at this level must have approval from their determining official to engage in teaching for compensation.

There should be no use of your official title to promote your teaching, speaking or writing except for inclusion in biographical details or in a scholarly article with a disclaimer. 5 CFR 2635.807.

Other Restrictions on Certain Noncareer Employees

A noncareer (political) employee paid above GS-15 may not be compensated for serving as a member of a board, engaging in activities that involve a fiduciary relationship, or being employed by a firm that provides such services. Nor may he allow his name to be used by such an entity. 5 U.S.C. app. 7 § 502.

² A recent change in the rules allows career employees and noncareer employees at the GS-15 level and below to accept travel expenses, but not fees, for speaking and writing where the subject is related to their duties.

³ Most employees may accept compensation for teaching a course requiring multiple presentations as part of the curriculum of a recognized institution of learning even when the subject matter relates to their official duties.

Fundraising

You may not engage in fundraising in your official capacity unless authorized by statute or regulation.

You may engage in fundraising in your personal capacity if you do not solicit funds from a subordinate or from someone who has or seeks business with the Department, and you do not use your official title. There are exceptions for solicitations using the media or mass mailings if they are not targeted to your subordinates or persons having business with the Department; and for a speech related to your official duties that is given at a fundraiser, provided the event is appropriate for the dissemination of official information and you do not request donations. 5 CFR 2635.808.

Partisan Political Activities

Due to a change in law, most employees, except career members of the Senior Executive Service, employees of the Federal Bureau of Investigation and the Criminal Division, may now participate actively in partisan political campaigns. However, because of the sensitivity of the Department's law enforcement role, the Attorney General has determined that Justice Department political appointees will be held to the same restrictions applicable by statute to the career SES, and employees of the FBI and the Criminal Division and are further restricted from attending partisan fundraising events and other political meetings held close to a partisan election. (See Attorney General memoranda of October 11, 1994, February 27, 1996 and July 2, 1996.)

All employees may vote, contribute money, sign petitions, express their views and display political stickers and buttons, except when on duty. However, no employee may solicit funds from the public nor use his official authority or influence to interfere with an election. No employee may solicit or discourage the political activities of anyone with business before the Department. No employee may be a partisan candidate for office, nor engage in any political activities, to include wearing buttons, while on duty or in a government office, a government vehicle or while wearing an official uniform. 5 U.S.C. §§ 7321-26.

Purchase of Forfeited Property

You may not purchase or use any property forfeited to the government and offered for sale by the Department without a specific waiver from your determining official. 5 CFR 3801.104.

Misuse of Position

You are generally prohibited from using your public office for your own private gain or that of friends, relatives, or persons with whom you are affiliated. This includes a non-profit organization in which you hold office or are a member, and persons with whom you have, or seek, employment or business relations.

You may not use your position or title to coerce someone, including a subordinate, to provide benefits to any of the above or to imply that the government sanctions your personal activities or those of another. You are allowed to provide recommendations on request using your official position and Department stationery for someone with whom you work or have worked in the government or for someone who is seeking a government job. You may not use your public office to endorse a product or service.

You may not use nonpublic information to further your own or another's interests. Information designated nonpublic ranges from that protected from disclosure by law, to information that has not been authorized to be made available to the public.

Generally, you may not use government property, including official time, for other than authorized purposes. You may not use the time of a subordinate for other than official duties or unless authorized by statute or regulation. 5 CFR 2635.701-.705. However, you may make personal use of equipment such as word processors or library facilities as long as there is no more than a negligible expense to the government. 28 CFR 45.4.

Acceptance of Gifts and Other Things of Value

In general, you may not accept gifts from anyone who has or seeks business with the Department or an organization composed of such persons. You are also prohibited from accepting a gift given because of your official position. 5 CFR 2635.202.

There are Exceptions to Permit Acceptance of:

1. Gifts of \$20 or less per occasion and a total of \$50 from one source annually;
2. Gifts based on a personal or outside business relationship;
3. Discounts and similar benefits offered to a broad group as long as there is no discrimination based on grade;
4. Awards for meritorious public service or honorary degrees for which you may need approval;

5. Free attendance, food, and materials, from the sponsor of a conference where you are a speaker or your participation is seen to benefit the Department or a gathering of an industry or profession if your attendance is seen to further agency programs and is approved; and
6. Gifts from foreign governments up to \$260. 5 U.S.C. § 7342.

