SOURCE	Obama-Biden Tranasition Project
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Obama-Biden Transition Project Annotated Outline for Independent Regulatory Agencies' "Users' Manual"

To: Howard Shelanski

From: Howard Shelanski
Administrator, Office of Information and Regulatory Affairs

Subject: Regulatory Review at the End of the Administration

Thank you for volunteering your time and expertise to support the work of the Obama Transition Agency Review process. Your work will be critical to the success of the transition. Before engaging with Agency officials, you will have signed the transition ethics pledge, and this memo will provide you with background information on the broader transition project; the mission, objectives and operation of the Agency Review Working Group; and your role and responsibilities as a member of a post-election Agency Liaison Team ("ALT"). While we have tried to create as much structure around this process as possible, please understand that the transition environment will be very fluid, with changing personnel and requirements. We will need you to be both flexible and patient as we work through the inevitable "bumps in the road" that we will experience. Most importantly, please remember that we are temporary custodians of President-Elect Obama's incoming administration.

MISSION AND OBJECTIVES OF AGENCY REVIEW WORKING GROUP

Working in concert with the Transition Advisory Board and other Transition teams, the Agency Review Working Group's mission is to complete a timely and thorough review of the key departments, agencies and commissions (together, "the agencies") of the United States government, as well as the White House, and to provide the President-elect and his key advisors with the information necessary to make strategic policy, budgetary and personnel decisions prior to the inauguration. It will also ensure that senior appointees have the information necessary to lead their departments, begin implementing signature policy initiatives, and score early victories after the inauguration. During the post-Election Day transition period, the agency teams will work with Bush Administration officials to gather and organize material that will inform the President-elect and key advisors' policy and budget planning process (e.g., the budget, executive orders) and personnel selection, and provide background information for appointees who must navigate the confirmation process.

The Agency Review Working Group is chaired by Don Gips, a member of the Transition Advisory Board, Melody Barnes and Lisa Brown, and includes eight other individuals, most of whom are responsible for overseeing one or two groups of agencies: Louisa Terrell (representing Vice President-elect Biden); Seth Harris (Education and Labor; Transportation), David Hayes (Energy and Natural Resources), Reed Hundt (International Trade and Development and Economics); Sally Katzen (White House; Government Operations), Tom Perez (Health and Human Services; Justice and Civil Rights; Sarah Sewall (State, National Security, Defense, Intelligence and Arms Control); Tom Wheeler (Science, Technology, Space, Arts and Humanities), Ray Rivera (Outreach Coordinator) and Jon Wilkins (Senior Advisor). (A contact list for the Agency Review Working Group is attached.)

We have identified federal executive branch and related agencies that the agency liaison operation will examine during the transition period. This list includes every agency over which the President has either direct or indirect influence. As a result, the list includes both executive branch agencies which the President directly controls and so-called independent, legislative agencies which are not directly controlled by the President. We have also included commissions where the President appoints leadership or a significant number of commissioners.

For management purposes, we have organized the agencies into the ten groups listed above and prioritized each agency within those groups. (See attached list.) The groups are the agency liaison operation's management structure. Agencies with related or overlapping policy jurisdictions have been grouped together so that one member of the Agency Review Working Group can manage the ALTs conducting agency liaison examinations in those agencies. Thus, the Working Group members are the senior managers of the agency liaison operation and responsible for its success. The Agency Liaison Team Leaders are the management layer below the Working Group and share a substantial share of the responsibility for the success of the agency liaison operation, working directly with ALT members and interfacing with the Working Group member responsible for their agency.

The work of the Agency Review Working Group has been divided into two phases: (1) pre-election and (2) the official transition post-election. The pre-election work is described briefly below to provide context for the post-election work in which you will be engaged, which is subsequently addressed in greater detail.

