



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

June 21, 2022

Emory A. Rounds, III
U.S. Office of Government Ethics
1201 New York Avenue, N.W., Suite 500
Washington, DC 20005
Email: ContactOGE@oge.gov

Re: White House Employee Anita Dunn

Dear Mr. Rounds,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We write today to alert you to a White House employee's failure to file the required personal financial disclosure and request the OGE take appropriate action.

Federal law requires government employees and officials to disclose their financial information to the public.¹ The disclosure requirements are an integral part of an ethical and transparent government: accurate and timely filing is the only method for citizens to determine whether government officials have conflicts of interest or are wrongfully profiting from their position.

Under the public disclosure requirements, covered government employees must file an annual financial disclosure report that provides a "full and complete" statement of their assets, debts, and income.² Other relationships and all non-federal positions (whether or not compensated) held with any organization must also be reported.³ In addition to the annual report, covered employees must file a periodic report to disclose any financial transaction that exceeds \$1,000 within 30 to 45 days of the transaction.⁴ This federal law is extremely important and

¹ 5 U.S.C. app 4 § 101-111 (disclosure requirements); § 102(a)(5) (requirement for disclosure of financial transactions over \$1,000).

² *Id.*

³ *Id.*

⁴ *Id.*

places an affirmative duty on those filing to ensure compliance with the law. There is no excuse for inaccurate, incomplete, or late filings, and every violation has consequences.⁵

Prior to her government employment, Anita Dunn was a founding member of SKDK, a corporate and political consulting firm, and worked for President Biden's campaign in 2020.⁶ Since January 2021, Dunn has either been employed by the White House, worked for SKDK, or both at the same time.

- From January to August 2021, Dunn was a “senior advisor” to President Biden. She reportedly remained at SKDK for “management issues” but not client matters.
- From August 2021 to March 2022, Dunn worked at SKDK full-time.⁷
- In March 2022, Dunn again joined the White House as a “special government employee” to fill in for White House deputy chief of staff Jennifer O'Malley Dillon. Dunn reportedly told her SKDK clients that they could not contact her for two weeks.⁸
- From March 2022, to May 5, 2022, Dunn worked at SKDK full-time.
- On May 5, 2022, the White House announced Dunn was again returning as a “senior advisor.”⁹

In spite of her senior advisor positions with the White House, Dunn has not filed a public financial disclosure report. The administration claimed that Dunn did not need to file a public

⁵ The Ethics in Government Act does not allow government officials to break the law without consequence. *See, e.g.*, 5 U.S.C. app 4 § 104(a)(1) (providing for a civil penalty not to exceed \$50,000); sec. 104(a)(2) (making it unlawful for any person to knowingly and willfully fail to file or report any information required under section 102, with penalties of up to \$50,000 and imprisonment of not more than one year); § 104(d) (providing for a late filing fee of \$200).

⁶ Lee Fang, *How Top White House Adviser Anita Dunn Is Dodging Ethics Disclosure*, *The Intercept*, May 4, 2021, available at: <https://theintercept.com/2021/05/04/anita-dunn-ethics-disclosure-biden-skdk/>.

⁷ Tyler Pager, Sean Sullivan, and Michael Scherer, *Anita Dunn And SKDK: Power And Influence In Biden's Washington*, *The Washington Post*, Mar. 28, 2022, available at: <https://www.washingtonpost.com/politics/2022/03/28/anita-dunn-biden-skdk/>.

⁸ *Id.*

⁹ Hailey Fuchs and Emily Birnbaum, *Biden Is Squaring Off With Bezos — And Bringing Back A Top Aide With Amazon Ties*, *Politico*, May 26, 2022, available at: <https://www.politico.com/news/2022/05/26/a-top-white-house-aide-has-ties-to-amazon-adding-a-new-ingredient-to-the-bezos-biden-drama-00035398>.

report because she was classified as a “special government employee” and her salary was below the threshold of \$132,552 requiring public disclosure.¹⁰

However, this appears to be an intentional attempt to avoid the ethics laws. The classification of “special government employee” is someone retained to perform temporary duties of not more than 130 days, for instance national guard training or scientists that join part-time boards.¹¹ The role of “senior advisor” is not a temporary one but rather is a position that is continuous in the administration, demonstrated by the fact that both past and current advisors have filed public financial disclosures, including another senior advisor to President Biden, Mike Donilon.¹² Moreover, Dunn’s first period of employment alone was longer than the 130 days of those classified as a special government employee.¹³ Her returning multiple times also shows that this is not a temporary position. Additionally, Dunn’s salary was \$129,000—just below the threshold requiring public disclosure and significantly lower than the \$180,000 salary of other White House officials with the same seniority.¹⁴

While it appears the White House structured Dunn’s employment and salary to avoid her filing a public disclosure, this position is one where public disclosure is sorely needed. SKDK’s client list is not public, but reportedly “the firm has served a sprawling roster of high-powered clients in recent years, including Fortune 500 companies like AT&T and Pfizer, occasionally foreign governments such as Ukraine, whom the firm helped pro-bono, and political candidates like Wisconsin’s Democratic Gov. Tony Evers.”¹⁵