Food and refreshments not offered as part of a meal, greeting cards and plaques, favorable rates, commercial discounts, rewards and prizes in events open to the public are excluded from the definition of a gift. 5 CFR 2635.203 & 204.

You still may not accept gifts from the same or different sources so frequently that it would appear to be misuse of public office.

Acceptance of Expenses for Official Travel

With approval, you may accept expenses for official travel from:

1. A non-federal source for attendance at meetings and other functions, but not to carry out statutory functions. 31 U.S.C. § 1353 & 41 CFR 304.
2. Foreign governments when overseas. 5 U.S.C. § 7342.

Frequent flyer benefits earned from official government travel may not be used for personal travel. 41 CFR 301-53.

Supplementation of Government Salary

You may not accept compensation for services to the government from anyone but the government. 18 U.S.C. § 209. You are generally prohibited from accepting financial assistance from a former employer such as moving expenses or other expenses incident to entry into government service. This does not bar the receipt of bona fide employer benefit plans as long as there is no preference given for entrance into government service. You may receive payments from a former firm that are based on past service and are guaranteed as to amount and payment schedule.

Gifts to Superiors

You may not give gifts to an official superior or solicit a contribution from another employee for a gift to a superior, except on special occasions described below. You may not accept gifts from employees receiving less pay than you, unless you are not in a superior-subordinate relationship. 5 U.S.C. § 7351.

On occasions when gifts are traditionally exchanged, such as birthdays, you may give a gift to a superior or accept a gift from a subordinate of \$10 or less. You may share refreshments to mark the occasion and give and accept gifts of personal hospitality.

On special occasions generally not related to work, you may make, and solicit from fellow employees, voluntary contributions of a nominal amount for a gift to a superior or for shared refreshments. 5 CFR 2635.301-.304.

Seeking Other Employment

Under the standards of conduct, you may be required to disqualify yourself from participating in a matter that affects the financial interests of a prospective employer when you are seeking, but not yet negotiating for employment. Seeking employment generally includes sending a resume. 5 CFR 2635.601-.606.

Post-Employment Restrictions

A former employee is prohibited from representing someone else before the government on a particular matter involving specific parties in which he participated personally and substantially while working for the government and in which the U.S. is a party or has a substantial interest. 18 U.S.C. § 207(a)(1).

The Bar Rules prohibit behind-the-scenes work on such a matter and extend this bar to the entire law firm unless the proper screening mechanisms are in place to screen the former government employee. ABA Model Rule 1.11.

For two years, a former employee is prohibited from representing someone else before the government on a particular matter involving specific parties that he knows was pending under his official responsibility for the last year of government service and in which the U.S. is a party or has a substantial interest. 18 U.S.C. § 207(a)(2).

For one year, former senior employees⁴ are prohibited from representing someone else before their former agency with the intent to influence on a matter which is pending before the Department or in which it has an interest. 18 U.S.C. § 207(c).

⁴Senior employees include Executive Level officials and members of the SES at ES levels 5 and 6 or employees receiving a comparable salary. Executive Level personnel will be barred from the whole Department, while those in the SES and other pay systems may only be barred from certain parts of the Department.

Senior political appointees (those appointed on or after January 1, 1993, to include Executive Level officials and others paid at or above level 5 of the Senior Executive Service) will be subject to a five-year ban on lobbying their former agency. This ban does not apply to representations in judicial proceedings or criminal or civil law enforcement inquiries, investigations or proceedings.

Senior political appointees (see above) may never become registered foreign agents for any foreign government or foreign political party.

For one year, former cabinet level officials are prohibited from lobbying any other Executive Level official in the Executive Branch. 18 U.S.C. § 207(d).

For one year, officials subject to 18 U.S.C. §§ 207(c) and (d) are prohibited from representing, aiding or advising a foreign entity with the intent to influence a federal employee. 18 U.S.C. § 207(f).

