

OFFICE OF GOVERNMENT ETHICS

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**Memorandum dated June 3, 2002,
from Marilyn L. Glynn, General Counsel,
to Designated Agency Ethics Officials
Regarding Commencement of Officer
or Employee Status for Purposes of
Conflict of Interest Requirements**

This is to notify you of a recent opinion issued by the Office of Legal Counsel (OLC), Department of Justice, concerning the issue of when an individual becomes an officer or employee subject to the Federal conflict of interest laws and regulations. See Memorandum of M. Edward Whelan III, Principal Deputy Assistant Attorney General, for Marilyn L. Glynn, General Counsel, Office of Government Ethics, "Application of Conflict-of-Interest Rules To Appointees Who Have Not Begun Service," May 8, 2002 (available on OGE website under the "Other Ethics Guidance" category in the "Laws and Regulations" section, at www.usoge.gov).

The OLC opinion deals specifically with the question of whether an individual becomes an officer or employee, for purposes of the conflict of interest restrictions, upon appointment by the President (after Senate confirmation). OLC concluded that "the conflict of interest rules do not apply by virtue of the appointment alone but instead apply only after the appointee has begun the duties of his office." *Id.* at 1. The opinion does not specify how to determine when a given official has begun the duties of his or her office, but states that such a determination "is identical to . . . the routine determination of the time when the official begins to accrue his salary." *Id.* at 7-8.