§ 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(f); 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 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
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§ 1305.3

PART 1305—RELEASE OF OFFICIAL INFORMATION, AND TESTIMONY BY OMB PERSONNEL AS WITNESSES, IN LITIGATION

Sec.
1305.1 Purpose and scope.
1305.2 Production prohibited unless approved.
1305.3 Procedures in the event of a demand for disclosure.
1305.4 Procedure in the event of an adverse ruling.
1305.5 No private right of action.


§ 1305.1 Purpose and scope.

This part contains the regulations of the Office of Management and Budget (OMB) concerning procedures to be followed when, in litigation (including administrative proceedings), a subpoena, order or other demand (hereinafter in this part referred to as a “demand”) of a court or other authority is issued for the production or disclosure of:

(a) Any material contained in the files of OMB;
(b) Any information relating to materials contained in the files of OMB; or
(c) Any information or material acquired by any person while such person was an employee of OMB as a part of the performance of the person’s official duties or because of the person’s official status.

§ 1305.2 Production prohibited unless approved.

No employee or former employee of OMB shall, in response to a demand of a court or other authority, produce any material contained in the files of OMB, disclose any information relating to materials contained in the files of OMB, or disclose any information or produce any material acquired as part of the performance of the person’s official duties or because of the person’s official status, without the prior approval of the General Counsel.

§ 1305.3 Procedures in the event of a demand for disclosure.

(a) Whenever a demand is made upon an employee or former employee of