A former employee is prohibited from sharing in fees resulting from representational services rendered by another at the time the former employee was with the government and concerning a matter in which the U.S. is a party or has a direct and substantial interest. 18 U.S.C. § 203. (This will affect former government employees who leave government to become partners in a law firm.)

**INSTRUCTIONS FOR
OGE FORM 450,
CONFIDENTIAL FINANCIAL
DISCLOSURE REPORT**

A. Why You Must File

This report is a safeguard for you as well as the Government. It provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities. This allows you and your agency to fashion appropriate protections against such conflicts.

B. Who Must File

Agencies are required to designate positions at or below GS-15, O-6, or comparable pay rates, in which the nature of duties may involve a potential conflict of interest. Examples include contracting, procurement, administering grants and licenses, regulating/auditing non-Federal entities, other activities having a substantial economic effect on non-Federal entities, or law enforcement.

All special Government employees (SGEs) must file, unless exempted by their agency or subject to the public reporting system. Agencies may also require certain employees in positions above GS-15, O-6, or a comparable pay rate to file.

C. When To File

New entrant reports: Due within 30 days of assuming a position designated for filing, unless your agency requests the report earlier. No report is required if you left another filing position within 30 days prior to assuming the new position. (SGEs must file new reports upon each reappointment or redesignation, at the time specified by the agency.)

Annual reports: Due not later than October 31, unless extended by your agency.

D. Reporting Periods

New entrant reports: The reporting period is the preceding twelve months from the date of filing.

Annual reports: The reporting period covers October 1 through September 30 (or that portion not covered by a new entrant report). However, no report is required if you performed the duties of your position for less than 61 days during that twelve-month period. (All reappointed or redesignated SGEs file reports, regardless of the number of days worked.)

E. Where To File

With ethics officials at the agency in which you serve or will serve, or in accordance with their procedures.

F. Definitions

Dependent Child - means your son, daughter, stepson, or stepdaughter if such person is either:

- (1) unmarried, under age 21, and living in your household, or
- (2) a "dependent" of yours for Federal income tax purposes. See 26 U.S.C. 152.

Honoraria - means payments (direct or indirect) of money or anything of value to you or your spouse for an appearance, speech or article, excluding necessary travel expenses. Also included are payments to charities in lieu of honoraria.

Special Government Employee (SGE) - is defined in 18 U.S.C. 202(a) as an officer or employee of an agency who performs temporary duties, with or without compensation, for not more than 130 days in a period of 365 days, either on a full-time or intermittent basis.

G. General Instructions

1 Filers must provide sufficient information about outside interests and activities so that ethics officials can

make an informed judgment as to compliance with applicable conflict of interest laws and standards of conduct regulations.

2 This form consists of five parts, which require identification of certain specific financial interests and activities. **NO DISCLOSURE OF AMOUNTS OR VALUES IS REQUIRED.** You must complete each part (except as indicated for Part V) and sign the report. If you have no information to report in any part or do not meet the threshold values for reporting, check the "None" box. New entrants and SGEs are not required to complete Part V.

3 You must include information applicable to yourself, your spouse, and dependent children on Parts I, II and V. This is required because their financial interests are attributed to you under ethics rules in determining conflicts of interest. Information about your spouse is not required in the case of divorce, permanent separation, or temporary separation with the intention of terminating the marriage or permanently separating. Parts III and IV require disclosures about yourself only.

4 You may distinguish any entry for a family member by preceding it with S for spouse, DC for dependent child, or J for jointly held.

Part I: Assets & Income

Assets:

1 Report all assets held for investment or for the production of income by you, your spouse, and dependent children, with a value greater than \$1,000 at the end of the reporting period or which produced more than \$200 in income during the reporting period.

Salary and Earned Income:

- 1 For yourself: report all sources of salary and earned income greater than \$200 during the reporting period.
- 2 For your spouse: report all sources of salary and earned income if greater than \$1,000 (for honoraria, if greater than \$200).

