Advanced Financial Disclosure

Standards of Conduct Office
Office of General Counsel
Department of Defense

Spring 2019
Keep Your Eyes on the Prize!

- What’s the goal of financial disclosure?
  - Identify potential conflicts
  - Increase transparency
- Who benefits & how?
  - Agency
  - Filers
Ethics Counselor’s Role

• EC responsibility is to review financial disclosure reports for compliance with all applicable ethics laws and regulations and identify potential conflict of interest or impartiality concerns.

• EC responsibilities do not include:
  • Determining the underlying legality of a particular company's business practices.
  • Assessing the effect of a particular holding on other Federal requirements, such as security clearances.
Process vs. Substance

Administer Program:
- Identify filers
- Notify & educate filers and supervisors
- Meet deadlines
- Record keeping & system maintenance

Disclosure Review:
- Technical review
- Conflict of interest analysis
- Timely Certification
- Remedies (as warranted)
PUBLIC FINANCIAL DISCLOSURE

OGE 278
&
OGE 278-T
PUBLIC FINANCIAL DISCLOSURE
(OGE Form 278, dated Jan 2019)

Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e)

<table>
<thead>
<tr>
<th>Filer's Information</th>
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<tbody>
<tr>
<td>Last Name</td>
<td>First Name</td>
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<table>
<thead>
<tr>
<th>Other Federal Government Positions Held During the Preceding 12 Months:</th>
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</tr>
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</table>

<table>
<thead>
<tr>
<th>Name of Congressional Committee Considering Nomination (Nominees only):</th>
<th></th>
</tr>
</thead>
</table>

| Filer's Certification - I certify that the statements I have made in this report are true, complete and correct to the best of my knowledge: |
|---|---|

| Signature: | Date: |

| Agency Ethics Official's Opinion – On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments below): |
|---|---|

| Signature: | Date: |

| Other Review Conducted By: |
|---|---|

| Signature: | Date: |

| U.S. Office of Government Ethics Certification (if required): |
|---|---|

| Signature: | Date: |

| Comments of Reviewing Officials: |
|---|---|

For Official Use Only

UNCLASSIFIED
Integrity Filing

- OGE indicates expectation that DoD will roll in for CY 2020 Filing season (next year).
- SOCO working with Integrity PM/tech to determine whether required system change requests (SCRs) can and will be fielded by then.
- Be Prepared! – If we roll in for CY 2020, your reports must be certified by mid-August in order for the data to migrate from FDM to Integrity and enable your filers to pre-populate next year. Limit extensions!
PGE Certification Now Updated

- DoD OGE 278 filers must certify that they are aware of disqualification and employment restrictions and have not violated them.
- FDM & Integrity provide as part of e-signing/ submission – no need to collect paper versions.
OGE Updates Public Financial Disclosure Regulations eff. January 2019 (LA 18-10)

- Adds Periodic Transaction Reporting per the STOCK Act (Pub. L. No. 112-105, 126 Stat. 291 (2012)).
- Adds requirement for PAS officials to report mortgages on personal residences (GO/FO not mentioned).
- Adds combat zone extension.
- Clarifies that “income” means income received not accrued.
- Categorically excludes from public filing employees paid at GS-13 level or below if no policy-making role.
- Adds submission of Termination reports 15 Days prior to separation with obligation to update.
- Revises valuation process for gifts of event tickets – now face value of the ticket (no food/bev deduction).
- Revises definition of “Widely Diversified” making Part 2634 EIF and Part 2640 Exemption definitions match.
Position Based

- Generals & Admirals (O-7 and above)
- Senior Executive Service (career & non-career) & Senior Level (SLs)
- Non-GS employees (including IPAs, and SGEs) earning 120% + of GS 15, step 1 ($127,914, eff. January 2019)
- PAS (Presidential Appointees with Senate Confirmation)
- Political Appointees (Schedule C) (regardless of income, unless OGE excepted or DAEO excepted for GS-13 and below)
- Civilians detailed to covered civilian positions > 60 days
- Reserve and National Guard officers (O-7 and above) if they served on active duty 61 + days/CY

*Exception*: If expected to work less than 61 days/CY
Detailees & General/Flag Officers:

- Initial Review for substantive conflict analysis is best done where filer is currently working, but ownership of original reports and responsibility for certification of reports is home organization.

- E.g., for GO/FO serving as agency heads for Defense agencies, the Defense agencies may complete initial review and substantive conflict review, but final certification and retention of report should be their Service. (Note – current practice varies but this is the ultimate goal.)
Due Dates:

- **New Entrant** – 30 days after appointment
  - Detailees – 15 days after 61st day
- **Annual** – May 15th

Common Issues:

- Identifying new filers
- Ensuring complete report data
  - Correct reporting periods (Parts 1 & 4)
  - Spousal data
  - Sources of income > $5K
Common Issues:

• Standard Due Date: NLT 30 days after termination — after expiration of all permissive and terminal leave.

• Combined annual/termination:
  • Only permissible if employee leaves between May 15 and Aug 13.
  • No extensions beyond Aug 13 – so may be due less than 30 days after termination.

• Staying in touch with filers post-separation.
Common Issues:

• Non-filing – Use Outlook calendar invite to remind filers.

• Confusing deadline - Must file earlier of (1) 45 days after the transaction; or (2) 30 days after notification of the transaction.
OGE Form 278: Extensions

• Agency Extension: 90 days total.
  • Initial - up to 45 days; granted by DAEO (or designee), for “good cause shown.”
  • Additional Agency Ext – like above, up to 45 days; granted by DAEO (or designee), but must be in writing, for “good cause shown.”

• Combat Zone: Automatic extension for 180 days after return from deployment in war zone, or release from hospital.

• 278-T Only - can grant before or after deadline (see OGE LA 12-04 ).
OGE Form 278: Enforcement

- Grace Period is not an automatic extension.
- Personal $200 fee for late filing
- Agency debt collection
- Worse…referral to DOJ (required) & $50,000+ fine.
CONFIDENTIAL FINANCIAL DISCLOSURE
(OGF Form 450, dated Jan 2019)

CONFIDENTIAL FINANCIAL DISCLOSURE REPORT
Executive Branch

<table>
<thead>
<tr>
<th>Employee’s Name (Print last, first, middle initial)</th>
<th>E-mail Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position/Title</td>
<td>Grade</td>
</tr>
<tr>
<td>Agency</td>
<td>Branch/Unit and Address</td>
</tr>
</tbody>
</table>

Work Phone Reporting Status If New Entrant, Date of Appointment to Position
New Entrant Annual (mm/dd/yy)

Check box if Special Government Employee (SGE)
An SGE is an executive branch officer or employee who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any consecutive 365-day period.

If an SGE, Mailing Address (Number, Street, City, State, ZIP Code)

Step 1: Read the instructions for Parts I through V on the following pages.
Step 2: For each statement below, check Yes or No to describe your situation.

| I. I have reportable assets or sources of income for myself, my spouse, or my dependent children. | Yes ☐ No ☐ |
| II. I have reportable liabilities (debts) for myself, my spouse, or my dependent children. | Yes ☐ No ☐ |
| III. I have reportable outside positions for myself. | Yes ☐ No ☐ |
| IV. I have reportable agreements or arrangements for myself. | Yes ☐ No ☐ |

NOTE: Statement V is for annual filers only. It does not apply to new entrants and SGEs.

V. I have reportable gifts or travel reimbursements for myself, my spouse, or my dependent children. Yes ☐ No ☐

Step 3: If you selected Yes for any statement, you must describe the reportable interests that you have in the corresponding Part (I, II, III, IV, or V) of the form.

Step 4: Sign and date the form.

Step 5: Submit the completed form to your ethics office.

I certify that the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge.

Signature of Employee Date (mm/dd/yy)

FOR REVIEWERS’ USE ONLY:

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OGE Updates Public Financial Disclosure Regulations eff. January 2019

(LA 18-10)

• Revised threshold for reportable income from “over $200” to “over $1000”
• Removed requirement to report an agreement to participate in a defined contribution plan to which former employer no longer contributes
• Removed requirement to report diversified fund held in an employee benefit plan
• New Entrants – no longer need to report holdings below $1000 value even if generated over $1000 in income
OGE Form 450: **Who files?**

**Duties Based**

- Not automatic – requires analysis & constant data scrubs
  - Annual reviews of “covered positions”
- Utilize Action Officers (AO) / FDM POCs /Supervisors
- Filer Determination Worksheet (OGE Website)
RULE: Those not required to file OGE 278 but in a “covered position” (or detailees)

a) Military: COs, XOs, Heads/Deputy Heads of:
- NAVY: shore installations with more than 500 employees
- Army, Air Force, Marines: all bases, installations, and air wing activities
b) Special Government Employees: Consultants, or those on temporary duty for 130 days or less in any 365 day period, including reservists and Nat’l Guard.*

* Army, Navy, and OSD have made separate determinations to exclude reservists from filing unless a supervisor determines that their duties trigger the filing requirement under 5 C.F.R. 2634.904(a)
c) **Military & Civilian Employees:** GS-15 or below and military personnel below O-7, when the following circumstances apply:

1. The Agency concludes they “participate personally & substantially” through decision or exercise of significant judgment, and without substantial supervision, in taking official action for:
   - Contracting or procurement;
   - Administering grants, subsidies or licenses;
   - Regulating or auditing any non-Federal entity; or
   - Other activities in which the final decision may have a direct and substantial economic impact on the interest of any non-Federal entity.

2. Supervisor determines position requires filing to avoid real or apparent conflicts of interest.
d. Other Civilian Employees:

- Intergovernmental Personnel Act (IPA) appointees.
- Those not required to file OGE 278 but detailed to “covered positions” for more than 60 days.
- CORs – as determined by CO IAW DoDI 5000.72.
Exclusions:

- Agency heads may exclude positions with:
  - Remote possibility of conflict of interest; or
  - Low level of responsibility
Excluded Positions:

- OSD and the Military Services specifically exclude non-procurement personnel Govt purchase card holders who make annual purchases totaling less than the simplified acquisition threshold and whose duties would not otherwise require them to file.

- Army, Navy, and OSD have excluded Reservists unless the supervisor determines otherwise.

- No right to appeal agency filing determination beyond agency head or designee
• Deadlines:
  • New Entrant - within 30 days of assuming a designated filing position or for non-designated positions, notification that new duties now requiring filing
  • Annual – February 15th
• DoD SGEs, and activated Reservists & National Guard must have reports filed prior to assuming duties
• Extensions (up to 90 Days - admin or Combat Zone)
OGE 450: Enforcement

- No $200 Filing Fee
- Ultimate Threat: Reassignment / Removal
- If report is late, request administrative action
- Get command support / escalate up the chain
- OGE annual reporting requirements
FINANCIAL DISCLOSURE: Commonalities

OGE Form 450

OGE 278 &
OGE 278-T
Rules that apply to ALL financial disclosures:

- New Entrant reports due 30 days after filer assumes position.
- Extension for filing reports must be for “good cause” and cannot exceed 90-days. Extensions beyond 45-days must be granted in writing.
- Due dates that fall on a non-business day roll to the next business day.
- Retain reports for 6 years from date of receipt (absent investigative hold).
- Privacy Act Notice: Filers should always be alerted to the fact that over-reporting is ill-advised and for 278 Filers, reports may not be redacted before release.
Review Requirements for ALL Reports:

- Reports **must be certified within 60-days** of agency receipt unless the reports require additional information or remedial action. *(PA-11-04)*
  
  - For agencies with intermediate certification and multiple review levels, OGE will determine that an agency is in compliance if (1) someone designated as a reviewing official has reviewed the report and (2) that reviewing official certifies that the report is in compliance with applicable laws and regulations.
  
- Report should stand alone – make substantive revisions/clarifications via comments “of record” or have filer amend.

- Attach caution notices and/or DQs if no centralized filing system

- Educate filers:
  
  - Over-reporting is ill-advised and public reports may not be redacted before release.
  
  - Proper reporting helps them going forward (pre-populating future reports, transaction reporting).
• Electronic filing (FDM or Integrity) is mandatory for ALL disclosure reports (278 & 450)
  • DAEO or designee may except where not feasible (e.g., filers with no CAC or no DoD computer access)
Programs:

- Financial Disclosure Management (FDM) system –
  - Army is Executive Agent – legacy system
  - OGE 278 & OGE 450s
    - OGE 278 data entry still follows old form but generates new form
  - Automated routing to supervisor
  - Automated PGE & early OGE 278 Term Report Certs (public)

- Integrity
  - OGE system hosted on OMB Max website
  - Reports can migrate from FDM
  - All OGE certified OGE 278 reports (e.g., PAS & DAEO) must be filed through Integrity beginning 2016.
  - Other DoD 278 filers – no firm date. Not anticipated to file through Integrity sooner than 2019.
Benefits of Electronic Filing:

• Ethics Officials –
  • Properly entered data feeds annual OGE questionnaire.
  • Data Tracking - Easily track filing and review status
  • Automated routing to supervisor and PGE certification (public filers)
  • Commenting & Attachment functions – provides continuity & avoids duplication

• Filers – Pre-population makes subsequent filing a breeze.
Features:

- No CAC or DoD computer access required to use
  - Filers can make spouses, accountants, or others “Designees” to assist them
- Reviewers can make changes to reports without:
  - Having to be made a Designee or “Filer Assistant”
  - Requiring the filer to amend the report in the system
- Report data can be custom sorted in live screens
- Entries can be moved between parts (vice deleted and re-entered)
- OGE 278T – filer self-assigns and can pre-populate annual with these.
Tips:

- Maintain Notice Templates for use in FDM and/or Integrity (New entrant, annual, termination, supervisory, delinquencies, etc.)

- Ensure accurate data entry
  - Filer type
  - Appointment dates
  - Proper use of “override due date” vice “record an extension”
  - Proper use of “Delete report” vice “Admin close” – removal of assignment

- Use commenting & attachment functions!

- Use Management Reports!
## OGE Form 278: Documentation

### Management Reports – Disclosure Report Detail

<table>
<thead>
<tr>
<th>Year</th>
<th>Filer</th>
<th>Filer E-mail</th>
<th>Submission Date</th>
<th>Reporting Status</th>
<th>Review Status</th>
<th>Supervisor</th>
<th>Signed By Supervisor</th>
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<tbody>
<tr>
<td>2017</td>
<td>STACK, ALISA M</td>
<td><a href="mailto:alisa.m.stack.civ@mail.mil">alisa.m.stack.civ@mail.mil</a></td>
<td>03/16/2017</td>
<td>Incumbent</td>
<td>Under Review</td>
<td>WHELAN, THERESA</td>
<td>04/05/17</td>
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<tr>
<td>2017</td>
<td>TEEPLE, BRIAN S</td>
<td><a href="mailto:brian.s.teeple2.civ@mail.mil">brian.s.teeple2.civ@mail.mil</a></td>
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<td>Under Review</td>
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<tr>
<td>2017</td>
<td>THOMAS-RIZZO, RENE K</td>
<td><a href="mailto:rene.k.thomas-rizzo.civ@mail.mil">rene.k.thomas-rizzo.civ@mail.mil</a></td>
<td>04/13/2017</td>
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<td>MACSTRAVIC, JAMES</td>
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<td>WARNER, WENDELL C</td>
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<td>04/10/2017</td>
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<td>BORMAN, LEEANN M</td>
<td><a href="mailto:leeann.m.borman.civ@mail.mil">leeann.m.borman.civ@mail.mil</a></td>
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<td>BUCHHOLZ, KEITH E</td>
<td><a href="mailto:keith.e.buchholz.civ@mail.mil">keith.e.buchholz.civ@mail.mil</a></td>
<td>02/02/2017</td>
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<td>CROCKETT, THOMAS A</td>
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<td>daniel.p. <a href="mailto:feehan.civ@mail.mil">feehan.civ@mail.mil</a></td>
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<td>2017</td>
<td>GANS, JOHN A</td>
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<td>01/19/2017</td>
<td>Termination</td>
<td>Under Review</td>
<td>HEDGER, STEPHEN</td>
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Contact Info & Resources

DoD Standards of Conduct Office
703-695-3422
osd.soco@mail.mil
http://ogc.osd.mil/defense_ethics/
Thank you for your attention!