

# Ethics Reform Makes Headlines

When public trust and integrity are at stake



BY BRAD YARBROUGH

According to recent headlines, government leaders in the United States and throughout the world are making promises of improvement. In response to citizens expressing dissatisfaction with their governmental authorities, the efforts are generally focused on two areas. First, reforming the behavior of public servants, whether government employees or elected officials. Second, eliminating the bureaucratic regulations that, even as an unintended consequence, cripple the private sector from providing economic opportunities that would otherwise benefit individuals and society as a whole.

This is the crux of ethics—improving one's condition while, at the same time, respecting the dignity and worth of others.

## The Role of Public Service

President Trump made a promise to “drain the swamp” and make ethics reform a top priority of his administration. And similar promises were recently made by several governors. These pledges are a response to the public's outrage over the scandalous behavior of persons in public service who wrongfully use their position for personal gain.

For instance, Gov. Andrew Cuomo (New York) recently announced a set of ethics reforms that included a process to review all contracts and agreements involving state funds “with an eye towards eliminating any wrongdoing, conflicts of interest or collusion.” Mr. Cuomo said, “I believe this public trust and integrity issue must be addressed—directly and forthrightly.” Reflecting the public's disgust with government, he said, “It is time for action, not words.” The governors of Pennsylvania, South Carolina, Utah and Texas, to name a few, have also promised to champion ethics reform.

Effective in August 2016, the U.S. Office of Government Ethics issued 60 pages of provisions detailing the standards of federal employee behavior. Included are standards stating that, “Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.” Another provision states, “Employees shall act impartially and not give preferential treatment to any private organization or individual.”

Ethics in government should not be an oxymoron, although some individuals seem to face an ethical dilemma when motivated by both personal ambition and public service. While defining and enforcing the boundaries of proper conduct is important, it seems, as always, that the emphasis should be on the need for good character.

Our industry often connects with governmental authorities on various infrastructure projects. It's not unusual for a government official to have a friendly relationship with a private sector company engaged in some aspect of our industry. Is it ethical for that public servant to be given a well-compensated position with that company upon resignation



**... good government can become bad when it creates a tangled web of agencies tasked to create and enforce endless policies..."**

or retirement? It's easy to claim "situational" ethics, but doing so often illuminates self-serving motives.

**Bureaucratic Regulation**

"The care of human life and happiness, and not their destruction, is the first and only object of good government," said Thomas Jefferson, principal author of the Declaration of Independence and third U.S. President. It seems good, therefore, that governments use regulations to direct business behavior toward the public good. Doing so can stimulate results that wouldn't likely occur and prevent outcomes that might otherwise take place. Within government, these are created by countless agencies and applied to the social and economic lives of its citizens.

Harold Hamm, CEO and Chairman of Continental Resources, who has been an informal advisor to President Trump, told me, "I think it's important to look at the regulatory aspect of his reform promises. Government overreach is as bad as corruption, because it often has the same results. Regulations can put a company or an entire industry out of business. It's unethical to pick winners and losers and regulate businesses to extinction, even entire industry segments or sectors." Further, he said, "Big government can impose bad things upon the private sector, capriciously, whether it's sensible or not. This can hinder or stop a private sector project for purely political purposes."

**Unintended Consequences**

No matter the original intent, good government can become bad when it creates a tangled web of agencies tasked to create and enforce endless policies while ignoring the short and long term implications of doing so. Too often it seems that the burdens placed on business are the result of narrow political purposes or to justify the agency's existence.

President Trump has criticized the overreach of governmental regulations, which he insists are damaging the U.S. economy by placing costly impediments on businesses. He has promised to repeal the Dodd-Frank Act, though it will require action by Congress. This massive regulatory legislation, which was signed into law in 2010, was loaded with "unintended consequences." As President Reagan once stated, "Governments tend not to solve problems, only to rearrange them."

**Regulatory Impact on the Economy**

As the CEO of Valliance Bank in Oklahoma City, Brad Swickey is a well-respected leader in the industry. In an area dominated by the energy industry, he summarized the problem with the Act and government regulation in general by saying, "I am cautious about using the term 'regulatory burden,' because regulation to ensure a safe and sound banking system or more broadly, commercial environment is important and necessary. However, as in everything, too much of a good thing becomes burdensome, and we clearly crossed that line with Dodd-Frank. Today, far too many human and financial resources

are committed to complying with government rules and regulation, as opposed to serving the community with small business and consumer lending.

In the case of the energy industry, regulators have asked banks domiciled in counties that have a reliance on oil and gas related commerce to report quarterly on both their direct and indirect exposure to the energy industry. Once again, this kind of regulatory reporting costs time and money, but even more disconcerting is the chill it put on the banking industry toward lending to energy-related companies right at a time when it needed the help. Unfortunately, overzealous regulation is often countercyclical, discouraging lending to a certain market segment, just when that market segment needs the support, creating further downward pressure on the local or even national economy."

Ethics reform is much needed in government. And while we are grateful for the hard work and commitment of the vast majority of dutiful public servants, I believe the IRWA supports the government's efforts to improve ethical conduct at the federal, state and local levels. Our Association also applauds efforts to eliminate costly, unnecessary regulations which cripple the creation and expansion of small businesses, and often paralyzes progress on the critical infrastructure projects our nation requires to grow and prosper. ✪



*Brad Yarbrough is the Owner and CEO of Pilgrim Land Services, a right of way services company in Oklahoma City. With over 35 years experience in oil and gas, he has clients nationwide and an extensive network of landmen and agents.*