

Questions for the Record
Senator Richard G. Lugar
Nomination of Hillary R. Clinton
Department of State
Secretary of State

The MOU between the Clinton Foundation and the Presidential Transition Team provides that during your service as Secretary, the Foundation “will publish annually the names of new contributors.” I believe that the interests of transparency and public confidence would be best served if this annual publication also included the amounts contributed by each contributor during the year covered by the report (or the amounts within a dollar range).

1. Will you urge the Clinton Foundation to include this information in its annual reporting?

RESPONSE: The Foundation has committed to reporting the amounts contributed by each contributor during the year covered by the report within the dollar ranges consistent with how it published its contributors in December 2008.

Under the MOU between the Clinton Foundation and the Presidential Transition Team, President Clinton personally will not solicit funds on behalf of the Clinton Global Initiative, but he retains the right personally to solicit funds on behalf of other initiatives of the Clinton Foundation.

2. What specific considerations do you believe warrant preventing President Clinton from fundraising on behalf of the Global Initiative during your tenure as Secretary?

RESPONSE: The Foundation and the Office of the President-elect reached agreement on a range of steps that go above and beyond the requirements of the law and the ethics rules. Their goal was to protect against even the appearance of a conflict of interest between his work and the duties of the Secretary of State. Because CGI invites foreign government officials and dignitaries, some of whom are visiting during the annual meeting of the UN General Assembly, President Clinton agreed to limit his fundraising efforts on behalf of CGI to avoid any appearance of a conflict of interest.

3. Do you believe that these considerations also apply to fundraising on behalf of other Clinton Foundation initiatives? If not, why not?

RESPONSE: While CGI involves the participation of many foreign officials and dignitaries, the other initiatives do not convene such an event with foreign government officials and dignitaries. I also think it is important to observe that the Office of Government Ethics (OGE) and the professional career ethics officials at the State

Department have advised that neither the law nor the ethics regulations require President Clinton or the Foundation to take the voluntary steps they have taken. The Foundation is a non-profit entity – neither my husband nor I have any financial interest.

The Presidential Transition Team, the Foundation, and I also agree that not only would it be unnecessary for my husband to stop fundraising on behalf of the Foundation's other initiatives, but also that it would be harmful to the millions of lives the Foundation has affected and will affect in the future. The Clinton Foundation, a charitable organization of over 1,100 employees and volunteers working in more than 40 countries around the world, has affected more than 200 million lives, including more than 1.4 million people in the developing world who receive life saving medicine purchased under Clinton Foundation agreements. That is nearly half of all people in the developing who receive treatment. If fundraising were to stop, the Foundation's continued efforts in this and other arenas would be in jeopardy.

Under the MOU between the Clinton Foundation and the Presidential Transition Team, the Clinton Global Initiative will not accept contributions from foreign governments apart from attendance fees for CGI events. The MOU contains no similar restriction on other Clinton Foundation initiatives accepting contributions from foreign governments.

4. What specific considerations do you believe warrant preventing the Global Initiative from accepting contributions from foreign governments during your tenure as Secretary?

RESPONSE: See Response to Question 2 above. I also again want to observe that OGE and the professional career ethics officials at the State Department have advised that neither the law nor the ethics regulations require President Clinton or the Foundation to take the voluntary steps they have. Indeed, the Foundation and the Office of the President-elect agreed upon a range of steps that go above and beyond the requirements of the law and the ethics rules to ensure that even the appearance of a conflict of interest between his work and the duties of the Secretary of State was avoided.

5. Do you believe that these considerations also apply to Clinton Foundation initiatives other than the Global Initiative accepting contributions from foreign governments? If not, why not?

RESPONSE: See Response to Question 3. The Clinton Foundation is combating climate change, childhood obesity and HIV/AIDS and it is bringing economic opportunity to people in America and around the world. NGOs like the Foundation bridge the gap between what governments can do and what is needed to be done. Since

its inception foreign governments have been valuable partners of the Foundation, especially its HIV/AIDS work. For example, in the last three years alone, the Clinton HIV/AIDS Initiative has shown that it is possible and economically feasible to provide treatment for children. In partnership with UNITAID, an international drug and diagnostic purchasing facility, and with financial help from other governments, the Clinton Foundation now supports the treatment of approximately two-thirds of all children on HIV/AIDS treatment in the world. Governments' support is vital to this effort. All of these relationships with foreign governments were forged in advance of any consideration by President-elect Obama to nominate me to be Secretary of State and they should continue in support of such socially responsible work.

The Memorandum of Understanding provides that should an existing contributing country elect to materially increase its commitment to the Foundation, or should a new contributor country elect to support a Foundation initiative, the Foundation will share the proposed contribution with the State Department's professional career ethics officials for review, and as appropriate the State Department's ethics officials will submit the matter for review to the White House Counsel's Office. In the event the State Department or White House has concerns, those concerns will be conveyed to me and to the Foundation for appropriate action.

Under the MOU between the Clinton Foundation and the Presidential Transition Team, the State Department's professional career ethics officials will review proposed contributions to the Clinton Foundation from foreign governments to identify any potential ethics concerns. The MOU provides no similar review process for contributions by foreign individuals or companies. I believe that contributions from foreign individuals and companies have the potential to raise appearances of conflicts of interest that are as serious as those raised by contributions from foreign governments.

6. In order to minimize such risks, will you consider urging the Clinton Foundation to follow the same ethics review process for proposed contributions of more than \$50,000 from non-governmental foreign sources that it has agreed under the MOU to follow for all proposed contributions from foreign governments?

RESPONSE: I understand and appreciate the suggestion; however, the agreement as written already goes far beyond what any spouse of a Cabinet official has ever done in terms of both limitations on the Clinton Foundation and on my husband's own actions as a private individual. Indeed, OGE and the professional career ethics officials at the State Department have advised that neither the law nor the ethics regulations require President Clinton or the Foundation to take the voluntary steps they have taken. I believe the

extraordinary steps already being taken are sufficient to avoid even the appearance of a conflict of interest.

Under the MOU between the Clinton Foundation and the Presidential Transition Team, in the event that State Department or White House ethics officials have concerns about a proposed contribution to the Clinton Foundation that are related to your service as Secretary of State “those concerns will be conveyed to [you] and to the Clinton Foundation for appropriate action.”

7. Under this arrangement, who will make the final decision about whether the Clinton Foundation will accept a contribution about which the State Department or White House has ethics concerns?

RESPONSE: The Clinton Foundation, as an independent entity with its own fiduciary obligations, has to decide whether to accept or decline a contribution. The Foundation has made clear that it will be guided by the advice of the State Department's professional career ethics officials under the terms of the Memorandum of Understanding. If the Foundation does accept a contribution about which the State Department has conflict of interest concerns, it would be with the understanding that the State Department's professional career ethics officials have recommended appropriate actions to address any such actual or perceived conflict.

8. Do you anticipate having a personal role in deciding, in light of State Department and White House ethics advice, whether the Clinton Foundation will accept particular contributions?

RESPONSE: No, I have no authority over or involvement in the fundraising or operations of the Foundation, so I cannot make decisions about particular contributions. The Memorandum of Understanding sets out the terms under which the Foundation and I will be guided by the State Department's professional career ethics officials.

9. In the event that the Clinton Foundation accepts a contribution about which State Department or White House ethics officials have expressed concerns that are related to your service as Secretary of State, do you intend to take any steps to notify the public of this fact and of the reasons the contribution was accepted in spite of the ethics concerns?

RESPONSE: President Clinton and the Foundation have agreed to an unprecedented level of transparency and review. I know that all parties will comply with the review process. The Foundation, President Clinton and I will be guided by the advice from the State Department's professional career ethics officials – who may recommend recusal or other actions in response to a potential contribution, as opposed to recommending the Foundation decline it, and heed the recommendations provided. In following their

guidance, I do not anticipate any publication of their guidance and the Foundation's actions with respect to their advice.

Under the MOU between the Clinton Foundation and the Presidential Transition Team, the Clinton Foundation has agreed to "publish annually the names of new contributors."

10. Do you believe it would enhance transparency and increase public confidence if the Clinton Foundation were to disclose large donations (e.g. those over \$50,000) at the time the donation is made, rather than waiting until the end of the year?

RESPONSE: I understand and appreciate the suggestion; however, the agreement already goes far beyond what any spouse of a Cabinet official has ever done in terms of both limitations on his Foundation and his own actions as a private individual and the amount of transparency and disclosure that is being provided. And, OGE and the professional career ethics officials at the State Department have advised that neither the law nor the ethics regulations require President Clinton or the Foundation to take the voluntary steps they have. I believe the steps already being taken are sufficient to avoid even the appearance of a conflict of interest.

As drafted, the MOU between the Clinton Foundation and the Presidential Transition Team would not require the Clinton Foundation to disclose pledges it receives of amounts to be contributed in the future. Such amounts would be disclosed only in the year in which the Foundation receives the funds (assuming they are received during your tenure as Secretary of State). This would appear to permit donors to pledge to contribute funds to the Clinton Foundation during your tenure as Secretary, but to avoid public disclosure of their contributions so long as funds are not actually transferred to the Clinton Foundation until after the end of your tenure as Secretary.

11. Do you believe it would enhance transparency and increase public confidence if the Clinton Foundation were to disclose large pledges (e.g. those over \$50,000) at the time such pledges are made, in addition to disclosing the contributions themselves in the years in which the money is contributed?

RESPONSE: I understand and appreciate the suggestion; however, the agreement already goes far beyond what any spouse of a Cabinet official has ever done in terms of both limitations on his Foundation and his own actions as a private individual and the amount of transparency and disclosure that is being provided. And, OGE and the professional career ethics officials at the State Department have advised that neither the law nor the ethics regulations require President Clinton or the Foundation to take the voluntary steps they have. The MOU already provides for the professional career ethics

officials at the State Department to review proposed contributions from foreign countries; as pledges are synonymous with proposed contributions in this instance, they will review such pledges as well. I believe the steps already being taken are sufficient to avoid even the appearance of a conflict of interest.