



MEMORANDUM FOR ADENA NICOLE LEIBMAN

FROM: Leslie B. Kiernan  
General Counsel and Designated Agency Ethics Official

SUBJECT: Limited Waiver of Executive Order 13989

Pursuant to Section 3 of Executive Order 13989 (January 20, 2021) (“Executive Order” or “EO”), and for the reasons stated below, I hereby grant you a limited waiver of the requirements of Section 1, Paragraph 3, of the Executive Order.

**Background**

Section 1, Paragraph 3 of the Executive Order imposes a two-year restriction on registered lobbyists from (1) working at any executive branch agency they lobbied in the past two years, and (2) participating in a particular matter or the specific issue area in which a particular matter falls if they lobbied on that particular matter in the past two years. A waiver of the Executive Order's restrictions may be granted upon a certification either that the literal application of the restriction is inconsistent with the purpose of the restriction, or that it is in the public interest to grant the waiver.

Upon appointment to the position of Senior Advisor at NOAA, you will carry out assignments from the Under Secretary regarding NOAA programs and policy issues. This work includes the policy areas in which you have been active in your pre-NOAA work.

During the two years before your current federal employment, you served as a Senior Oceans Policy Manager at the Environmental Defense Fund (EDF). In that position you led policy development and advocacy in support of sustainable fisheries, blue carbon investments, offshore renewable energy, and marine conservation. You represented EDF in multiple coalitions and sustained a broad network of local, regional, and national leaders in ocean sustainability and climate resilience. Previously, you worked for Senator Sheldon Whitehouse of Rhode Island on natural resources, ocean, and coastal policy issues. You also have experience working at the Oceans Conservancy where you provided legal, work planning, and policy support for multiple Ocean Conservancy programs and offices as well as developed and maintained an expansive network of international experts, NGOs, and corporate partners.

In the course of your work for EDF, in June 2020, you registered as a lobbyist under the Federal Lobbying Disclosure Act. This is the only lobbying position you have held. As part of this work, you engaged with House and Senate committees and staff on legislative matters, such as NOAA appropriations, the Magnuson–Stevens Fishery Conservation and Management Act (MSA) Reauthorization, fisheries, Blue Carbon, and coastal resilience. You also spoke to member offices and coalitions such as the MSA Coalition, the National Ocean Protection Coalition, the American Broadband Connection Coalition, the Marine Mammal Protection Act

(MMPA) Coalition and the NOAA Green Groups Transition. You worked on comment letters and communications with NOAA and the regional fishery management councils.

### **Analysis**

Section 3 of EO 13989 permits a waiver of the above-referenced restrictions, if such a waiver would be in the public interest. In making my assessment, I have considered the factors set forth in Section 3(c) of the Executive Order, which include: (i) the government's need for the individual's services, including the existence of special circumstances related to national security, the economy, public health, or the environment; (ii) the uniqueness of the individual's qualifications to meet the government's needs; (iii) the scope and nature of the individual's prior lobbying activities, including whether such activities were de minimis or rendered on behalf of a nonprofit organization; and (iv) the extent to which the purposes of the restriction may be satisfied through other limitations on the individual's services.

Here, these factors demonstrate that it is in the public interest to grant you a limited waiver. The government has a critical need for your services as a Senior Advisor at NOAA. This position affects several of NOAA's important scientific and economic missions concerning the work of the Office of Atmospheric Research and its involvement in offshore wind development. You are uniquely qualified to meet the government's needs given your expertise in ocean, fishery, climate, marine, and coastal policy, as well as applicable legal authorities such as the MSA and MMPA. You have a strong background in climate and ocean issues including responsible siting of offshore wind, which is a critical priority of the Administration. You also have experience with climate science/research and ocean-based climate solutions, including blue carbon, which are some of NOAA's important contributions to climate mitigation and adaptation. In addition, you have worked in the U.S. Senate on ocean, coastal and natural resource issues and understand the legislative process and work of relevant committees of jurisdiction. Your experience in ocean policy and science, your work with federal lawmakers and agencies, such as NOAA, and your advanced degrees in Marine Science and Environmental Law make you uniquely suited to advise NOAA on these issues and to help represent the agency before policymakers. Furthermore, your prior lobbying activities were rendered on behalf of a single nonprofit organization.

### **Conclusion**

Pursuant to this waiver, you may serve as a Senior Advisor at NOAA and participate on behalf of the agency in any particular matter on which you lobbied for EDF within the two years before your appointment, and in the specific issue area in which that particular matter falls. This waiver does not otherwise affect your obligation to comply with all other applicable government ethics rules and provisions of the Executive Order. Specifically, this waiver does not permit you to participate in any party-specific matters directly affecting the EDF, including but not limited to contracts or grants.

cc: Dana A. Remus, Counsel to the President