

September 15, 2017

The Honorable David Apol  
Acting Director  
U.S. Office of Government Ethics  
1201 New York Avenue, N.W., Suite 500  
Washington, DC 20005

Dear Acting Director Apol,

We agree with the long-standing Office of Government Ethics practice that anonymous contributions from lobbyists to legal defense funds should be banned. We oppose the changing of the May 2017 disclaimer and urge you to remove the old, incorrect guidance.

As we are sure you are aware, in 1993, OGE issued informal guidance during the administration of William J. Clinton permitting such donations. Nonetheless, during the administrations of George W. Bush and Barack H. Obama, practice shifted away from endorsing these donations—even though the 1993 letter was never withdrawn.

We welcome the White House statements that it is “not pushing for any change that allows anonymous donations... [and] is interested in identifying ways to have donors disclosed and to ensure no prohibited sources, including lobbyists, are contributing funds for the benefit of White House employees.”<sup>1</sup> We were also glad to see OGE’s press liaison state that “OGE policy on anonymous contributions has not changed” and that “OGE is continuing to recommend that funds include language prohibiting anonymous contributions.”<sup>2</sup>

OGE should promptly resolve the controversy and confusion about this matter by rescinding the 1993 letter and by formally and publicly reaffirming its long-standing policy against anonymous lobbyist contributions to legal defense funds. We also ask OGE to similarly clarify that gifts cannot be accepted from subordinates or anyone making the gift because of the appointee’s official position. Ethics best practices demand nothing less.

Thank you for your attention to this matter.

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<sup>1</sup> Darren Samuelsohn, *Trump Ethics Watchdog Moves to Allow Anonymous Gifts to Legal Defense Funds*, *Politico*, Sept. 13, 2017, available at <http://www.politico.com/story/2017/09/13/trump-ethics-watchdog-legal-defense-242690>.

<sup>2</sup> Allegra Kirkland, *Report: Trump’s Ethics Office OK with Anonymous Gifts to Legal Defense Funds*, *TPM*, Sept. 14, 2017, available at <http://talkingpointsmemo.com/livewire/trump-ethics-office-allow-anonymous-gifts-legal-defense-funds>.

Sincerely,

Gary D. Bass  
Norman Eisen  
Norman Ornstein  
Richard Painter  
American Oversight  
Campaign Legal Center  
Center for Media and Democracy  
Citizens for Responsibility and Ethics in Washington (CREW)  
Common Cause  
Democracy 21  
Every Voice  
POGO  
Sunlight Foundation

cc: Stefan C. Passantino  
Deputy Counsel to the President