AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 984
OFFERED BY MR. WAXMAN OF CALIFORNIA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Executive Branch Re-

3 form Act of 2007”.

4 SEC. 2. REQUIREMENTS RELATING TO SIGNIFICANT CON-

5 TACTS.

6 (a) IN GENERAL.—The Ethics in Government Act of

7 1978 (5 U.S.C. App. 4) is amended by adding at the end

8 the following new title:

9 “TITLE VI—EXECUTIVE BRANCH

10 DISCLOSURE OF SIGNIFICANT

11 CONTACTS

12 “SEC. 601. RECORDING AND REPORTING BY CERTAIN EXEC-

13 UTIVE BRANCH OFFICIALS OF SIGNIFICANT

14 CONTACTS MADE TO THOSE OFFICIALS.

15 “(a) IN GENERAL.—Not later than 30 days after the

16 end of a calendar quarter, each covered executive branch

17 official shall make a record of, and file with the Office

18 of Government Ethics a report on, any significant contacts
during the quarter between the covered executive branch
official and any private party relating to an official govern-
ment action. If no such contacts occurred, each such offi-
cial shall make a record of, and file with the Office a re-
port on, this fact, at the same time.

“(b) CONTENTS OF RECORD AND REPORT.—Each
record made, and each report filed, under subsection (a)
shall contain—

“(1) the name of the covered executive branch
official;

“(2) the name of each private party who had a
significant contact with that official; and

“(3) for each private party so named, a sum-
mary of the nature of the contact, including—

“(A) the date of the contact;

“(B) the subject matter of the contact and
the specific executive branch action to which the
contact relates; and

“(C) if the contact was made on behalf of
a client, the name of the client.

“(c) WITHHOLDING FOIA-EXEMPT INFORMATION.—
This section does not require the filing with the Office of
Government Ethics of information that is exempt from
public disclosure under section 552(b) of title 5, United
3

States Code (popularly referred to at the “Freedom of In-
formation Act”).

“SEC. 602. AUTHORITIES AND RESPONSIBILITIES OF OFF-
FICE OF GOVERNMENT ETHICS.

“(a) IN GENERAL.—The Director of the Office of
Government Ethics shall—

“(1) promulgate regulations to implement this
title, provide guidance and assistance on the record-
ing and reporting requirements of this title, and de-
velop common standards, rules, and procedures for
compliance with this title;

“(2) review, and, where necessary, verify the ac-
curacy, completeness, and timeliness of reports;

“(3) develop filing, coding, and cross-indexing
systems to carry out the purpose of this title, includ-
ing—

“(A) a publicly available list of all private
parties who made a significant contact; and

“(B) computerized searchable systems de-
signed to minimize the burden of filing and
maximize public access to reports filed under
this title;

“(4) make available for public inspection and
copying at reasonable times the reports filed under
this title;
“(5) retain reports for a period of at least 6 years after they are filed;

“(6) compile and summarize, with respect to each reporting period, the information contained in reports filed with respect to such period in a clear and complete manner;

“(7) notify any covered executive branch official in writing that may be in noncompliance with this title; and

“(8) notify the United States Attorney for the District of Columbia that a covered executive branch official may be in noncompliance with this title, if the covered executive branch official has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (7).

“SEC. 603. PENALTIES.

“(a) VIOLATION.—Whoever violates this title shall be subject to administrative sanctions, up to and including termination of employment.

“(b) DELIBERATE ATTEMPT TO CONCEAL.—Whoever deliberately attempts to conceal a significant contact in violation of this title shall upon proof of such deliberate violation by a preponderance of the evidence, be subject
to a civil fine of not more than $50,000, depending on
the extent and gravity of the violation.

“SEC. 604. DEFINITIONS.

“In this title:

“(1) COVERED EXECUTIVE BRANCH OFFICIAL.—The term ‘covered executive branch official’
means—

“(A) any officer or employee serving in a
position in level I, II, III, IV, or V of the Exec-
utive Schedule, as designated by statute or Ex-
ecutive order;

“(B) any member of the uniformed serv-
ices whose pay grade is at or above O–7 under
section 201 of title 37, United States Code;

“(C) any officer or employee serving in a
position of a confidential, policy-determining,
 policy-making, or policy-advocating character
described in section 7511(b)(2)(B) of title 5,
United States Code;

“(D) any noncareer appointee, as defined
by section 3132(a)(7) of title 5, United States
Code; and

“(E) any officer or employee serving in a
position of a confidential, policy-determining,
policy-making, or policy advocating character,
or any other individual functioning in the ca-
pacity of such an officer or employee, in the Ex-
ecutive Office of the President or the Office of
the Vice President, but does not include the
President or Vice President or the chief of staff
of the President or Vice President.

