

§ 1304.4607

Deputy Director of OMB, in consultation with the Director of the Office of Government Ethics, executes a certification that is published in the FEDERAL REGISTER. The certification shall state that the former Government employee has outstanding qualifications in a scientific, technological or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and the national interest would be served by his participation.

(b) *Specific.* The one-year bar shall not apply to a former Senior Employee's representation on new matters if the former Senior Employee is:

(1) An elected State or local government official, who is acting on behalf of such government; or

(2) Regularly employed by or acting on behalf of an agency or instrumentality of a State or local government; an accredited, degree-granting institution of higher education; or a non-profit hospital or medical research organization.

§ 1304.4607 Advice to former Government employees.

The Office of General Counsel, OMB, has the responsibility for providing assistance promptly to former Government employees who seek advice on specific problems.

§ 1304.4608 Administrative Enforcement Procedures (18 U.S.C. 207(j); 5 CFR 737.27).

(a) Whenever an allegation is made that a former Government employee has violated 18 U.S.C. 207(a), (b) or (c) or any of the regulations promulgated thereunder by the Office of Government Ethics or by OMB, the allegation and any supporting evidence shall be transmitted through the Office of General Counsel to the Deputy Director, OMB.

(b) Allegations and evidence shall be safeguarded so as to protect the privacy of former employees prior to a determination of sufficient cause to initiate an administrative disciplinary proceeding.

(c) If review by the Office of General Counsel, OMB, shows that the information concerning a possible violation does not appear to be frivolous, the

5 CFR Ch. III (1-1-03 Edition)

Deputy Director, OMB, shall expeditiously provide all relevant evidence, any appropriate comments, and copies of applicable agency regulations to the director, Office of Government Ethics, and to the Criminal Division, Department of Justice. Unless the Department of Justice informs OMB that it does not intend to initiate criminal prosecution, OMB shall coordinate any investigation or administrative action with the Department of Justice in order to avoid prejudicing criminal proceedings.

(d) After appropriate review and recommendation by the Office of General Counsel, if the Deputy Director, OMB, determines that there is reasonable cause to believe that there has been a violation, the Deputy Director may direct the Office of General Counsel to initiate an administrative disciplinary proceeding and may designate an individual to represent OMB in the proceeding.

(e) *Notice.* The Office of General Counsel shall provide the former Government employee with adequate notice of its intention to institute a proceeding and with an opportunity for a hearing. The notice must include a statement of allegations, and the basis thereof, in sufficient detail to enable the former Government employee to prepare an adequate defense; notification of the right to a hearing; and an explanation of the method by which a hearing may be requested.

(f) *Hearing.* A hearing may be obtained by submitting a written request to the Office of General Counsel.

(g) *Examiner.* The presiding official at the proceedings shall be the hearing examiner, who is delegated authority by the Director, OMB, to make an initial decision. The hearing examiner shall be an attorney in the Office of General Counsel designated by the General Counsel. The hearing examiner shall be impartial and shall not have participated in any manner in the decision to initiate the proceedings.

(h) *Time, Date and Place.* The hearing shall be conducted at a reasonable time, date, and place. The hearing examiner shall give due regard in setting the hearing date to the former Government employee's need for adequate time to properly prepare a defense and