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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

January 30, 2026

VIA ELECTRONIC TRANSMISSION

The Honorable Marco Rubio
 Archivist of the United States (Acting)
 National Archives and Records Administration

Dear Secretary Rubio:

As you are aware, at the beginning of each year, agencies are required by federal law to provide information to the U.S. Office of Government Ethics (OGE).¹ Among the data requested by OGE includes the number of Special Government Employees (SGEs) that your agency had, in total, during the previous calendar year.² The data for 2025 is reportedly due February 2, 2026.³

For more than a decade, I've conducted oversight of SGEs in Republican and Democratic administrations.⁴ SGEs are different from other federal staff because they can receive a paycheck from non-profit organizations, universities, and for-profit companies while simultaneously working in the federal government.⁵ Some SGEs are paid by agencies for their work, while others are not.⁶ The more experienced an individual is in their field, the likelier they are to be selected as an SGE, particularly for advisory boards.⁷ Because SGEs can be employees of the federal government and outside organizations at the same time, I've raised concerns that use of the SGE status by some could lead to improper influencing of policy or illegal steering of federal business to enrich themselves or others—all on the taxpayers' dime.

¹ See 5 U.S.C. § 13122(e); 5 C.F.R. § 2638.207(a).

² Letter from Shelley K. Finlayson, Chief of Staff and Program Counsel, Office of Gov't Ethics, to Designated Agency Ethics Officials (July 28, 2025), [https://www.oge.gov/web/oge.nsf/Legal%20Docs/BA29867C6DFFE39585258CD5006287BE/\\$FILE/OGE%20Program%20Advisory%20PA-25-04.pdf](https://www.oge.gov/web/oge.nsf/Legal%20Docs/BA29867C6DFFE39585258CD5006287BE/$FILE/OGE%20Program%20Advisory%20PA-25-04.pdf).

³ *Id.*

⁴ See e.g., Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Judiciary, to the Hon. John Kerry, Secretary, Dep't of State (June 13, 2013), <https://www.grassley.senate.gov/imo/media/doc/2013-06-13-CEG-to-State-Abedin.pdf>; Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Judiciary, to the Hon. Thomas J. Vilsack, Secretary, Dep't of Agriculture (Aug. 15, 2013). On file with Comm. staff; Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Judiciary, to the Hon. Bob Corker, Ranking Member, Senate Comm. on Foreign Relations (March 18, 2014). On file with Comm. staff; Letter from the Hon. Charles E. Grassley, Chairman, Senate Comm. on the Judiciary, to the Hon. John Kerry, Secretary, Dep't of State (July 30, 2015). On file with Comm. staff; Letter from the Hon. Charles E. Grassley, Chairman, Senate Comm. on the Judiciary, to the Hon. John Kerry, Secretary, Dep't of State (Sept. 9, 2015). On File with Comm. staff; Letter from the Hon. Charles E. Grassley, Chairman, Senate Comm. on the Judiciary, to the Hon. John Kerry, Secretary, Dep't of State (Nov. 20, 2015). On File with Comm. staff; Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Budget, to the Hon. Lloyd J. Austin III, Secretary, Dep't of Defense (March 16, 2023), [https://www.grassley.senate.gov/imo/media/doc/grassley to dod - sge follow up.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley%20to%20dod%20-%20sge%20follow%20up.pdf); Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Budget, to the Hon. Lloyd J. Austin III, Secretary, Dep't of Defense (Oct. 25, 2024), [https://www.grassley.senate.gov/imo/media/doc/grassley to dod - sge second follow up.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley%20to%20dod%20-%20sge%20second%20follow%20up.pdf).

⁵ See generally 18 U.S.C. § 202(a) (defining Special Government Employee); see also U.S. Gov't Accountability Off., GAO-16-548, Report to Charles E. Grassley, Chairman, Comm. on the Judiciary, *Opportunities Exist to Improve Data on Selected Groups of Special Government Employees* (July 2016), <https://www.gao.gov/assets/gao-16-548.pdf>; Dep't of Labor, *Ethics for SGEs* (Feb. 2020), https://www.dol.gov/sites/dolgov/files/owcp/energy/regs/compliance/advboard/dol_ethics_sges110520.pdf.

⁶ See U.S. Gov't Accountability Off., GAO-16-548, Report to Charles E. Grassley, Chairman, Comm. on the Judiciary, *Opportunities Exist to Improve Data on Selected Groups of Special Government Employees* (July 2016), <https://www.gao.gov/assets/gao-16-548.pdf>.

⁷ *Id.*

Thousands of SGEs serve in the federal government each year, which is how conflicts of interest can arise.⁸ That's why Congress made SGEs subject to ethics laws and limited their term of service to no more than 130 days in a 365-day period.⁹ According to OGE, a partial day of work by an SGE counts as a day of service.¹⁰ And, according to a 2024 *Legal Advisory* by OGE, "unforeseen circumstances" may allow an SGE to serve more than 130 days, and "the agency could potentially redesignate the employee as an SGE if it concludes that the circumstances leading to the additional . . . days were unique and unlikely to recur."¹¹ This echoes another report, prepared by the Government Accountability Office (GAO), that when an SGE "unexpectedly exceeds the 130 days of service, that person is still considered a SGE for the current year . . . [but] the prior year's experience will have a bearing on whether the agency reasonably can conclude that the employee is likely to serve no more than 130 days in the next year."¹² In sum, the way that the law has been interpreted is that agencies must make a good faith effort to determine if an SGE who exceeds 130 days of service should be allowed to remain an SGE.¹³

Nevertheless, concerns remain about the proper use of the SGE designation.¹⁴ That's why agencies must continually ensure that SGEs fulfill their responsibilities in an ethical and legal manner and that policies are improved to ensure the law is being upheld. Congress also has a duty to continuously oversee the employment of SGEs to ensure federal regulations, laws, and ethical rules have been followed.