“(2) SIGNIFICANT CONTACT.—

“(A) IN GENERAL.—Except as provided in
subparagraph (B), the term ‘significant contact’
means oral or written communication (including
electronic communication) that is made by a
private party to a covered executive branch offi-
cial in which such private party seeks to influ-
ence official action by any officer or employee
of the executive branch of the United States.

“(B) EXCEPTION.—The term ‘significant
contact’ does not include any communication
that is an exception to the definition of ‘lob-
bying contact’—

“(i) under clauses (i) through (vii) or
clauses (ix) through (xix) of subparagraph
(B) of paragraph (8) of section 3 of the
1602(8)(i)–(vii) or (ix)–(xix)); or
“(ii) with respect to publically available information only, under clause (viii) of subparagraph (B) of paragraph (8) of section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(8)(viii)).

“(3) PRIVATE PARTY.—The term ‘private party’ means any person or entity, but does not include a Federal, State, or local government official or a person representing such an official.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Title VI of the Ethics in Government Act of 1978, as added by this section, takes effect 1 year after the date of the enactment of this Act, except as provided in paragraph (2).

(2) INITIAL REGULATIONS.—The initial regulations required by section 602 of that Act shall be promulgated—

(A) in draft form, not later than 270 days after the date of the enactment of this Act; and

(B) in final form, not later than 1 year after the date of the enactment of this Act.
SEC. 3. REQUIREMENTS RELATING TO STOPPING THE REVOLVING DOOR.

The Ethics in Government Act of 1978 (5 U.S.C. App. 4) is amended by adding at the end the following new title:

“TITLE VII—STOPPING THE REVOLVING DOOR

SEC. 701. TWO-YEAR COOLING-OFF PERIOD FOR PERSONS LEAVING GOVERNMENT SERVICE.

“(a) In General.—For a period of two years after the termination of his employment, a covered executive branch official—

“(1) shall not engage in any conduct that would be prohibited under subsection (c) of section 207 of title 18, United States Code, if it occurred within one year after the termination of his employment; and

“(2) shall not, if his position is described in subsection (d)(1) of section 207 of title 18, United States Code, engage in any conduct that would be prohibited under subsection (d) of section 207 of title 18, United States Code, if it occurred within one year after the termination of his employment.

“(b) No Effect on Section 207.—This section does not expand, contract, or otherwise affect the applica-
tion of any waiver or criminal penalties under section 207 of title 18, United States Code.

“(c) EFFECTIVE DATE.—This section shall apply to covered executive branch officials who terminate Government service after March 31, 2007.

“SEC. 702. PROHIBITION ON NEGOTIATION OF FUTURE EMPLOYMENT.

“(a) PROHIBITION.—A covered executive branch official shall not participate in any official matter in which, to the official’s knowledge, a person or organization with whom the official is negotiating or has any arrangement concerning prospective employment has a financial interest, unless a waiver has been granted under subsection (b).

“(b) WAIVERS ONLY WHEN EXCEPTIONAL CIRCUMSTANCES EXIST.—A waiver to subsection (a) is not available, and shall not be granted, to any individual except in a case which the Government official responsible for the individual’s appointment as a covered executive branch official determines that exceptional circumstances exist. Whenever such a determination is made, the Director of the Office of Government Ethics shall review the circumstances relating to the determination, and the waiver shall not take effect until the date on which the Director certifies in writing that exceptional circumstances exist.
“SEC. 703. COOLING-OFF PERIOD FOR CERTAIN PERSONS ENTERING GOVERNMENT SERVICE.

“(a) In General.—A covered executive branch official shall not participate in any particular matter involving specific parties that would affect the financial interests of a covered entity.

“(b) Waiver.—An agency’s designated ethics officer may waive the prohibition in subsection (a) with respect to a covered executive branch official of that agency upon a determination that the interests involved are not so substantial as to be deemed likely to affect the integrity of the services that the Government may expect from the official. Whenever such a determination is made, the Director of the Office of Government Ethics shall review the circumstances relating to the determination, and the waiver shall not take effect until the date on which the Director approves the determination in writing.

“(c) Definition.—In this section, the term ‘covered entity’ means an entity—

“(1) in which the official, within the previous 2 years, served as an officer, director, trustee, general partner, or employee; or

“(2) for which the official, within the previous 2 years, worked as a lobbyist, lawyer, or other representative.
“(d) No Effect on Section 208.—This section does not expand, contract, or otherwise affect the application of any criminal penalties under section 208 of title 18, United States Code.

