

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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April 5, 2023

The Honorable Jennifer Granholm
Department of Energy
1000 Independence Ave SW,
Washington, DC 20585

Dear Secretary Granholm:

Earlier this year, the Wall Street Journal reported that hundreds of Department of Energy (the Department, or DOE) employees, including one third of the Department's senior employees, continue to hold stocks and other assets related to their official work **despite receiving notice** from ethics officials regarding likely violations.¹ To comply with federal law, DOE employees may not work on matters in which they have a conflict of interest. If the information in this report is accurate, it raises grave concerns about the Department's ethics practices and guardrails. These conflicts of interest call into question the breadth of work that many DOE employees can perform, potentially requiring large portions of the Department's staff to recuse themselves from substantial portions of their official duties.² For this reason, we ask DOE to provide us with assurance that federal conflicts of interest laws are not being violated.

Executive branch employees are prohibited by law from participating "personally and substantially in official matters where they have a financial interest."³ This commonsense law was designed to prevent bureaucrats from benefiting from non-public information by using it for personal gain, or worse, altering official government positions to align with their personal financial interests. In 1962, after three Department of Agriculture officials were fired for accepting bribes,

¹ Rebeca Ballhaus et al, *Hundreds of Energy Department Officials Hold Stocks Related to Agency's Work Despite Warnings*, THE WALL STREET JOURNAL (Feb. 23, 2023), <https://www.wsj.com/articles/hundreds-of-energy-department-officials-hold-stocks-related-to-agencys-work-despite-warnings-73198908>.

² *Id.*

³ 18 U.S.C. § 208 (codifying, "[W]hoever, being an officer or employee of the executive branch ... participates personally and substantially as a Government officer or employee, through decision, approval, disapproval... or other particular matter in which, to his knowledge, he, his spouse, minor child, ... has a financial interest [s]hall be subject to the penalties set forth in section 216 of this title (up to 5 years in prison and a fine)"); see also U.S. Office of Government Ethics. (n.d.). Analyzing Potential Conflicts of Interest. Retrieved March 3, 2023, from <https://www.oge.gov/web/oge.nsf/Resources/Analyzing+Potential+Conflicts+of+Interest#:~:text=The%20basic%20criminal%20conflict%20of,they%20have%20a%20financial%20interest.>

Congress acted decisively with the support of President Kennedy to modernize conflict of interest laws with the goal of preventing future corruption.⁴

Alarming, the Department's alleged conflict of interest violation is far greater in scale than the acts that triggered passage of the law in 1962.⁵ The report details that "more than 130 officials in the Energy Department collectively reported approximately 2,700 trades of shares, bonds and options in companies that ethics officers labeled as related to their agency's work." The article further alleges that of the more than 300 Department officials identified, nearly 75 held stocks of major energy companies.^{6,7}

Both the frequency and market value of DOE employees' alleged security transactions are alarming. For instance, according to the report, one Senior Advisor disclosed more than 15,000 trades over six years while employed by the Department. This averages almost ten transactions per trading day, some of which were highly relevant to his work on grid and electric transmission.⁸ Another DOE manager disclosed over 130 trades in 18 companies that had a direct relationship to his supervisory work.⁹ In 2017, this individual managed scientists at a DOE lab as they conducted crude oil experiments.¹⁰ This individual also disclosed six trades of Chevron shares that year, which resulted in Department ethics officials sending him a notice.¹¹ Following receipt of this notice, the individual made 18 more trades of Chevron shares between 2017-2019, leading to another letter from ethics officials. In 2020 he made six more trades, each valued between \$50,000 to \$100,000.¹² As of today, this individual remains employed by the Department and holds a leadership position at a DOE National Laboratory. It is imperative that potential conflicts of interest arising through such actions be avoided and that the American people's confidence in their government not be undercut.

Taxpayer dollars and taxpayer interests are not served when government employees act like full-time Wall Street Day traders with part-time jobs as Department officials. If these ethics violations are verified, it will be nearly impossible to untangle the influence of these employees' personal finances from the impact of their official roles. It is the expectation of this Committee that the Department act quickly and efficiently to quell any conflict-of-interest issues and deal with offending employees in a timely manner. In an effort to understand the veracity of these claims and DOE's ability to manage conflict of interest cases, we ask the Department to provide the

⁴ United States Congress, Senate, Committee on the Judiciary, *HR. 8140 to Strengthen the Criminal Laws Relating to Bribery, Graft, and Conflicts of Interest, and for Other Purposes*. Senate Hearing June 21, 1962, Government Printing Office, 1962, 87th Congress, 2nd session.

⁵ *Id.*

⁶ Rebeca Ballhaus et al, *Hundreds of Energy Department Officials Hold Stocks Related to Agency's Work Despite Warnings*, THE WALL STREET JOURNAL (Feb. 23, 2023), <https://www.wsj.com/articles/hundreds-of-energy-department-officials-hold-stocks-related-to-agencys-work-despite-warnings-73198908>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

Committee with a briefing on this issue, as well as responses to the questions and documents listed below by April 19, 2023.

1. How many notifications regarding conflicts of interest has the Department's legal office sent to employees since 2015? Please provide a breakdown by calendar year.
 - a. How many of the above notifications pertained to securities? Please provide a breakdown by calendar year.
 - b. Since 2015, how many Department employees received at least one notification?
 - c. Since 2015, how many received five notifications or more?
 - d. Since 2015, how many received ten notifications or more?
 - e. For questions 1 (b)-(d), how many of these notifications pertained to securities, including futures, options, and swaps?
 - f. What was the average financial value of each instance where an individual employee received a notification?
 - g. Did any employees receive multiple notifications in the same calendar year? If yes, how many?
 - h. What were the positions of the employees who received notifications?
 - i. How many employees were political appointees?
 - ii. How many employees were in the Senior Executive Service (SES)?
 - iii. How many employees were above a GS-12 but below GS-15?
 - iv. How many employees were below GS-12?
 - i. What were the positions of employees that received multiple notifications?
 - i. How many employees were political appointees?
 - ii. How many employees were in the Senior Executive Service (SES)?
 - iii. How many employees were above a GS-12 but below GS-15?
 - iv. How many employees were below GS-12?

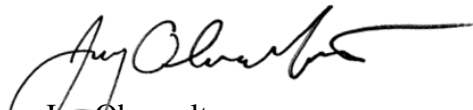
2. Please describe the frequency with which employees are required to undergo conflict-of-interest training, beginning in 2015. Please provide a breakdown by calendar year, if applicable.
 - i. Of the employees who received a notification, how many had previously participated in conflict-of-interest training?
 - ii. What percentage of these employees completed conflict-of-interest training on an annual basis? On a biannual basis?
 - iii. How do these percentages compare to those employees who did not receive a notification?

3. Since 2015, has the Department taken administrative action against any employee regarding conflicts of interest? If yes, please provide a breakdown by year.
 - a. What was the average salary of these employees when administrative action was taken against them?
 - b. What was the average number of years of employment for these employees when administrative action was taken against them?
 - c. What was the makeup of the General Schedule when administrative action was taken against them?
 - i. How many employees were in the Senior Executive Service (SES)?
 - ii. How many were above GS-12 but below SES?
 - d. In what offices within the Department of Energy did each employee work when administrative action was taken against them?
 - e. What areas of research, if applicable, were each employee conducting when administrative action was taken against them?
 - f. How did the Department determine administrative action was necessary?
 - g. Generally, why was administrative action taken against some employees but not others?
 - i. Please provide all policies or regulations that were used in making such determinations.

- ii. Were these policies consistently followed? If not, why not?
 - h. How many of these employees continue to work at the Department of Energy or its National Laboratories?
4. Since 2015, has the department taken administrative action against an employee for failure to disclose a conflict? Please provide a breakdown by year.
 - a. How many of these pertained to securities including futures, options, and swaps? Please provide a breakdown by year.
5. Since 2015, how many cases regarding conflicts of interest of its own employees has the Department referred to the Department of Justice (DOJ)? Please provide a breakdown by year.
6. Since 2015, how many cases regarding conflicts of interest of its own employees has the Department referred to the Security Exchange Commission (SEC)? Please provide a breakdown by year.
7. Since 2015, how many cases regarding conflicts of interest of its own employees has the Department referred to the Commodity Futures Trading Commission (CFTC)? Please provide a breakdown by year.
8. Since 2015, how many employees were late in reporting their financial disclosures? Please provide a breakdown by year.
 - a. What was the average salary of employees who reported their financial disclosure late?
 - b. How many employees who filed their disclosure late received a notification regarding a conflict of interest from the Department's Legal Office?
 - c. How many employees who filed their disclosure late has the Department taken action against?
 - d. Of the employees filing late disclosures, how late were they on average? Please provide a breakdown by year.

Should you have any questions or concerns please contact Hillary O'Brien or Danny Boatright of the Committee's Majority staff at (202) 225-6371. Thank you for your time and attention to this important matter.

Sincerely,



Jay Obernolte
Chairman
Subcommittee on Oversight
House Committee on
Science, Space, and Technology



Brandon Williams
Chairman
Subcommittee on Energy
House Committee on
Science, Space, and Technology

cc:

The Honorable Zoe Lofgren
Ranking Member
House Committee on Science, Space, & Technology

The Honorable Teri Donaldson
Inspector General
Department of Energy

The Honorable Matthew M. Graves
U.S. Attorney – District of Columbia
Department of Justice