PRE-ELECTION WORK

During the pre-election phase, small agency review teams reviewed and analyzed key public information about each agency. Working in concert with centralized researchers, the teams produced four core products, each of which will be provided to you:

1. A two-page Executive Summary for Senator Obama, Senator Biden, and the Transition Advisory Board that summarizes the key priorities, opportunities and issues facing the agency in light of candidate Obama's promises relevant to that agency.
2. A 20 page Roadmap for the post-election agency liaison team (plus the Agency Review Working Group and Transition Advisory Board) outlining the high priority issues and opportunities they need to learn more about based on the publicly available information. This is a strategic document rather than a summary of information known about the agency; it reflects the Agency Review team's judgment about the key strategic issues facing the agency based on both their review of the data file described in subparagraph 4 below and their independent knowledge of the agency.
3. A prioritized list of contacts in Congress and other outside stakeholders who should be contacted and consulted for additional input soon after the election. This list will be used both by the Agency Liaison team to obtain important additional information about the agency following the election and by the post-election Congressional liaison and public liaison teams to organize public outreach.
4. A virtual Agency Data File of public background information regarding the mission, organization, personnel, and budget of each agency along with legal, legislative and regulatory data about the agency. The data file also includes all of candidate Obama's promises about what he would do as President that are relevant to the agency.

Part of your job, as detailed below, will be to build on these documents, incorporating information that you learn over the course of your agency review.

POST-ELECTION TRANSITION WORK

You have agreed to help us during the post-election official transition period, during which time expanded agency teams will work with Bush Administration agency staff to supplement the information gathered prior to the election with critical internal information about the agency. The goal of the post-election transition work is to provide the President-elect and Agency head nominees/appointees the information necessary first to navigate the confirmation process and then to hit the ground running the day after the inauguration. Your role is to (a) "raise the flag" for the new administration, (b) obtain information and answer critical questions regarding your agency so that President-elect Obama and the incoming head of your agency can implement the President-elect's priorities, (c) uncover land mines that the new administration will need to defuse shortly after taking office, (d) prepare senior appointees subject to the confirmation process, and (e) provide options for a first-year agenda for senior agency leadership.

Agency Liaison's Role

The principal role of the agency liaison operation is to collect information from the federal agencies which the transition team and the new administration will need. It is not to create policy. This is a service function. Agency liaison teams will collect information to be used by other parts of the transition team and by the incoming administration —the FY 2010 budget planners, the policy planners, the transition team's personnel operation, and the President-elect's designees and their confirmation teams and incoming staff, among others.

The agency liaison teams' secondary role is to signal the arrival of the new administration. The agency liaison operation will be the public face of the new administration for many in the executive branch and beyond. In this sense, agency liaison staff will represent the President-elect to the people with whom they work. While the remainder of this memorandum will focus on the agency liaison's principal role, you should keep this secondary role in mind during the coming weeks and recognize that your interactions with agency employees will impact how they view the Obama administration.

The agency liaison operation will fulfill these two roles by sending teams of transition staff members into each agency during the transition period to interview incumbent agency leaders, career managers and selected staff, and to collect documents from the agency's staff. ALT's will also conduct outreach to Members of Congress and relevant stakeholders in consultation with the Transition's Office of Congressional Affairs and Office of Public Liaison.

Group 1 agencies -- the largest and most complex agencies -- will be subjected to the most thorough examination, with in-person interviews of everyone who matters in the agency -- political leaders, career managers, budget officers, and personnel officers, for example and collecting a considerable number of documents on-site. Group 2 agencies tend to be smaller and less complex, potentially requiring slightly less labor-intensive and time-intensive examinations. Working Group members have some flexibility with respect to authorizing the Group 2 ALTs to modify how they perform their examinations (eg, while the Group 2 ALTs should conduct in-person interviews, the team lead and responsible Working Group member might agree that they need not interview every senior manager in their agencies) and on-site document collection will remain important, but there likely will be fewer documents to collect. Group 3 agencies are small and generally the least complex. While it is important that the team lead personally go into the agency to "raise the flag" soon after the election, much of the agency examination can occur by letter, phone, and email.