“SEC. 704. PENALTIES.

“Whoever violates section 701, 702, or 703 of this title shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $100,000, depending on the extent and gravity of the violation.

“SEC. 705. DEFINITION.

“In this title, the term ‘covered executive branch official’ means—

“(1) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

“(2) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37, United States Code;

“(3) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2)(B) of title 5, United States Code;
“(4) any noncareer appointee, as defined by section 3132(a)(7) of title 5, United States Code;

“(5) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy advocating character, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President or the Office of the Vice President; and

“(6) the Vice President.”.

SEC. 4. ADDITIONAL PROVISIONS RELATING TO PROCUREMENT OFFICIALS.

(a) ELIMINATION OF LOOPHOLES THAT ALLOW FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSATION FROM CONTRACTORS OR RELATED ENTITIES.—Section 27(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(d)) is amended—

(1) in paragraph (1)—

(A) by striking “or consultant” and inserting “consultant, lawyer, or lobbyist”; 

(B) by striking “one year” and inserting “two years”; and

(C) in subparagraph (C), by striking “personally made for the Federal agency—” and inserting “participated personally and substantially in—”; and
(2) by amending paragraph (2) to read as fol-

ows:

“(2) Paragraph (1) shall not prohibit a former
official of a Federal agency from accepting com-
pensation from any division or affiliate of a con-
tractor that does not produce the same or similar
products or services as the entity of the contractor
that is responsible for the contract referred to in
subparagraph (A), (B), or (C) of such paragraph if
the agency’s designated ethics officer determines
that—

“(A) the offer of compensation is not a re-
ward for any action described in paragraph (1);
and

“(B) acceptance of the compensation is ap-
propriate and will not affect the integrity of the
procurement process.”.

(b) Requirement for Federal Procurement
Officers to Disclose Job Offers Made on Behalf
of Relatives.—Section 27(c)(1) of such Act (41 U.S.C.
423(c)(1)) is amended by inserting after “that official”
the following: “or for a relative of that official (as defined
in section 3110 of title 5, United States Code),”.

(c) Requirement on Award of Government
Contracts to Former Employers.—Section 27 of
such Act (41 U.S.C. 423) is amended by adding at the
end the following new subsection:

“(i) Prohibition on Involvement by Certain
Former Contractor Employees in Procure-
ments.—An employee of the Federal Government who is
a former employee of a contractor with the Federal Gov-
ernment shall not be personally and substantially involved
with any award of a contract to the employee’s former em-
ployer, or the administration of such a contract, for the
two-year period beginning on the date on which the em-
ployee leaves the employment of the contractor.”.

(d) Regulations.—Section 27 of such Act (41
U.S.C. 423) is further amended by adding at the end of
the following new subsection:

“(j) Regulations.—The Administrator, in consulta-
tion with the Director of the Office of Government Ethics,
shall—

“(1) promulgate regulations to carry out and
ensure the enforcement of this section; and

“(2) monitor and investigate individual and
agency compliance with this section.”.

(e) Effective Date.—The amendments made by
this section shall take effect on the date of the enactment
of this Act, except that the amendment made by sub-
section (a)(1)(B) shall apply to individuals who terminate

SEC. 5. PROHIBITION ON UNAUTHORIZED EXPENDITURE
OF FUNDS FOR PUBLICITY OR PROPAGANDA
PURPOSES.

(a) Prohibition.—Chapter 13 of title 31, United
States Code, is amended by adding at the end the fol-
lowing new section:

“§ 1355. Prohibition on unauthorized expenditure of
funds for publicity or propaganda pur-
poses

“An officer or employee of the United States Govern-
ment may not make or authorize an expenditure or obliga-
tion of funds for publicity or propaganda purposes within
the United States unless authorized by law.”.

(b) Clerical Amendment.—The table of sections
for chapter 13 of such title is amended by adding at the
end the following new item:

“1355. Prohibition on unauthorized expenditure of funds for publicity or propa-
ganda purposes.”.

SEC. 6. REQUIREMENT FOR DISCLOSURE OF FEDERAL
SPONSORSHIP OF ALL FEDERAL ADVERTIS-
TING OR OTHER COMMUNICATION MATE-
RIALS.

(a) Requirement.—Each advertisement or other
communication paid for by an Executive agency, either di-
rectly or through a contract awarded by the Executive agency, shall include a prominent notice informing the target audience that the advertisement or other communication is paid for by that Executive agency.