3 For dependent children: no earned income needs to be reported

Examples of Assets:

- Stocks
- Tax Shelters
- Mutual Funds
- Annuities
- Trust Holdings
- Trades & Businesses
- Investment Life Insurance
- Bonds
- Investment Real Estate
- Pensions
- IRA/401(k) Holdings
- Commodity Futures
- Partnership Interests
- Collectibles held for Investment

Examples of Income:

- Investment Income
- Dividends
- Rents and Royalties
- Interest
- Capital Gains
- Eamed/Other Income
- Fees
- Salaries
- Commissions
- Retirement Benefits
- Honoraria

Notes:

- 1 For pensions, you will ordinarily just need to indicate the name of the sponsoring employer. However, if you have control over the specific investment assets held in your pension account (it is not independently managed), you must also list those underlying investments or attach an account statement that lists them.
- 2 For publicly available mutual funds, you are only required to indicate the name of the fund, not the investments that the mutual fund holds in its portfolio. You must, however, always indicate the full name of the specific mutual fund in which you hold shares, not just the general family fund name.
- 3 For other publicly available investment funds, such as publicly offered units of limited partnerships, the disclosure requirements are the same as for mutual funds -- list the full name of the limited partnership, but not its underlying portfolio investments.
- 4 For a privately held trade or business, report its name, location, and description of activity.

Do Not Report:

- 1 Your personal residence, unless you rent it out,
- 2 Federal Government salary or retirement benefits such as the Thrift Savings Plan,
- 3 Social Security benefits,
- 4 Money owed to you, your spouse, or dependent child by a spouse, parent, sibling or child,
- 5 Accounts including certificates of deposit, savings accounts, interest-bearing checking accounts, or any other forms of deposit in a bank, savings and loan association, credit union or similar financial institution,
- 6 Money market mutual funds and money market accounts,
- 7 U S Government obligations (including Treasury bonds, bills, notes and savings bonds),
- 8 Government securities issued by U S Government agencies or Government-sponsored corporations, such as TVA, GNMA, FNMA, and
- 9 The underlying holdings of a trust that 1) was not created by you, your spouse, or dependent children, and 2) the holdings or sources of income of which you, your spouse, and dependent children have no past or present knowledge. An example is a trust created by a relative, from which you receive periodic income but have no knowledge about its assets. Just identify the trust by name and date of creation.

Part II: Liabilities

Report for Yourself, Spouse, and Dependent Children:

- 1 Liabilities over \$10,000 owed to any creditor at any time during the reporting period

Do Not Report:

- 1 Mortgages on your personal residence unless you rent it out,
- 2 Personal liabilities owed to a spouse, or the parent, sibling, or child of you, your spouse, or dependent child,
- 3 Loans for personal automobiles, household furnishings, or appliances, where the loan does not exceed the purchase price, and
- 4 Revolving charge accounts where the outstanding liability does not exceed \$10,000 at the end of the reporting period

Part III: Outside Positions

Report for Yourself:

- 1 All positions outside the U S Government held at any time during the reporting period (including positions no longer held), whether or not paid
- Positions include** an officer, director, trustee, general partner, proprietor, representative, executor, employee, or consultant of any of the following
- 1 A corporation, company, firm, partnership, trust, or other business enterprise,
 - 2 A non-profit organization,
 - 3 A labor organization, and
 - 4 An educational or other institution outside the Federal Government

Do Not Report:

- 1 Positions held in any religious, social, fraternal, or political entity,
- 2 Positions solely of an honorary nature, and
- 3 Positions held by a spouse or dependent child

Part IV: Agreements or Arrangements

Report Your Agreements or Arrangements for:

- 1 Current or future employment,
- 2 A leave of absence from private or other non-Federal employment,
- 3 Continuation of payment by a former employer other than the Federal Government (including severance payments), and
- 4 Continuing participation in an employee pension or benefit plan maintained by a former employer other than the Federal Government

Do Not Report:

- 1 A spouse or dependent child's agreements or arrangements

Part V: Gifts and Travel Reimbursements

Note: Part V is not applicable to new entrants and SGEs.

