

bursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.

(Pub. L. 117-286, §3(c), Dec. 27, 2022, 136 Stat. 4296.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
13121	5 U.S.C. App. (EGA § 401)	Pub. L. 95-521, title IV, § 401, Oct. 26, 1978, 92 Stat. 1862; Pub. L. 98-150, § 2, Nov. 11, 1983, 97 Stat. 959; Pub. L. 100-598, § 3, Nov. 3, 1988, 102 Stat. 3031; Pub. L. 104-179, § 4(b)(2)(A), Aug. 6, 1996, 110 Stat. 1567.

§ 13122. Authority and functions

(a) OVERALL DIRECTION OF EXECUTIVE BRANCH POLICIES RELATING TO PREVENTION OF CONFLICTS OF INTEREST.—The Director shall provide, in consultation with the Office of Personnel Management, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as defined in section 105 of this title.

(b) RESPONSIBILITIES OF DIRECTOR.—The responsibilities of the Director shall include—

(1) developing, in consultation with the Attorney General and the Office of Personnel Management, rules and regulations to be promulgated by the President or the Director pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by subchapter I;

(2) developing, in consultation with the Attorney General and the Office of Personnel Management, rules and regulations to be promulgated by the President or the Director pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigating compliance with the public financial disclosure requirements of subchapter I by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available financial statements filed pursuant to subchapter I;

(4) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(5) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

(6) interpreting rules and regulations issued by the President or the Director governing

conflict of interest and ethical problems and the filing of financial statements;

(7) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

(8) establishing a formal advisory opinion service whereby advisory opinions are rendered on matters of general applicability or on important matters of first impression after, to the extent practicable, providing interested parties with an opportunity to transmit written comments with respect to the request for such advisory opinion, and whereby such advisory opinions are compiled, published, and made available to agency ethics counselors and the public;

(9) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(10) requiring such reports from executive agencies as the Director deems necessary;

(11) assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

(12) evaluating, with the assistance of the Attorney General and the Office of Personnel Management, the need for changes in rules and regulations issued by the Director and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

(13) cooperating with the Attorney General in developing an effective system for reporting allegations of violations of the conflict of interest laws to the Attorney General, as required by section 535 of title 28;

(14) providing information on and promoting understanding of ethical standards in executive agencies; and

(15) developing, in consultation with the Office of Personnel Management, and promulgating such rules and regulations as the Director determines necessary or desirable with respect to the evaluation of any item required to be reported by subchapter I.

(c) CONSULTATION.—In the development of policies, rules, regulations, procedures, and forms to be recommended, authorized, or prescribed by the Director, the Director shall consult when appropriate with the executive agencies affected and with the Attorney General.

(d) ESTABLISHED WRITTEN PROCEDURES.—

(1) IN GENERAL.—The Director shall, by the exercise of any authority otherwise available to the Director under this subchapter, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

(2) CONFORMANCE WITH APPLICABLE REQUIREMENTS.—In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.

(e) REPORTS FROM EXECUTIVE AGENCIES.—In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

(1) each executive agency shall be required to submit to the Office an annual report containing—

(A) a description and evaluation of the agency's ethics program, including any educational, counseling, or other services provided to officers and employees, in effect during the period covered by the report;

(B) the position title and duties of—

(i) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

(ii) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

(C) any other information that the Director may require in order to carry out the responsibilities of the Director under this subchapter; and

(2) each executive agency shall be required to inform the Director upon referral of any alleged violation of Federal conflict of interest law to the Attorney General pursuant to section 535 of title 28, except that nothing under this paragraph shall require any notification or disclosure which would otherwise be prohibited by law.

(f) CORRECTIVE ACTIONS.—

(1) EXECUTIVE AGENCIES.—In carrying out subsection (b)(9) with respect to executive agencies, the Director—

(A) may—

(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or

(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's noncompliance in writing (including, with the notification, any written comments which the agency may provide).

(2) INDIVIDUAL OFFICERS AND EMPLOYEES.—

(A) IN GENERAL.—In carrying out subsection (b)(9) with respect to individual officers and employees—

(i) the Director may make such recommendations and provide such advice to such officers and employees as the Director considers necessary to ensure compli-

ance with rules, regulations, and Executive orders relating to conflicts of interest or standards of conduct;

(ii) if the Director has reason to believe that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

(I) may recommend to the head of the officer's or employee's agency that such agency head investigate the possible violation and, if the agency head finds such a violation, that such agency head take any appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendation shall instead be submitted to the President; and

(II) shall notify the President in writing if the Director determines that the head of an agency has not conducted an investigation pursuant to subclause (I) within a reasonable time after the Director recommends such action;

(iii) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompliance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

(iv) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

(I) may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that if the officer or employee involved is the agency head, any such recommendations shall instead be submitted to the President; and

(II) may notify the President in writing if the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director recommends such action.