(b) ADVERTISEMENT OR OTHER COMMUNICATION.—In this section, the term “advertisement or other communication” includes—

(1) an advertisement disseminated in any form, including print or by any electronic means; and

(2) a communication by an individual in any form, including speech, print, or by any electronic means.

(c) EXECUTIVE AGENCY.—In this section, the term “Executive agency” has the meaning provided in section 105 of title 5, United States Code.

SEC. 7. ELIMINATION OF “PSEUDO” CLASSIFICATION.

(a) REPORTS ON THE PROLIFERATING USE OF “PSEUDO” CLASSIFICATION DESIGNATIONS.—

(1) REPORT BY FEDERAL AGENCIES.—Not later than six months after the date of the enactment of this Act, each federal agency shall submit to the Archivist of the United States and the congressional committees described in subsection (d) a report describing the use of “pseudo” classification designations.
(2) MATTERS COVERED.—Each such agency shall report on, at a minimum, the following:

(A) The number of “pseudo” classification designation policies used by the agency.

(B) Any existing guidance, instruction, directive, or regulations regarding the agency’s use of “pseudo” classification designations.

(C) The number and level of experience and training of Federal agency, office, and contractor personnel authorized to make “pseudo” classification designations.

(D) The cost of placing and maintaining information under each “pseudo” classification designation.

(E) The extent to which information placed under “pseudo” classification designations has subsequently been released under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act).

(F) The extent to which “pseudo” classification designations have been used to withhold from the public information that is not authorized to be withheld by Federal statute, or by an
Executive order relating to the classification of national security information.

(G) The statutory provisions described in subsection (c).

(3) Report by the Archivist of the United States.—Not later than 9 months after the date of the enactment of this Act, the Archivist of the United States shall issue to the congressional committees described in subsection (d) a report on the use of “pseudo” classification designations across the executive branch that is based on the information provided by agencies, as well as input from the Director of National Intelligence, Federal agencies, offices, and contractors. All federal agencies, offices, and contractors shall cooperate fully and promptly with all requests by the Archivist in the fulfillment of this paragraph.

(4) Notice and comment.—The Archivist shall provide notice and an opportunity for public comment on the report.

(b) Elimination of “Pseudo” Classification Designations.—

(1) Regulations.—Not later than 15 months after the date of the enactment of this Act, the Archivist of the United States shall promulgate regula-
tions banning the use of “pseudo” classification designations.

(2) Standards for information control designations.—If the Archivist determines that there is a need for some agencies to use information control designations to safeguard information prior to review for disclosure, beyond those designations established by statute or by an Executive Order relating to the classification of national security information, the regulations under paragraph (1) shall establish standards for the use of those designations by agencies. Such standards shall address, at a minimum, the following issues:

(A) Standards for utilizing the information control designations in a manner that is narrowly tailored to maximize public access to information.

(B) Procedures for providing specified Federal officials with authority to utilize the information control designations, including training and certification requirements.

(C) Categories of information that may be assigned the information control designations.
(D) The duration of the information control designations and the process by which they will be removed.

(E) Procedures for identifying, marking, dating, and tracking information assigned the information control designations, including the identity of officials making the designations.

(F) Specific limitations and prohibitions against using the information control designations.

(G) Procedures for members of the public to challenge the use of the information control designations.

(H) The manner in which the use of the information control designations relates to the procedures of each agency or office under section 552 of title 5, United States Code.

(3) Regulation to constitute sole authority.—A regulation promulgated pursuant to this subsection shall constitute the sole authority by which Federal agencies, offices, or contractors are permitted to control information for the purposes of safeguarding information prior to review for disclosure, other than authority granted by Federal stat-
ute or by an Executive order relating to the classification of national security information.

(c) **Review of Statutory Barriers to Public Access Information.**—

(1) **Review of Statutes.**—As part of the report required under subsection (a)(3), the Archivist shall examine existing Federal statutes that allow Federal agencies, offices, or contractors to control, protect, or otherwise withhold information based on security concerns.

(2) **Recommendations.**—The report shall make recommendations on potential changes to the Federal statutes examined under paragraph (1) that would improve public access to information governed by such statutes.

(d) **Definitions.**—In this section:


(2) The term “‘pseudo’ classification designations” means information control designations, including “sensitive but unclassified” and “for official
use only”, that are not defined by Federal statute, or by an Executive order relating to the classification of national security information, but that are used to manage, direct, or route Government information, or control the accessibility of Government information, regardless of its form or format.