Report for You, Your Spouse, and Dependent Children:

- 1 Travel-related cash reimbursements received from one source during the reporting period totaling more than \$260
- 2 Any other gifts totaling more than \$260 from any one source. A "gift" is defined as anything of value, unless you give something of equal or greater value to the donor. This includes tangible items and in-kind transportation, food, lodging, and entertainment

Note: Gifts or reimbursements valued at \$104 or less need not be included in determining the over \$260 reporting threshold

Do Not Report:

- 1 Anything received from relatives, the U.S. Government, D.C., State, or local governments,
- 2 Requests and other forms of inheritance,
- 3 Gifts and travel reimbursements given to your agency in connection with your official travel,
- 4 Gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises, and
- 5 Gifts or reimbursements received by a spouse or dependent child totally independent of the relationship to the filer (*Example: a spouse's reimbursement in connection with private employment*)

Privacy Act Statement

Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.), Executive Order 12674, and 5 CFR Part 2634, Subpart I, of the Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this form is for review by Government officials of your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of the information on this report may be made: (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation, (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge-issued subpoena, (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision, (4) to the National Archives and Records Administration or the General Services Administration in records management inspections, (5) to the Office of Management and Budget during legislative coordination on private relief legislation, and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter. This confidential report will not be disclosed to any requesting person unless authorized by law. See also the OGE/GOVT-2 executive branchwide Privacy Act system of records

Penalties

Falsification of information or failure to file or report information required to be reported may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of information required to be reported may also subject you to criminal prosecution

Public Burden Information

This collection of information is estimated to take an average of one and a half hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917. Do not send your completed OGE Form 450 to this address. See Section E for where to file

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0006, is displayed here and in the upper right-hand corner of the first page of this OGE Form 450)

Mere disclosure of the required information does not authorize holdings, income, liabilities, affiliations, positions, gifts or reimbursements which are otherwise prohibited by law, Executive order, or regulation

If you need assistance in completing this form, contact the ethics officials in the agency in which you serve or will serve.

Executive Branch Confidential Financial Disclosure Report

Employee's Name (Last first middle initial)		Position/Title		Grade		Reporting Status: <input type="checkbox"/> New entrant <input type="checkbox"/> Annual (If New Entrant, Date of Appointment)	
Agency		Branch/Unit and Address		Work Phone			
<input type="checkbox"/> If an SGE, Home Address (Number Street City, State and ZIP Code) Check box if special Government employee (SGL)		Signature of Employee		Date			
<i>I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge</i>							

Date Received by Agency		Signature and Title of Supervisor/Other Intermediate Reviewer (If agency requires)		Date	
Signature of Agency's Final Reviewing Official and Title		Date		Comments of Reviewing Officials	
(Check box if continued on reverse)					

Part I: Assets and Income

None

Identify for you, your spouse, and dependent children: 1) assets with a fair market value greater than \$1,000 at the close of the reporting period or producing income over \$200, and 2) sources of earned income such as salaries, fees, honoraria (other than U.S. Government salary or retirement benefits, such as the Thrift Savings Plan) which generated over \$200 in income during the reporting period. Earned income sources of your spouse must be reported if greater than \$1,000 (greater than \$200 for honoraria). No earned income needs to be reported for dependent children.

Assets include (but are not limited to): stocks, bonds, tax shelters, real estate, mutual funds, pensions, annuities, IRAs, trusts, commodity futures, trades and businesses, and partnership interests.

Exclude your personal residence, unless you rent it out, and deposit accounts in financial institutions. See instructions for additional exclusions.

Assets and Income Sources (Identify specific employer, business, stock, bond, mutual fund, type/location of real estate, etc.)	(A) if no longer held	Nature of Income over \$200 (Rent, interest, dividends, capital gains, salary, etc.)	Date (Only for honoraria)
Examples		Rent Salary Salary Dividends/Capital Gains	
1 Rental Condo, Anchorage, Alaska			
2 Dee, Jones & Smith, Hometown, USA	X		
(S) Alexandria Medical Clinic, Alexandria, VA			
Franklin Equity Mutual Fund			
3			
4			
5			
6			
7			
8			
9			
10			

Use copies of blank pages for continuation

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Employee's Name (Last first middle initial)	Page Number
Work Phone	
Creditors (Name and address)	
Example First Alaska Bank, Anchorage, Alaska	Type of Liability (Mortgage, promissory note etc.)
1 Mortgage on rental property in Anchorage, AK	
2	
3	

Part II: Liabilities None

Report for you, your spouse, and dependent children, liabilities over \$10,000 owed at any time during the reporting period (over \$10,000 at the end of the period if revolving charge accounts). Exclude a mortgage on your personal residence unless it is rented out, loans for autos, household furniture or appliances, and liabilities owed to certain family members (see instructions)

Part III: Outside Positions None

Report any positions, whether or not compensated, which you held outside the U.S. Government during the reporting period. Positions include (but are not limited to) an employee, officer, director, trustee, general partner, proprietor, representative, executor, or consultant for a business, non-profit, or labor organization, or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature. You need not report any positions of your spouse or dependent children.

