



## **Policies for government ethics and accountability**

August 2019

We are facing an unprecedented era, with our country on the brink of a constitutional crisis. The Trump administration is failing to respect the rule of law and undermining the checks and balances among our co-equal branches of government. At the same time, we are witnessing an unparalleled crisis in government corruption and ethics, in which several Cabinet officials, high-ranking public executives and presidential nominees have been investigated for conflicts of interest or resigned/withdrawn in disgrace. Despite these oustings, conflicts of interest persist at the highest levels of government. The Environmental Protection Agency is being led by a former coal lobbyist, the DOI is headed by a former oil lobbyist and a former pharmaceutical lobbyist is leading the Department of Health and Human Services.

The need for reform is urgent. The years following Watergate and the Nixon impeachment saw a fundamental overhaul of the laws governing the scope of executive branch power, including the establishment of independent inspectors general, the strengthening of the Freedom of Information Act and the first mandatory financial disclosures for presidential appointees. The next president of the United States should embark upon a similarly ambitious set of reforms to ensure no elected or appointed official, including the president, is allowed to abuse their power. In particular, the next president should take actions to:

- Increase accountability in the executive branch
- Launch an impeachment inquiry into Trump
- Strengthen the Freedom of Information Act
- Strengthen government ethics policies

### **1. Increase accountability over the executive branch**

Despite considerable evidence of criminal conduct, no indictment was issued against Trump in the wake of the Mueller report because a Department of Justice regulation forbids the indictment of a sitting president. So long as impeachment remains the only path to removing a lawless president, presidents will be able to trade on party loyalty to escape the rule of law. We need reforms to hold the president accountable, as well as the executive branch more broadly.

Friends of the Earth Action supports:

- Passage of legislation to allow either Congress or the Judiciary Committee to indict sitting presidents.
- Policies to prevent administrations from intimidating, discriminating or retaliating against civil servants, including staff scientists, based on political affiliation or work in prior administrations.
- Requiring public disclosure of White House visitor information, including records of visitors to any location where the president or vice president regularly conducts official business.
- Requiring registered lobbyists to publicly record meetings with executive branch officials.
- Restoring congressional power over the declaration of emergencies by requiring congressional approval for emergencies that invoke significant authorities.

### **2. Launch an impeachment inquiry into Trump**

The impasse of the Mueller report notwithstanding, allowing a lawless president to remain in office poses long-term risks to our norms and institutions. So long as it remains DOJ policy to block indictments, the onus is on Congress to act. Refusing to demand the removal of a criminal president simply because his party controls the Senate is a serious risk to the rule of law.

Friends of the Earth Action supports:

- The removal of Trump from office using any and all lawful means, including the 25<sup>th</sup> Amendment.
- The House of Representatives launching an impeachment inquiry into Trump based on violations of the public trust and “high crimes and misdemeanors” outlined in the Mueller report.

### **3. Strengthen the Freedom of Information Act**

The Freedom of Information Act is one of the most important transparency laws to help ensure that government is ethical, accountable and serves the people. FOIA has been indispensable for ensuring that federal agencies properly implement environmental policies and for signaling when important reforms are needed. The law has helped uncover thousands of instances of government misconduct and waste, as well as threats to the environment and public health. The current administration, particularly the Environmental Protection Agency and the Department of Interior, has been particularly unresponsive and hostile to FOIA requests. For example, DOI has proposed a rule that would allow its agencies to deny more FOIA requests by classifying them as “unreasonably burdensome.”

Friends of the Earth Action supports strengthening the Freedom of Information Act by:

- Ensuring that FOIA offices are fully funded.
- Requiring all completed FOIA requests be made available online.
- Expanding FOIA to include government contractors.
- Eliminating political appointees from the FOIA redaction process.
- Limiting the amount of time permitted for “referrals” to other agencies and “reasonably described” clarification requests to filers.

### **4. Strengthen government ethics policies**

A strong democracy is ethical, accountable and serves the people. Americans need to trust that their representatives in Congress or the executive branch are working in the best interest of all Americans, not for themselves or the people who fund their campaigns. This administration is at particular risk of self-dealing and conflicts of interest, from Trump’s continued ownership in hotels and resorts to former Department of Interior Secretary Ryan Zinke’s apparent deal with Halliburton to set him up with a business post-DOI.

Clean government is critical to Friends of the Earth Action’s efforts to protect the environment; we support legislation that strengthens and expands federal ethics rules and oversight while reducing the appearance or possibility of corruption of Congress and executive branch officials. Among other policies, we support:

- Making the Office of Congressional Ethics permanent, granting it subpoena power and establishing a similar office for the Senate.
- Requiring executive branch ethics waivers to be made public on agency websites.
- Requiring agencies to report any conflicts of interest for the president and senior administration officials during the rule-making process.
- Requiring public disclosure of White House visitor information, including records of visitors to any location where the president or vice president regularly conducts official business.
- Expanding income and asset disclosure requirements in the Ethics in Government Act to include closely-held corporate entities that are controlled by filers.
- Prohibiting members of Congress from serving on for-profit boards, trading in individual stocks and using their official positions to further the financial interests of themselves or their immediate family members.
- Strengthening anti-corruption/honest services/illegal gratuities laws. For example, clarify what constitutes a “quid pro quo” under federal bribery and corruption law; broaden the definition of an “official act” for purposes of bribery of public officials to include the personal and substantial participation through, or investigation of, a question, matter, cause, suit, proceeding or controversy.

*See also Friends of the Earth Action’s related position paper, “Policies for fair elections and responsive government.”*