Work Products:
Each ALT will generate the following products that build on what was compiled during the pre-election period:

1. An updated two-page "Executive Summary" for the incoming Agency head, the heads of other agencies, Transition policy groups and White House policy councils that summarizes the key priorities, opportunities and issues facing the agency in light of President-elect Obama's promises relevant to that agency. This document is likely to be quite similar to the pre-election version, but should be updated as necessary to reflect newly obtained information.
2. A 25 page "Agency Strategy Paper" fleshing out the issues identified in the Executive Summary for the incoming Agency head and senior Agency leadership (plus the Agency Review Working Group). This Briefing Paper is both a distinct document and Sections 2 - 4 of the User's Manual described in the following paragraph, an outline of which is attached. This paper should identify the big strategic questions facing the agency in light of candidate Obama's proposals during the campaign and the big decisions that will need to be made about those questions. The goal is not to make the decisions, but rather to present options and identify choices to be made. If possible, it should define a vision for the agency, but should be honest if different visions or philosophies are possible within the boundaries of the President-elect's stated positions on the issues. The paper should be no more than 25 pages, as anything longer is unlikely to be read.
3. A large and comprehensive virtual data file or "User's Manual" of information regarding the mission, organization, personnel, technology and budget of each agency along with legal, legislative and regulatory data about the agencies. A considerable amount of the information to be included in the User's Manual was collected in the pre-election Agency Data File, and your job is to complete the file with information that was not publicly available which you learn over the course of your transition work in the agency. An outline of the User's Manual is attached along with a more detailed memorandum regarding the budgetary information to be collected by each ALT. The audiences for the particular sections of the User's Manual are listed in the outline; in particular, the sections relating to the budget, technology and personnel will be shared respectively with the OMB team preparing the budget; the Technology, Innovation and Government Reform working group; and the personnel team, and will be discussed at the ALT orientation session. The goal is to have the User's Manual be as useful as possible for incoming senior management at the agency. With the exceptions of Sections 2-4 which you complete carefully and comprehensively, you should consider the User's Manual outline as starting point for your information collection, and should work with your ALT Leader and Working Group member responsible for your agency to determine the most useful information to collect.
4. Priority 1 and 2 agencies will also produce a budget memo for the OMB team which will be prepared in consultation with them under guidelines described by the ALT Leader.

All of these documents will be collected in a virtual data room. You will receive a separate memorandum explaining how to access the virtual data room, and we will provide you with access to the data room folder for your agency.

Your work may necessitate coordination with the work of one or more other Agency Liaison teams and/or with the work of one of the Transition Policy Working Groups: where your agency has substantive responsibilities that overlap with the work of other agencies (e.g., EPA, DOJ's environmental enforcement division and CEQ); where a Transition Policy Group is developing policy for your agency (e.g., education); and/or where it will take a number of agencies to effectively address an issue and we want to encourage cross-agency creative, cooperative thinking (e.g., financial sector reform). It is the responsibility of the Working Group member responsible for your agency to ensure that all of this coordination occurs efficiently, and the ALT Leader should work closely with him or her to structure that coordination.

Congressional and Stakeholder Outreach and Intake:
Each ALT will work with the Transition's Office of Congressional Affairs run by Phil Schiliro and Office of Public Liaison run by Mike Strautmanis to conduct outreach to core communities as well as to handle incoming requests for meetings. This outreach was not conducted during the pre-election period, so it is essential that it be done quickly and thoughtfully post-election. As mentioned above, an outreach plan for each agency was developed as part of the pre-election process which should guide the ALT's post-election outreach. Both congressional liaison and public liaison functions will be managed centrally by the Transition's Offices of Congressional Affairs and Public Liaison, and all meetings–both outreach desired by the ALT and those responsive to incoming requests -- should be coordinated with your contacts in those offices. Your Working Group member will inform you of your point(s) of contact in each office. You should be in "receive" mode during meetings with outside groups, listening to and recording their opinions, and your meeting notes should be memorialized in the congressional and public liaison databases and shared with Transition policy groups and others as appropriate. Anyone desiring to provide personnel recommendations should be sent directly to Transition Personnel.

