

§ 2638.304

to hypothetical situations posed in requests. Opinions may be rendered, however, on proposed activities or transactions.

§ 2638.304 Form of requests for formal advisory opinions.

(a) A request for a formal advisory opinion should be directed to the Director of the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917.

(b)(1) A request should be in writing and signed by the individual making the request or by a representative of that person. A request shall state all material facts necessary for the Director to render a complete and correct opinion.

(2) In addition, it should also include the following information:

(i) the name, mailing address, and daytime telephone contact of the individual making the request, and

(ii) a copy of the position, description of the position involved, if available.

(c) If the request is submitted by a representative, he or she must show his or her representative status, list a mailing address and daytime telephone contact.

[46 FR 2583, Jan. 9, 1981. Redesignated at 54 FR 50231, Dec. 5, 1989, and amended at 55 FR 27180, July 2, 1990]

§ 2638.305 Acceptance of requests for formal advisory opinions.

(a) Subject to the provisions of paragraph (d) of this section, the Director shall review each request for a formal advisory opinion and take one of the following actions:

(1) If the Director determines that the person making the request meets the requirements of § 2638.302 and that the subject matter of the request qualifies under the criteria established in § 2638.303, he or she shall assign an identifying number to the request and notify the person that a formal advisory opinion will be rendered; or

(2) If the Director determines that the person making the request is not a person who is eligible to receive a formal advisory opinion as provided in § 2638.302, or that the subject of the request is not a matter upon which the Office issues formal advisory opinions as outlined by § 2638.303, he or she shall

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so notify the person making the request.

When a formal advisory opinion will not be rendered, the Office of Government Ethics may provide other informational assistance to the person as appropriate. (See also § 2638.312.)

(b) If at any time after receipt of a request for a formal advisory opinion, the Director believes that additional relevant information is needed, he or she may seek such information directly from the person requesting the opinion or from other sources which may include the agency involved.

(c) The person requesting the opinion may furnish the Office of Government Ethics with legal memoranda or other material relevant to the opinion requested.

(d)(1) In the case of a request which involves an actual or apparent violation of any conflict of interest law embodied in 18 U.S.C. 202-209, the Director shall consult with the Criminal Division of the Department of Justice.

(2) If after such consultation the Criminal Division determines that a criminal investigation will be undertaken, the Director shall take no further action with regard to that request pending a determination by the Criminal Division not to prosecute.

(3) Upon receipt of a determination by the Criminal Division not to prosecute, the Director shall then follow the procedures for all other requests for formal advisory opinions set forth in this part.

§ 2638.306 Notice of requests.

The Director shall provide notice to interested parties identified in a request which will be the subject of a formal advisory opinion that such an opinion will be rendered. Generally, the designated agency ethics official of the agency involved shall be notified of the request.

§ 2638.307 Written comment on requests.

(a) To the extent practicable, the Director shall provide interested parties with an opportunity to submit written comment on a request for a formal advisory opinion. A time by which the