(B) INVESTIGATIONS AND FINDINGS CONCERNING POSSIBLE VIOLATIONS.—

(i) AUTHORITY OF DIRECTOR.—In order to carry out the Director's duties and responsibilities under subparagraph (A)(iii) or

(iv) with respect to individual officers and employees, the Director may conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

(ii) NOTIFICATION OF ALLEGED VIOLATION AND OPPORTUNITY TO COMMENT.—

(I) NOTIFICATION BEFORE A FINDING IS MADE.—Subject to clause (iv) of this subparagraph, before any finding is made under subparagraphs (A)(iii) or (iv), the officer or employee involved shall be afforded notification of the alleged violation, and an opportunity to comment, either orally or in writing, on the alleged violation.

(II) PROCEDURES.—The Director shall, in accordance with section 553 of this title, establish procedures for such notification and comment.

(iii) HEARING.—Subject to clause (iv) of this subparagraph, before any action is ordered under subparagraph (A)(iii), the officer or employee involved shall be afforded an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

(iv) EXCEPTION.—The procedures described in clauses (ii) and (iii) of this subparagraph do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in subchapter I. For those findings and orders, the procedures in section 13108 of this title shall apply.

(3) COPIES OF ORDERS RELATING TO FINDING OF VIOLATION.—The Director shall send a copy of any order under paragraph (2)(A)(iii) to—

(A) the officer or employee who is the subject of such order; and

(B) the head of the officer's or employee's agency or, if such officer or employee is the agency head, to the President.

(4) AGENCY HEADED BY BOARD, COMMITTEE, OR OTHER GROUP.—For purposes of paragraphs (2)(A)(ii), (iii), (iv), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

(5) NO AUTHORITY TO MAKE FINDINGS OF CRIMINAL LAW VIOLATIONS.—Nothing in this subchapter shall be considered to allow the Director (or any designee) to make any finding that a provision of title 18, or any criminal law of the United States outside of title 18, has been or is being violated.

(6) LIMITATION ON AVAILABILITY OF RECORDS.—Notwithstanding any other provision of law, no record developed pursuant to the authority of this section concerning an investigation of an individual for a violation of any rule, regulation, or Executive order relat-

ing to a conflict of interest shall be made available pursuant to section 552(a)(3) of this title, unless the request for such information identifies the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of this title to any record so identified.

(Pub. L. 117-286, §3(c), Dec. 27, 2022, 136 Stat. 4296.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
13122	5 U.S.C. App. (E.G.A. §402)	Pub. L. 95-521, title IV, §402, Oct. 26, 1978, 92 Stat. 1862; Pub. L. 96-19, §9(e), (s), June 13, 1979, 93 Stat. 43, 44; Pub. L. 98-150, §3(a), (b), Nov. 11, 1983, 97 Stat. 959; Pub. L. 100-598, §§5-7, Nov. 3, 1988, 102 Stat. 3032, 3033.

In subsection (b)(1), the reference to “subchapter I” is substituted for “title II of this Act” for clarity and to update an obsolete reference in the law. The reference to “title II of this Act” means title II of the Ethics in Government Act of 1978, which was previously repealed. Section 201 of the Ethics Reform Act of 1989 (Public Law 101-194, 103 Stat. 1724) repealed title II of the Ethics in Government Act of 1978. Section 202 of the Ethics Reform Act of 1989 (Public Law 101-194, 103 Stat. 1724) enacted a general amendment of title I of the Ethics in Government Act of 1978, and, as amended, title I of the Ethics in Government Act of 1978 included provisions relating to the filing, review, and public availability of financial statements filed by officers and employees in the executive, legislative, and judicial branches of the Federal Government. Title I of the Ethics in Government Act of 1978 is restated as “subchapter I” (i.e., subchapter I of chapter 131 of title 5, United States Code).

In subsection (b)(3), the reference to “subchapter I” is substituted for “title II of this Act” and for “such title” for clarity and to update obsolete references in the law. See the explanation in the revision note pertaining to subsection (b)(1) of this section.

In subsection (b)(15), the reference to “subchapter I” is substituted for “title II of this Act” for clarity and to update an obsolete reference in the law. See the explanation in the revision note pertaining to subsection (b)(1) of this section.

In subsection (f)(2)(B)(iv), the reference to “subchapter I” is substituted for “title 2 of this Act” for clarity and to update an erroneous and obsolete reference in the law. The reference to “title 2 of this Act” should be “title II of this Act”, meaning title II of the Ethics in Government Act of 1978, which was previously repealed. See the explanation in the revision note pertaining to subsection (b)(1) of this section.