In March 2023, I wrote to your agency requesting data about SGEs you employ and any conflicts of interest they may face.¹⁵ As you can expect, congressional oversight of this matter requires supplemental information on a regular basis, as SGE employment frequently changes from year to year.

⁸ *Id.* GAO reports an annual average of approximately 2,000 SGEs per agency.

⁹ See 18 U.S.C. § 202; see also Office of Gov't Ethics, *Ethics Laws Applicable to Special Gov. Employees* (last accessed Jan. 2026), <https://extapps2.oge.gov/Training/OGETraining.nsf/xsp/.ibmmmodres/dominio/OpenAttachment/training/ogetraining.nsf/D006291C1FEC02448525869C005BD4B8/Body/EthicsLawsApplicabletoSGEs.pdf>.

¹⁰ See Shelley K. Finlayson, *Legal Advisory*, Office of Gov't Ethics (Oct. 30, 2024), [https://www.oge.gov/Web/oge.nsf/Legal%20Docs/F24F83CD5FDBFA6D85258BC6004B8C21/\\$FILE/LA-24-14%20-%20SGE%20Day%20Counting.pdf?open](https://www.oge.gov/Web/oge.nsf/Legal%20Docs/F24F83CD5FDBFA6D85258BC6004B8C21/$FILE/LA-24-14%20-%20SGE%20Day%20Counting.pdf?open) (citing *Days of Serv. by Special Gov't Emps.*, 31 Op. O.L.C. 13 (2007)).

¹¹ *Id.*

¹² See U.S. Gov't Accountability Off., GAO-16-548, Report to Charles E. Grassley, Chairman, Comm. on the Judiciary, *Opportunities Exist to Improve Data on Selected Groups of Special Government Employees* (July 2016), <https://www.gao.gov/assets/gao-16-548.pdf>.

¹³ But see *United States v. Baird*, 29 F.3d 647 (D.C. Cir. 1994) (articulating a contrary interpretation in dicta under which an employee serving beyond 130 days could no longer be considered an SGE).

¹⁴ See e.g., Houston Keane, *Top WH adviser Anita Dunn dodging public ethics disclosure*, FOX NEWS (Aug. 5, 2021), <https://www.foxnews.com/politics/white-house-facing-another-potential-ethics-dilemma>; Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Judiciary, to the Hon. John Kerry, Secretary, Dep't of State (June 13, 2013), <https://www.grassley.senate.gov/imo/media/doc/2013-06-13-CEG-to-State-Abedin.pdf>; Letter from the Hon. Charles E. Grassley, Chairman, Senate Comm. on the Judiciary, to the Hon. Peter B. Hegseth, Secretary, Dep't of Defense (March 18, 2025), [https://www.grassley.senate.gov/imo/media/doc/grassley to dod - donnelly dbb membership.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley%20to%20dod%20-%20donnelly%20dbb%20membership.pdf).

¹⁵ Letter from the Hon. Charles E. Grassley, Ranking Member, Senate Comm. on the Budget, to Ms. Debra S. Wall, Acting Archivist of the United States, National Archives and Records Administration (March 21, 2023). On file with Comm. staff.

So that Congress may continue to conduct oversight of this important matter, please respond to the following requests with complete and unredacted records, no later than February 13, 2026:

1. From March 1, 2023, to the present, please provide a complete list of SGEs who have served/are serving in your agency, including their names and titles; dates of service; a description of their duty and/or assignment; whether they received ethics training; and the specialty and expertise that led to their appointment or hire. For all SGEs with concurrent employment, please identify their outside employer(s) and any other information collected by the agency regarding their employment, including any contracts, business, or lobbying. If you cannot provide some or all of this information, please state so and explain why.
2. From March 1, 2023, to the present, list each SGE that was compensated or not compensated for service in your agency.
3. From March 1, 2023, to the present, list each SGE for whom a conflict of interest or ethics problem was identified, along with a description of that conflict and how it was resolved. In responding to this request, and irrespective of whether a problem was identified, include all financial disclosures, public or confidential, filed by the employee. If you cannot provide some or all of this information, please state so and explain why.
4. For each SGE granted a waiver under 18 U.S.C. §§ 203 (e), 205 (f), 208 (b)(1), (b)(2), or (b)(3), or any other applicable law or regulation, please provide a detailed description of the conflict and the reason for the waiver, as well as the legal authority for granting it. In responding to this request, please note the number of waivers that were granted or not granted and reference the applicable statute.
5. If you have difficulty determining if current or past employees qualify as SGEs, please describe why you have difficulty making that determination.
6. Please provide the most recent copy of all agency policies, procedures, or regulations related to SGEs, including those related to determining why your agency should hire SGEs. Include in your response agency policies and procedures for identifying and resolving conflicts of interest among SGEs.
7. From March 1, 2023, to the present, please provide a detailed list of all SGEs whose work exceeded the statutory limit of 130 days within the relevant 365-day period. Describe why the employee(s) exceeded the statutory limit and if this was due to “unique and unlikely to recur” circumstances. Describe such circumstances. Also note whether the SGE received the designation in subsequent years.

8. From March 1, 2023, to the present, identify all SGEs whose non-government employers or businesses were awarded any sole source contract and whether the contract was awarded during the SGE's term of service.
9. Describe whether any SGEs or SGE-staffed agency boards provide advice on procurement or otherwise play a decision-making role in procurement, licensing, or contracting.

Thank you for your prompt review and response. Should you have questions, please contact Ross Berg on my Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary