

THE WHITE HOUSE

Washington

MEMORANDUM FOR JOSHUA PITCOCK, ASSISTANT TO THE PRESIDENT AND
CHIEF OF STAFF TO THE VICE PRESIDENT

FROM: Counsel to the President

SUBJECT: Waiver Certification Under Section 3 of Executive Order 13770 for Ethics Pledge
Paragraphs 6 and 7

Pursuant to section 3 of Executive Order 13770, “Ethics Commitments by Executive Branch Employees,” (“Ethics Pledge”), I am issuing for you this memorandum to provide a limited waiver to the restrictions found in paragraphs 6 and 7 of the Ethics Pledge.

In addition to other restrictions found in the Ethics Pledge, paragraph 6 establishes certain restrictions related to an appointee’s “former employers”¹ and “former clients.”² In particular, paragraph 6 prohibits all appointees, including commissioned officers, from:

- Participating in any particular matter involving specific parties in which a “former employer” or “former client” is a party or represents a party for two years from the date of their appointment; and
- Participating in any official meeting or communication with a former employer or former client, except where such meeting or communication relates to a particular matter of general applicability and the meeting or other event is open to all interested parties.

Paragraph 7 of the Ethics Pledge prohibits all appointees, including commissioned officers, who were registered lobbyists within the 2 years before the date of their appointment, from:

- Participating in any particular matter on which they lobbied within the 2 years before the date of appointment; or
- Participating in the specific issue area in which that particular matter falls.

¹ A “former employer” is defined by the pledge as “any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that ‘former employer’ does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.” Executive Order 13770, Sec. 2(j).

² A “former client” is defined by the pledge as “any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee’s former employer to whom the appointee did not personally provide services.” Executive Order 13770, Sec. 2(i).

After careful consideration, I have determined that it is appropriate and in the public interest to provide a limited waiver of the restrictions in Section 1, paragraph 6, of the Executive Order to allow you to participate, even though you may have acted as a registered lobbyist in these issue areas within the past 2 years, in meetings and communications with the State of Indiana which you otherwise may be barred from communicating or meeting with regarding broad policy matters and particular matters of general applicability in your official capacity, even if the communication or meeting is not “open to all interested parties.” The Administration has an interest in interacting with the State of Indiana on issues of importance to the Administration and your position requires you to interact with the State of Indiana in the manner described above in order to further those interests. It is important that you be able to communicate and meet with the State of Indiana, and disqualification from such meetings or communications would limit the ability of the Office of the Vice President to effectively carry out Administration priorities.

In addition, this limited waiver authorizes you from the date of your appointment to participate in broad policy matters and particular matters of general applicability with respect to the following: refugee resettlement and immigration policy; National Defense Authorization Act, National Guard, and veterans issues; opioid abuse issues; state federalism initiatives; environmental regulations; job policy; education policy; trade policy; sanctions against Iran; state agricultural policy; gaming issues; privacy issues; infrastructure and transportation issues; financial regulatory issues; and healthcare and tax reform generally (hereinafter, “covered matters”).

I have determined that it is appropriate and in the public interest to provide a limited waiver of the restrictions in section 1, paragraph 7, of the Executive Order, and I authorize you to participate in covered matters. The Office of the Vice President has been tasked with addressing a wide variety of issues. The Administration has an interest in you working on matters in these areas due to your expertise and prior experience. It is important that you participate in covered matters and disqualification from such participation would limit the ability of the Office of the Vice President to effectively carry out its duties.

Although this waiver permits you to communicate and meet with the State of Indiana on broad policy matters and particular matters of general applicability, you will continue to be precluded from participating in any other particular matter involving specific parties, such as any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding that is focused on identified parties and in which the State of Indiana is a party or represents a party.

This limited waiver does not affect the application of any other provision of law, including any other provision of the Ethics Pledge; the Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. part 2635); the criminal bribery, graft and conflict of interest statutes (18 U.S.C. 201-209); or the Hatch Act (5 U.S.C. 7323).