In subsection (f)(2)(B)(iv), the reference to “section 13108 of this title” is substituted for “section 206 of this Act” for clarity and to update an obsolete reference in the law. The reference to “section 206 of this Act” means section 206 of the Ethics in Government Act of 1978, which was previously repealed. The Act language for the now repealed section 206 of the Ethics in Government Act of 1978 appears at 92 Stat. 1847 (except that section 9(m) of Public Law 96-19 (93 Stat. 43) amended the text of section 206(a) of the Ethics in Government Act of 1978 by striking “shall be” and inserting “is”). Section 206 of the Ethics in Government Act of 1978 was repealed by section 201 of the Ethics Reform Act of 1989 (Public Law 101-194, 103 Stat. 1724), and equivalent language was enacted as section 106 of the Ethics in Government Act of 1978 by section 202 of the Ethics Reform Act of 1989 (Public Law 101-194, 103 Stat. 1724, 1739). Section 106 of the Ethics in Government Act of 1978 is re-

stated as “section 13108 of this title” (i.e., section 13108 of title 5, United States Code).

In subsection (f)(3)(B), the words “the head of the officer’s” are substituted for “the head of officer’s” to correct an error in the law.

Statutory Notes and Related Subsidiaries

RULES AND REGULATIONS IN EFFECT BEFORE OCTOBER 1, 1983

Pub. L. 98–150, §3(d), Nov. 11, 1983, 97 Stat. 960, provided that:

“(1) Any rules or regulations issued under [former] section 402 of the Ethics in Government Act of 1978 [see 5 U.S.C. 13122] which are in effect immediately before the effective date of the amendments made by this Act [Oct. 1, 1983, see bracketed note below] shall remain in effect according to their terms until modified, superseded, set aside, or revoked on or after such effective date.

“(2) The responsibilities of the Director of the Office of Government Ethics under [former] paragraphs (6) and (12), respectively, of section 402(b) of the Ethics in Government Act of 1978 [see 5 U.S.C. 13122(b)(6), (12)], with respect to rules and regulations issued by the Office of Personnel Management before the effective date of the amendments made by this Act [Oct. 1, 1983] shall not be affected by this Act or any of the amendments made by this Act [see Tables for classification].”

[Pub. L. 98–150, §13, Nov. 11, 1983, 97 Stat. 963, provided that: “The amendments made by this Act [see Tables for classification] shall take effect on October 1, 1983.”]

§ 13123. Administrative provisions

(a) ASSISTANCE TO DIRECTOR.—Upon the request of the Director, each executive agency is directed to—

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this chapter; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of the Director’s duties.

The authority of the Director under this section includes the authority to request assistance from the inspector general of an agency in conducting investigations pursuant to the Office of Government Ethics responsibilities under this chapter. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this chapter.

(b) GIFT ACCEPTANCE AUTHORITY.—

(1) IN GENERAL.—The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

(2) LIMITATIONS.—No gift may be accepted—

(A) that attaches conditions inconsistent with applicable laws or regulations; or

(B) that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Office of Government Ethics.

(3) CRITERIA FOR DETERMINING APPROPRIATENESS OF GIFT ACCEPTANCE.—The Director shall

establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money, services, use of facilities, or personal property under this subsection would reflect unfavorably upon the ability of the Office of Government Ethics, or any employee of such Office, to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

(Pub. L. 117–286, §3(c), Dec. 27, 2022, 136 Stat. 4301.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
13123	5 U.S.C. App. (EGA §403)	Pub. L. 95–521, title IV, §403, Oct. 26, 1978, 92 Stat. 1863; Pub. L. 98–150, §5, Nov. 11, 1983, 97 Stat. 960; Pub. L. 100–598, §9, Nov. 3, 1988, 102 Stat. 3035; Pub. L. 104–179, §2, Aug. 6, 1996, 110 Stat. 1566.

§ 13124. Rules and regulations

In promulgating rules and regulations pertaining to financial disclosure, conflict of interest, and ethics in the executive branch, the Director shall issue rules and regulations in accordance with chapter 5 of this title. Any person may seek judicial review of any such rule or regulation.

(Pub. L. 117–286, §3(c), Dec. 27, 2022, 136 Stat. 4302.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
13124	5 U.S.C. App. (EGA §404)	Pub. L. 95–521, title IV, §404, Oct. 26, 1978, 92 Stat. 1863; Pub. L. 98–150, §3(c), Nov. 11, 1983, 97 Stat. 960.

§ 13125. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for fiscal year 2007.

(Pub. L. 117–286, §3(c), Dec. 27, 2022, 136 Stat. 4302.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
13125	5 U.S.C. App. (EGA §405)	Pub. L. 95–521, title IV, §405, Oct. 26, 1978, 92 Stat. 1863; Pub. L. 98–150, §12, Nov. 11, 1983, 97 Stat. 963; Pub. L. 100–598, §2, Nov. 3, 1988, 102 Stat. 3031; Pub. L. 101–334, §2, July 16, 1990, 104 Stat. 318; Pub. L. 102–506, §2, Oct. 24, 1992, 106 Stat. 3280; Pub. L. 104–179, §3, Aug. 6, 1996, 110 Stat. 1566; Pub. L. 107–119, §2, Jan. 15, 2002, 115 Stat. 2382; Pub. L. 109–289, div. B, title II, §21069, as added Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 57.

Although provisions authorizing the appropriation of “such sums as may be necessary” are generally considered unnecessary, and although this provision is obso-