Organization (Name and address)	Type of Organization	Position	Full-time or part-time (X)
Example Dec, Jones & Smith Hometown, USA	Law Firm	Associate	X
1			
2			
3			
4			

Part IV: Agreements or Arrangements None

Report your agreements or arrangements for current or future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. You need not report agreements or arrangements of your spouse or dependent children.

Terms of Any Agreement or Arrangement	Parties	Date
Example Will receive retained pension benefits (independently managed, fully funded, defined contribution plan)	Dec, Jones & Smith, Hometown, USA	2/99
1		
2		
3		

Part V: Gifts and Travel Reimbursements None

Do not complete this part if you are a new entrant or special Government employee. Report for you, your spouse, and dependent children, gifts or travel reimbursements you have received from one source totaling more than \$260. Exclude anything valued at \$104 or less, anything received by your spouse or dependent child totally independent of their relationship to you, anything from a relative or from the U.S. Government, anything given to your agency in connection with your official travel, and food, lodging, or entertainment received as personal hospitality at the donor's residence or premises.

Source	Description (For travel-related items include itinerary)	Date
Example Dec, Jones & Smith, Hometown, USA	Leather briefcase as a departing gift	2/99
1		
2		
3		
4		

State of New York
STATE ETHICS COMMISSION
39 Columbia Street • Albany, NY 12207-2717

Annual Statement of Financial Disclosure: For calendar year 1999

1 NAME (LAST) _____ (M)
 (FIRST) _____

2 (a) TITLE OF POSITION _____
 (b) DEPARTMENT, AGENCY OR OTHER GOVERNMENTAL ENTITY _____

(c) ADDRESS OF PRESENT OFFICE _____
 (d) OFFICE TELEPHONE NUMBER () _____

3 (a) MARITAL STATUS _____
 IF MARRIED, PLEASE GIVE SPOUSE'S FULL NAME (including maiden name where applicable) _____

(b) LIST THE NAMES OF ALL UNEMANCIPATED CHILDREN _____

Answer each of the following questions completely, with respect to calendar year 1999, unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories: Category A - under \$5,000; Category B - \$5,000 to under \$20,000; Category C - \$20,000 to under \$60,000; Category D - \$60,000 to under \$100,000; Category E - \$100,000 to under \$250,000; and Category F - \$250,000 or over. A reporting individual shall indicate the Category by letter only. Categories are not subject to public inspection.

4. (a) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before any state or local agency, list the name of any such agency.

NONE
 POSITION _____ ORGANIZATION _____
 NAME OF STATE OR LOCAL AGENCY _____

4 (b) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the spouse or unemancipated child of the reporting individual, with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

NONE
POSITION

ORGANIZATION

NAME OF STATE OR
LOCAL AGENCY

5 (a) List the name, address and description of any occupation, employment (other than the employment listed under Item 2 above), trade, business or profession engaged in by the reporting individual. If such activity was licensed by any state regulatory agency or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

NONE
POSITION

NAME AND ADDRESS
OF ORGANIZATION

DESCRIPTION

NAME OF STATE OR
LOCAL AGENCY

5 (b) If the spouse or unemancipated child of the reporting individual was engaged in any occupation, employment, trade, business or profession which activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

<input type="checkbox"/>	NONE	<u>NAME AND ADDRESS OF ORGANIZATION</u>	<u>DESCRIPTION</u>	<u>NAME OF STATE OR LOCAL AGENCY</u>
	POSITION			

6. List any interest, in EXCESS of \$1,000, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member, or corporation, 10% or more of the stock of which is owned or controlled by any such person, whether vested or contingent, in any contract made or executed by a state or local agency and include the name of the entity which holds such interest and the relationship of the reporting individual or such individual's spouse or such child to such entity and the interest in such contract. Do NOT include bonds and notes. Do NOT list any interest in any such contract on which final payment has been made and all obligations under the contract except for guarantees and warranties have been performed, provided, however, that such an interest must be listed if there has been an ongoing dispute during the calendar year for which this statement is filed with respect to any such guarantees or warranties. Do NOT list any interest in a contract made or executed by a local agency after public notice and pursuant to a process for competitive bidding or a process for competitive requests for proposals.