Advisors Team
Each ALT will have a small team of outside Advisors to provide information and support. Advisor Teams will be responsible for: a) answering specific questions from the ALT about the agency or policy through written memos; b) reviewing materials submitted by outside interest groups and providing 1-page summaries to the ALT; and c) talking or meeting with interested individuals (at the request of the ALT) and providing 1-page summaries to the ALT. The Advisor operation is being run by Michele Jolin and Lisa Ellman and each agency Advisors Team will have a specific person designated as the Liaison with the ALT. The ALT member responsible for congressional and public liaison should be the person interfacing with the Advisor Liaison.

Agency Liaison Time Line
To be useful to the confirmation, budgeting and personnel process, the work must be conducted and completed in a very short period of time. The schedule set forth below is very tight, but necessary if our work is to feed into the broader transition process.

Priority 1 Agencies

- November 26: Draft 25 page Agency Strategy Paper (and 2 page Executive Summaries with any revisions) due to Working Group Member
- December 1: Budget Memo due to OMB team
- December 8: Final Papers
- December 12: User's Manual

Priority 2 Agencies

- December 1: Budget Memo due to OMB team
- December 5: Draft 25 page Agency Strategy Paper (and 2 page Executive Summaries with any revisions) due to Working Group Member
- December 15: Final Papers
- December 19: User's Manual

Priority 3 Agencies

- December 12: Draft 25 page Agency Strategy Paper (and 2 page Executive Summaries with any revisions) due to Working Group Member
- Final Papers due December 19
- No User's Manual

The papers and Users' Manual are not the only means through which you will be expected to convey the information collected by your ALT. You should be prepared to provide sections of the Users' Manual to other components of the transition team before the deadline for completing the Users' Manual. In addition, your ALT may be called upon to provide verbal briefings or syntheses of the information the ALT has collected at various times during the transition period to be of service to other components of the Transition.

RULES OF THE ROAD

Agency Contacts

The transition team and the incumbent administration have entered into a memorandum of understanding ("MOU") establishing the terms for access to agency personnel and documents. Pursuant to the terms of the MOU, no member of the transition team may contact any agency leader or other agency personnel or seek to review internal agency documents until the Transition's leadership has contacted the White House and authorized the ALTs to proceed.

The MOU requires that the transition team conduct transition activities involving a particular Agency through the contacts authorized by the Administration. Specifically, you will have to receive permission from a designated contact person in each agency before your ALT may interview or receive documents from any agency leaders or other personnel. Agency Liaison Team Leaders have the responsibility for managing any notifications that must precede these contacts and the contacts themselves. The MOU also provides that only those transition staff people included on lists provided to the incumbent administration may speak with agency leaders or other personnel or review agency documents. In other words, only bona fide members of the ALTs whose names have been provided to the incumbent administration in advance would be permitted to participate in the ALT's examination. The transition is also required by the Presidential Transition Act to disclose the names and most recent employment of all people serving on President-elect's agency transition teams, along with any sources of funding supporting their work on the transition.

Access to Classified and Non-Public Information

All government documents provided to ALT by an agency must be handled appropriately. There will be a detailed discussion of this topic at your orientation, but the fundamental rules are set forth below.

Classified Information

Most importantly, only team leaders and team members with appropriate security clearances and a need to know, and who have also signed the appropriate non-disclosure form, should request or be given access to classified materials. The transition team's offices have a SCIF and classified materials can be reviewed and stored there in consultation and coordination with the national security team.

Non-Public Information

The attached Agency Review Information and Document Policy sets forth in detail the Transition's policy regarding the acquisition, handling, and use of confidential documents and information. To summarize:

- Information You Should Never Request or Accept: ALT's should not request or receive any personnel files, attorney-client privileged information or non-public information concerning enforcement actions, lawsuits, and adjudications.
- Procedures for Requesting, Maintaining and Sharing Non-Public Information: The MOU specifies rules for the disclosure of non-public information to Transition team members and procedures for resolving disputes regarding disclosure of such information. These rules and procedures are set forth in the attached Agency Review Information and Document Policy and you must comply with them. Practically speaking, the Agency Liaison team leads will serve as the first point of contact when disputes arise over the disclosure of purportedly non-public information. If you cannot resolve a dispute, you should bring it to the attention of the Working Group member responsible for your agency, who will bring it to the attention of the appropriate Transition officials and work with incumbent administration officials to resolve the dispute. Non-public information cannot be shared with anyone who is not authorized to see it. We have accordingly established

clear procedures for the storage of this information, which are set forth in the attached Agency Review Information and Document Policy.