¹⁰ Tyler Pager, Sean Sullivan, and Michael Scherer, *Anita Dunn And SKDK: Power And Influence In Biden’s Washington*, The Washington Post, Mar. 28, 2022, available at: <https://www.washingtonpost.com/politics/2022/03/28/anita-dunn-biden-skdk/>; Lee Fang, *How Top White House Adviser Anita Dunn Is Dodging Ethics Disclosure*, *The Intercept*, May 4, 2021, available at: <https://theintercept.com/2021/05/04/anita-dunn-ethics-disclosure-biden-skdk/>.

Covered employees include special government employees unless their salary is below the threshold. See, e.g., Office of Governmental Ethics, *Special Government Employee*, available at: [https://www.oge.gov/Web/278eGuide.nsf/Content/Definitions~Special+Government+Employee+\(SGE\)](https://www.oge.gov/Web/278eGuide.nsf/Content/Definitions~Special+Government+Employee+(SGE))

¹¹ Public Financial Disclosure Guide, United States Office Of Government Ethics, available at: [https://www.oge.gov/Web/278eGuide.nsf/Content/Definitions~Special+Government+Employee+\(SGE\)](https://www.oge.gov/Web/278eGuide.nsf/Content/Definitions~Special+Government+Employee+(SGE)).

¹² Lee Fang, *How Top White House Adviser Anita Dunn Is Dodging Ethics Disclosure*, *The Intercept*, May 4, 2021, available at: <https://theintercept.com/2021/05/04/anita-dunn-ethics-disclosure-biden-skdk/>.

¹³ Tyler Pager, Sean Sullivan, and Michael Scherer, *Anita Dunn And SKDK: Power And Influence In Biden’s Washington*, The Washington Post, Mar. 28, 2022, available at: <https://www.washingtonpost.com/politics/2022/03/28/anita-dunn-biden-skdk/>; Lee Fang, *How Top White House Adviser Anita Dunn Is Dodging Ethics Disclosure*, *The Intercept*, May 4, 2021, available at: <https://theintercept.com/2021/05/04/anita-dunn-ethics-disclosure-biden-skdk/>.

¹⁴ Tyler Pager, Sean Sullivan, and Michael Scherer, *Anita Dunn And SKDK: Power And Influence In Biden’s Washington*, The Washington Post, Mar. 28, 2022, available at: <https://www.washingtonpost.com/politics/2022/03/28/anita-dunn-biden-skdk/>.

¹⁵ *Id.*

This employment arrangement wherein Dunn is able to maintain her ties with a private company while in a senior advisory role raises serious concerns of conflicts of interest and improper influence. This includes the possibility that she could personally financially benefit if she has an interest in SKDK or other companies. Even if Dunn had no current ties to SKDK, these ethics issues remain and the administration acknowledges it. When questioned about Dunn's conflicts of interest that would arise from her work at SKDK, a White House official stated: "Dunn would be recused from matters involving SKDK or clients that she worked for in the previous two years."¹⁶ However, Dunn will not be required to recuse herself from government matters involving SKDK clients generally—maintaining the perception of influence peddling and buying access.¹⁷ Regardless, it is impossible to know what Dunn's conflicts are (SKDK related or otherwise) and whether she is actually recusing herself because she has not filed a public financial disclosure report.

The ethics rules do not permit one to indirectly do what they are directly prohibited from doing. The administration cannot use an employment classification that does not apply and purposefully set an employee's salary to avoid compliance with public financial disclosure requirements. In fact, as it appears the administration is intentionally taking steps to hide this information from the public, this is a case where public disclosure is even more important.

It is overtly clear that Dunn's position inside the White House is one where public disclosure is needed due to her power to influence government action and policy, but it is also required under the law. As exemplified here, a government official's failure to comply with the most basic ethics rules leads to public distrust in our government. Moreover, the following lack of transparency and consequences is especially harmful because it appears that the law does not apply equally to all. We request the Office of Governmental Ethics investigate and take appropriate action.¹⁸

Sincerely,

/s/Kendra Arnold

Kendra Arnold

Executive Director, Foundation for Accountability & Civic Trust

¹⁶ Hailey Fuchs and Emily Birnbaum, *Biden Is Squaring Off With Bezos — And Bringing Back A Top Aide With Amazon Ties*, Politico, May 26, 2022, available at: <https://www.politico.com/news/2022/05/26/a-top-white-house-aide-has-ties-to-amazon-adding-a-new-ingredient-to-the-bezos-biden-drama-00035398>.

¹⁷ *Id.*

¹⁸ 5 CFR § 2634.701 ("The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as appropriate, must refer to the Attorney General the name of any individual when there is reasonable cause to believe that such individual has willfully failed to file a public report or information required on such report, or has willfully falsified any information (public or confidential) required to be reported under this part.").