<input type="checkbox"/>	NONE	<u>ENTITY WHICH HELD INTEREST IN CONTRACT</u>	<u>RELATIONSHIP TO ENTITY AND INTEREST IN CONTRACT</u>	<u>NAME OF CONTRACTING STATE OR LOCAL AGENCY</u>	<u>CATEGORY OF VALUE OF CONTRACT</u>
	SELF, SPOUSE OR CHILD				

VALUE/AMOUNT **A - UNDER \$5,000** **C - \$20,000 to under \$60,000** **E - \$100,000 to under \$250,000**
CATEGORIES **B - \$5,000 to under \$20,000** **D - \$60,000 to under \$100,000** **F - \$250,000 or over**

7 List any position the reporting individual held as an officer of any political party or political organization, as a member of any political party committee, or as a political party district leader. The term "party" shall have the same meaning as "party" in the Election Law. The term "political organization" means any party or independent body as defined in the Election Law or any organization that is affiliated with or a subsidiary of a party or independent body

NONE

8 (a) If the reporting individual practices law, is licensed by the Department of State as a real estate broker or agent, or practices a profession licensed by the Department of Education, give a general description of the principal subject areas of matters undertaken by such individual. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation. Do not list the name of individual clients, customers or patients.

NONE

(b) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse had an investment in excess of \$1,000 excluding investments in securities and interests in real property

NONE

9. List each source of gifts, EXCLUDING campaign contributions, in EXCESS of \$1,000, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse or unemancipated child from the same donor, EXCLUDING gifts from a relative. INCLUDE the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in Item 10. Indicate the value and nature of each such gift.

NONE
 SELF, SPOUSE
 OR CHILD

CATEGORY OF
 VALUE OF GIFT

NATURE OF GIFT

ADDRESS

NAME OF DONOR

10. Identify and briefly describe the source of any reimbursements for expenditures, EXCLUDING campaign expenditures and expenditures in connection with official duties reimbursed by the state, in EXCESS of \$1,000 from each such source. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by nongovernmental sources and for activities related to the reporting individual's official duties such as, speaking engagements, conferences, or factfinding events. The term "reimbursement" does NOT include gifts reported under Item 9.

NONE
 SOURCE

DESCRIPTION

VALUE/AMOUNT A - UNDER \$5,000 E - \$100,000 to under \$250,000
 CATEGORIES B - \$5,000 to under \$20,000 D - \$60,000 to under \$100,000 F - \$250,000 or over

11 List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans other than retirement plans of the State of New York or the City of New York, and deferred compensation plans (e.g., 401, 403(b), 457, etc.) established in accordance with the Internal Revenue Code in which the REPORTING INDIVIDUAL held a beneficial interest in EXCESS of \$1,000 at any time during the preceding year. Do NOT report interests in a trust, estate or other beneficial interest established by or for, or the estate of, a relative

NONE
IDENTITY

CATEGORY OF
VALUE *

*THE VALUE OF SUCH INTEREST SHALL BE REPORTED ONLY IF REASONABLY ASCERTAINABLE

12 (a) Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such individual after leaving office or position (other than a leave of absence)

NONE

(b) Describe the parties to and the terms of any agreement providing for continuation of payments or benefits to the REPORTING INDIVIDUAL in EXCESS of \$1,000 from a prior employer OTHER THAN the State (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance, buy-out agreements, severance payments; etc.)