Independent Agencies.

Particular care is required when reviewing an independent agency in order to avoid the appearance of improperly intruding on their independence. Review of independent agencies should be based on the understanding that the primary purpose of the review process is to make sure that the President-elect and his personnel team have adequate information about what is pending in the agency to make informed decisions in the appointments process. The specific procedures to be followed when reviewing independent agencies are set forth in the attached Agency Review Information and Document Policy.

It is the responsibility of the ALT Leader to assure that only transition team staff with appropriate clearances have access to classified materials, that non-public information provided by the administration is handled appropriately pursuant to the terms of the MOU, and that interaction with independent agencies is handled appropriately.

Agency Decision-Making

President-elect Obama does not take office until after the inauguration. Accordingly neither he nor his transition team has any governmental decision-making power during the transition period. When you are engaging with agency officials, it is vitally important to remember that your job is information collection and you should not attempt in any way to influence an agency decision or to put yourself in a position where you appear to approve or disapprove of a decision.

Press Inquiries

You may well receive inquiries from the press about the Transition and your role. You should not talk to the press and should refer all calls to **[REDACTED].**

Confidentiality and Contacts

Given the sensitivity and volume of the work to be done in a very short time, it is important that we maintain strict confidentiality and streamline the transmission of information. Therefore, please keep the following in mind:

- All information regarding the operation of your agency team, the Agency Review Working Group and the broader Transition Project should be treated as confidential.
- Your work product should be provided in the first instance to the Working Group member responsible for your agency. Any requests for information from other Transition components should be run through your Working Group member.
- Any questions regarding the work of your agency liaison team should go first to your ALT Leader and then to the Working Group member responsible for your agency, and all contacts with Agency Review Working Group members and coordination with other agency review teams or Transition Policy Working Groups also should be funneled through him or her. If you have a high-priority, time-sensitive question and are unable to reach your Working Group liaison, you should contact **[REDACTED]**.
- Questions regarding ethics issues should go to the relevant lawyer on the attached sheet. Questions regarding access to or storage of non-public information should be directed to **[REDACTED]**.
- Questions regarding credentials, equipment, travel and other administrative matters should be directed to **[REDACTED]**.
- Each ALT should compile a contact sheet with the name; work, home and cell phone numbers; and email address for each member of their agency team and to provide it to the Working Group Member responsible for your agency to facilitate rapid and efficient communication.

WORKING ENVIRONMENT

The work produced by our team is critically important and serves as a foundation for policy, personnel and budgetary decisions at the highest levels. However, the process that will produce an excellent final product is not glamorous. Newspaper articles won't—and shouldn't—be written about the inner-workings of our team. Accordingly, by accepting this role, you agree that you will not – now or in the future – author, contribute to, or comment for any media stories or articles about our work or work product without advance permission. Discussing this work with the media without prior approval will result in immediate dismissal. You have also agreed to abide by a strict ethics policy. The bottom line is that you should enter into this work for only two purposes: the satisfaction of serving our country and creating the best foundation possible for the success of the new Administration. While many of you may be interested in serving full time in the Administration, you should do this work on the clear understanding that here are no promises regarding future engagement with the new Administration and that your position on the transition team does not advantage you in pursuit of these jobs.

Finally, in addition to your substantive expertise and political savvy, we asked you to work with us because we strongly believe you share President-elect Obama's "no drama" work ethic: we must all leave our egos at the door and put our work ahead of any personal agendas. We look forward to a collegial and fast-paced environment.

Thank you again for your vital contribution to the Transition Project and we very much look forward to working with you.