NONE

13 List below the nature and amount of any income in EXCESS of \$1,000 from EACH SOURCE for the reporting individual and such individual's spouse for the taxable year last occurring prior to the date of filing. Nature of income includes, but is not limited to, all income (other than that received from the employment listed under Item 2 above) from compensated employment whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents, and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed

NONE
SELF / SPOUSE

SOURCE

NATURE

CATEGORY OF AMOUNT

14 List the sources of any deferred income (not retirement income) in EXCESS of \$1,000 from each source to be paid to the reporting individual following the close of the calendar year for which this disclosure statement is filed, other than deferred compensation reported in Item 11 hereinabove. Deferred income derived from the practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients

NONE
SOURCE

CATEGORY OF AMOUNT

VALUE/AMOUNT	A - UNDER \$5,000	C - \$20,000 to under \$60,000	E - \$100,000 to under \$250,000
CATEGORIES	B - \$5,000 to under \$20,000	D - \$60,000 to under \$100,000	F - \$250,000 or over

15 List each assignment of income in EXCESS of \$1,000, and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of \$1,000, which would otherwise be required to be reported herein and is not or has not been so reported

NONE

ITEM ASSIGNED
OR TRANSFERRED

ASSIGNED OR
TRANSFERRED TO

CATEGORY OF
VALUE

16 List below the type and market value of securities held by the reporting individual or such individual's spouse from each issuing entity in EXCESS of \$1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed ONLY IF the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if the reporting person or the reporting person's spouse holds more than five percent (5%) of the stock of a corporation in which the stock is publicly traded or more than ten percent (10%) of the stock of a corporation in which the stock is NOT publicly traded. Also list securities owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse. For the purpose of this item, the term "securities" shall mean mutual funds, bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits (CDs) and such other evidences of indebtedness and certificates of interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in Item 8(a) or if the security is corporate stock, NOT publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse.

<u>ISSUING ENTITY</u>	<u>TYPE OF SECURITY</u>	<u>PERCENTAGE OF CORPORATE STOCK OWNED OR CONTROLLED *</u>	<u>CATEGORY OF MARKET VALUE **</u>
<u>NONE</u> <u>SELF / SPOUSE</u>			

* IF MORE THAN 5% OF PUBLICLY TRADED STOCK, OR MORE THAN 10% OF STOCK NOT PUBLICLY TRADED, IS HELD
 ** CATEGORY OF MARKET VALUE AS OF THE CLOSE OF THE TAXABLE YEAR LAST OCCURRING PRIOR TO THE FILING OF THIS STATEMENT

VALUE/AMOUNT	A - UNDER \$5,000	B - \$5,000 to under \$20,000	C - \$20,000 to under \$60,000	D - \$60,000 to under \$100,000	E - \$100,000 to under \$250,000	F - \$250,000 or over
CATEGORIES						

• Please be aware that any sheets attached to the statement are also subject to public inspection.

17 List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in EXCESS of \$1,000 is held by the reporting individual or the reporting individual's spouse. Also list real property owned for investment purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse. Do NOT list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

NONE
 SELF / SPOUSE /
 CORPORATION

LOCATION SIZE GENERAL NATURE ACQUISITION DATE PERCENTAGE OF OWNERSHIP CATEGORY OF MARKET VALUE

18 List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in EXCESS of \$1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in Item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported

NONE
 NAME OF DEBTOR

TYPE OF OBLIGATION, DATE DUE,
 AND NATURE OF COLLATERAL, IF ANY

CATEGORY OF AMOUNT

19 List below all liabilities of the reporting individual and such individual's spouse, in EXCESS of \$5,000 as of the date of filing of this statement, other than liabilities to a relative. Do NOT list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

NONE

NAME OF CREDITOR OR GUARANTOR

TYPE OF LIABILITY AND COLLATERAL, IF ANY

CATEGORY OF AMOUNT

The requirements of law relating to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

X

Signature of Reporting Individual

Date (month / day / year)

REMINDERS.

- Please review the Statement to ensure all questions have been answered, including both parts (a) and (b) for questions 3, 4, 5, 8 and 12.
- Please remember to sign and date the Statement.
- Please keep a copy of the completed Statement for your records
- Please be aware that any sheets attached to the statement are also subject to public inspection

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If the address label is either missing or incorrect, please print your correct home address on the lines below:

