

**Approved for Release**

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**DEPARTMENT OF COMMERCE  
OFFICE OF HUMAN RESOURCES MANAGEMENT**

**HUMAN RESOURCES (HR) BULLETIN #267, FY23**

**SUBJECT:** Human Resources Offices' Responsibilities Related to the Commerce Government Ethics Program

**EFFECTIVE DATE:** Upon release of this HR Bulletin

**EXPIRATION DATE:** Effective until canceled or superseded

**PURPOSE:** This bulletin establishes the roles and responsibilities of the Department's servicing human resources offices (SHROs) in ensuring the Department's compliance with ethics regulations and policies. The following is a list of SHROs:

- Enterprise Services (ES)
- National Institute of Standard and Technology's (NIST) Office of Human Resources Management
- National Oceanic and Atmospheric Administration's (NOAA) Office of Human Capital Services
- U.S. Census Bureau's (Census) Human Resources Division
- U.S. Patent and Trademark Office's (USPTO) Office of Human Resources

**BACKGROUND:** In August 2022, the Office of General Counsel's Ethics Law and Programs Office (ELPO) issued a memorandum to the Department's Chief Human Capital Officer summarizing the roles and responsibilities of the Department's SHROs related to the Department's ethics program, identified in 5 Code of Federal Regulations (CFR), Part 2638. The memorandum identifies actions that must be undertaken to improve compliance with federal ethics regulations and requirements.

**COVERAGE:** This policy applies to officers and employees (regular and special) within the Department or otherwise within the definition of 5 U.S.C. § 2105(a). This policy does not apply to non-Federal personnel.

## **POLICY:**

Principal Human Resources Managers (PHRMs) must establish formal processes to ensure the following actions are being properly executed within their service areas:

### **1). Determination of Filers**

PHRMs must ensure that any hiring or other personnel action that could impact filing status (such as promotions, changes to duties and/or responsibilities, reclassification of position description, or internal transfers) include an affirmative determination of whether the officer or employee is required to file a Public Financial Disclosure Report (OGE 278) or Confidential Financial Disclosure Report (OGE 450). This is a mandatory field on the CD-516, Classification and Performance Management Record, Section C, block 2. PHRMs are responsible for ensuring that filing status information is accurate on an ongoing basis.

Note: Office of Human Resources Management's (OHRM) Office of Executive Resources (OER) is responsible for ensuring compliance with OGE 278 requirements for all bureaus except NOAA, NIST, Census and USPTO.

Public Financial Disclosure Report (OGE 278) filers are defined by 5 C.F.R. § 2634.202. Generally, this includes all political appointees, all career Senior Executive Service members, all Senior Technical or Senior Level personnel, each member of a uniformed service whose pay grade is at or in excess of O-7 under 37 U.S.C. 201, and each officer or employee in any other position administratively determined to be of equal classification (i.e., non-SES Administrative Patent Judges, CHIPS 25, and NIST 15).

Confidential Financial Disclosure Report (OGE 450) filers are defined by 5 C.F.R. § 2634.904. Generally, this includes officers and employees whose duties require them to participate personally and substantially through decision or the exercise of significant judgment, and *without substantial supervision* and review, in taking a Government action regarding:

- Contracting or procurement;
  - Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operational benefits;
  - Regulating or auditing any non-Federal entity; or
  - Other activities in which the final decision or action will have a direct and substantial economic effect on the interests of any non-Federal entity; or
  - Where the bureau/operating unit concludes that the duties and responsibilities of the employee's position require the employee to file such a report to avoid involvement in a real or apparent conflict of interest, or to carry out the purposes behind any statute, Executive order, rule, or regulation applicable to or administered by the employee.
- Positions that might be subject to a Confidential Financial Disclosure reporting

requirement under this subparagraph include those with duties that involve investigating or prosecuting violations of criminal or civil law.

To aid in assessing whether an employee must file a Confidential Financial Disclosure Report (OGE 450), human resources specialists and hiring managers should use Attachment 3, Filer Determination worksheet and reach out to an ethics official for questions at [OGEForm450@doc.gov](mailto:OGEForm450@doc.gov). For example, personnel appointed to the General Schedule Contracting Series, 1102, are generally OGE 450 filers if they are not Public filers.

**By December 1 annually**, operating units/bureaus must validate to OHRM that personnel records (including position descriptions and CD-516 records) correctly report the OGE 450 and 278 status of filer.

## 2). **Offer Letters to New Hires.**

Each final employment offer letter (offer letter) issued to selectees by SHROs must include a notice of ethical obligations. The offer letters must use the applicable language contained in Attachment 1 of this bulletin.

Following the direction in Attachment 1, all offer letters must include the initial paragraph on commitment to ethics. SHRO should include the training paragraph only if needed. SHRO should include only the applicable financial disclosure paragraph based on whether the position is an OGE 278 or 450 filer – neither if the candidate is not a financial disclosure filer, the OGE 278 paragraph if they are a public filer, or alternatively the OGE 450 paragraph if a confidential filer. SHRO should also include the supervisor paragraph and require notice (Attachment 2), only if applicable. See discussion below.

### Exceptions

Deviations from the language contained in Attachment 1 must be approved by the Designated Agency Ethics Official and must be sent to [EthicsDivision@doc.gov](mailto:EthicsDivision@doc.gov). Each request must include a written justification for the use of alternate language. Requests must be endorsed by the relevant PHRM.

### Tracking Requirement

SHROs must establish **within 60 days of release of this bulletin** a written policy that ensures that the required ethics language is included in each offer letter, in accordance with 5 CFR 2638.303. This policy must be submitted to OHRM.

## 3). **Notice to New Supervisors:**

SHROs must upon an officer's or employee's initial appointment to a supervisory position, provide in writing to the employee the Designated Agency Ethics Official (DAEO)-approved ethical obligations language found in Attachment 2 of this bulletin.

Note: New supervisors refers to officers and employees appointed as supervisors for the first time at the Department, whether new hires, internal promotions, or transfers.

#### Tracking Requirement

SHROs must establish **within 60 days of release of this bulletin** a written policy that ensures that the required ethics obligation language is provided to each supervisory officer or employee upon initial appointment, in accordance with 5 CFR 2638.306(d). This policy must be submitted to OHRM.

#### 4). **Notice of Appointments and Separations:**

##### Appointments

SHROs, in conjunction with OHRM, must notify ELPO in every instance when an individual is appointed to a position that requires filing a Confidential Financial Disclosure Report (OGE 450) or a Public Financial Disclosure Report (OGE 278). This notification should be made prior to appointment but no later than 15 days after appointment, in accordance with 5 CFR 2634.904.

\*This requirement includes:

- Permanent positions
- Formal assignments to formal temporary capacities (i.e., acting positions) and details over 60 days to a designated filer position
- Reassignment and transfers
- Expert/Consultant appointments
- Intergovernmental Personnel Act (IPA) assignees/detailees filer positions
- Any Special Government Employees not covered by any of the above categories.

Note: Special Government Employees (SGEs) are officers or employees in the Executive Branch of the Federal Government who are retained, designated, appointed, or employed by the Government to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days. 18 U.S.C. § 202. SGE is not an independent appointment authority and must be appointed using an applicable appointment authority, e.g., a part-time intermittent rehired annuitants, Intergovernmental Personnel Act assignees, and/or experts/consultants. SGEs are also presumed to be OGE 450 filers, unless exempted or an OGE 278 filer.

\*Appointments outside of the categories listed above may require financial disclosure reports. SHROs should contact the ELPO for clarification.

Notices should be sent to [OGEForm278@doc.gov](mailto:OGEForm278@doc.gov) for public filers and [OGEForm450@doc.gov](mailto:OGEForm450@doc.gov) for confidential filers.

Generally, this information should be retrievable directly from NFC and provided bi-weekly to ELPO. In the event timely, correct new filer data cannot be drawn from NFC, filer data must be sent to [OGEForm278@doc.gov](mailto:OGEForm278@doc.gov) for public filers and [OGEForm450@doc.gov](mailto:OGEForm450@doc.gov) for confidential filers. Alternative methods for notifications must be agreed to by ELPO.

#### Required information for Appointments

When notifying ELPO of an appointment, the following filer information must be submitted to ELPO electronically:

- Name
- Bureau
- Title/Series/Grade
- Appointment Date and Type
- Personal email, supervisor's email, and duty station (Note: Department email address, telephone number, and physical address must be provided if available on appointment)
- Supervisor name or HR point of contact

#### Separations (OGE 278 Filers Only)

SHROs must notify ELPO of all separations of OGE 278 filers in advance of the separation date but no later than 15 days after separation in accordance with 5 CFR 2638.105(a)(2). This requirement includes all SES, SL, ST, Flag Officers, and all political appointees. Filer information must be sent to [OGEForm278@doc.gov](mailto:OGEForm278@doc.gov). Alternative methods for notifications must be agreed to by ELPO.

Note: This notification must also be made for those employees with formal assignments to formal temporary capacities (i.e., Acting) in excess of 60 days in OGE 278 filing positions.

#### Required information for Separations

When notifying ELPO of a separation, the following information must be submitted to ELPO electronically:

- Name
- Bureau
- Title/Series/Grade
- Separation Date and appointment type
- Base pay
- Department Contact Information (telephone/email)
- Forwarding Contact Information (address, telephone, and personal email)

### **5. Annual CHCO Confirmation**

The Chief Human Capital Officer must on a yearly basis, by January 15 each year, provide written confirmation to the DAEO that HR offices within the Department have written

procedures in place to track compliance with the Department's ethics policy. Specifically, the CHCO will address in writing:

1. Whether written procedures are in place for furnishing and tracking notices to prospective employees and new supervisors; and
2. Whether written procedures are in place for notifying the ELPO of appointments of financial disclosure filers, separation of OGE 278 filers, and enforcement actions.

**Annually on December 1**, each SHROs must submit a written statement summarizing the procedures (or after the first year, updated information about changes to the procedures established) and confirming that there is a reasonable basis for concluding that the procedures have been implemented, in order to verify the requirements for the CHCO annual certification.

#### **6. President's Ethics Pledge**

OHRM's Office of Executive Resources, in conjunction with the Office of White House Liaison, **will confirm annually** (by no later than December 31) that all full-time non-career political appointees have signed the President's Ethics Pledge. OHRM will keep a record of each employee's compliance with this requirement and will request the Office of White House Liaison provide an explanation for any employee who has not signed the Ethics Pledge. (*See also* Memorandum on Biden Ethics Pledge, dated February 10, 2023.)

#### **7. Actions Enforcement:**

SHROs and OHRM will track disciplinary actions for violations of the Standards of Ethical Conduct for Employees of Executive Branch (5 C.F.R part 2635), violations of the criminal conflict of interest statutes (18 U.S.C. 201-209), or violations of the Ethic Pledge.

OHRM will notify the ELPO of these disciplinary actions by January 15 of each year (for the previous year). SHROs must provide OHRM actions enforcement information by no later than December 31 of each year.

SHROs should review the sample of the information that requires reporting out annually by calendar year in Attachment 4.

#### **8. Special Government Employees:**

SHROs, in conjunction with OHRM, must maintain an active list of all appointees that qualify as "special government employees" and ensure that these employees have been notified of their ethics obligations, including financial disclosure requirements. Special government employees are officers or employees in the Executive Branch of the Federal Government who are retained, designated, appointed, or employed by the Government to perform temporary duties, with or without compensation, for not more than 130 days during any period of 365 consecutive days.

This status is important because the ethics rules apply differently (SGEs have fewer restrictions) to individuals who qualify as SGEs versus other Federal employees and officials. Generally, appointments that qualify as SGE do not count against the Department's full-time equivalent (FTE) count.

SHROs should review the sample of the information that requires reporting out annually by calendar year in Attachment 5.

At the time of appointment, the hiring manager determines whether the employee will be reasonably expected to work more than 130 days in the 365 days after the appointment date. If an SGE unexpectedly serves more than 130 days during the ensuing 365-day period, the individual still will be deemed an SGE for the remainder of that period. However, upon the commencement of the next 365-day period, the SHRO/OHRM unit should reevaluate whether the employee is correctly designated as an SGE, (i.e., expected to serve no more than 130 days).

Examples of special government employees include, but are not limited to, experts, consultants, many Federal Advisory Committee members, part-time rehired annuitants, and some Intergovernmental Personnel Act assignees and detailees.

## **9. Detailees and Intergovernmental Personnel Act Assignees:**

### **IPA Assignees**

Prior to submitting the Optional Form 69 (IPA Assignment Agreement) to OGC and OHRM for final review, SHROs, and OHRM must provide ELPO with the draft IPA Assignment Agreement and personal contact information for the IPA assignee in order to permit consultation for completion of Part 10 of the OF 69.

### **Detailees**

SHROs and OHRM will notify ELPO when a Department financial disclosure employee is detailed within or outside of the Department. The following information will be provided to the ELPO:

- Name of employee
- Start and End date of detail
- Name of the employee's employing organization
- Name of the organization receiving the employee
- Detailee contact information of the employee (email)

This information must be provided prior to the employee beginning the detail, but no later than 10 days after the start of the detail.

#### 10. **CD-126 Requirement:**

SHROs, designated bureau/operating units, or the employee's supervisor will notify all employees (regardless of filing status) leaving the Federal Government of their obligation to review seeking and post-government employment information on the ELPO website.

SHROs will notify public financial disclosure (OGE 278) filers of their obligation to contact [OGEform278@doc.gov](mailto:OGEform278@doc.gov) within 2 weeks of departure for assignment of Termination report (see also discussion in section 4 above).

Note: OHRM's OER is responsible for ensuring compliance with OGE 278 requirements for all bureaus except NOAA, NIST, Census and USPTO.

SHROs will notify Confidential financial disclosure (OGE 450) filers of their obligation to notify [OGEform450@doc.gov](mailto:OGEform450@doc.gov) of their departure (see also discussion in section 4 above).

#### 11. **Oversight:**

The policies and actions mandated by this bulletin are subject to oversight by the Office of Human Resources Management's Office of Accountability and may be subject to audit.

**REFERENCES:** 5 Code of Federal Regulations (CFR), Parts 2634, 2635, 2638

**OFFICE OF POLICY AND BENEFITS:** [OPBServices@doc.gov](mailto:OPBServices@doc.gov)

**ATTACHMENTS:**

1. Notice to Prospective Employee
2. Notice to New Supervisor
3. Filer Determination worksheet
4. Sample OGE Annual Questionnaire Enforcement reportable information
5. Sample OGE Annual Questionnaire SGE reportable information



## ATTACHMENT 1

### Language required for Inclusion in Offer Letters: Notice of Ethical Obligations

#### INSTRUCTIONS:

All offer letters must include the initial paragraph on commitment to ethics. SHRO should include the training paragraph only if needed. SHRO should include only the applicable financial disclosure paragraph based on whether the position is an OGE 278 or 450 filer – neither if the candidate is not a financial disclosure filer, the OGE 278 paragraph if they are a public filer, or alternatively the OGE 450 paragraph if a confidential filer. SHRO should also include the supervisor paragraph and require notice (Attachment 2), only if applicable. Language is italicized below.

#### ETHICS PARAGRAPH (required):

Each offer letter must include, unaltered, the below notice of ethical obligations in each job offer letters:

*The Department of Commerce (DOC) is committed to ensuring that all our employees act in a manner that embodies a position of trust and a high standard of ethical conduct. As an employee of the Department, you will be joining a workforce that is dedicated to accomplishing our mission while maintaining the trust of our Nation by strictly adhering to all government ethics standards. Your conduct will be subject to the ethics rules applicable to all Executive Branch employees and to the criminal conflict of interest statutes. These rules will assist you in maintaining your impartiality and acting in the public's interest as you carry out the responsibilities of your DOC position. If you have a concern at any time that a DOC assignment may involve one of your personal financial interests, promptly notify your supervisor and obtain ethics guidance from the appropriate Ethics Official before working on the assignment. You may find a summary of the Federal conflict of interest statutes, the Standards of Ethical Conduct for Employees of the Executive Branch, and other ethics laws on the Ethics Law and Programs Office's web page: <https://ogc.commerce.gov/page/ethics-rules>.*

#### TRAINING LANGUAGE (if applicable):

If the individual is required to complete initial ethics training, then the letter must also include:

*You must further complete initial ethics training within 3 months of appointment.*

This is required for all personnel who are new to the Executive Branch as well as transfers from outside of DOC.

FINANCIAL DISCLOSURE LANGUAGE (if applicable):

If the position requires the individual to file either a Public Financial Disclosure Report (OGE 278) or Confidential Financial Disclosure Report (OGE 450), add the following language, customized to provide the appropriate contact information for the Ethics Office:

**[For employees required to file a Confidential Financial Disclosure Reports (OGE 450) include:]**

*Please note that the position you will hold requires you to file a confidential financial disclosure report and your report will be due within 30 days after starting your [INSERT APPROPRIATE AGENCY ACRONYM: e.g., EDA, Census, ITA] employment and annually thereafter as long as you occupy a position that requires financial disclosure reporting. The report collects certain personal financial information from you so that the Department can ensure your personal financial interests do not conflict with the performance of your official duties. For questions about the filing requirement, please contact Veronica Workie at 202-482-0389 or [OGEform450@doc.gov](mailto:OGEform450@doc.gov). If you have any general ethics questions, please contact the ethics office at 202-482-5384 or [EthicsDivision@doc.gov](mailto:EthicsDivision@doc.gov).*

OR

**[For employees required to file a Public Financial Disclosure Reports (OGE 278), include:]**

*Please note that you are required to file a public financial disclosure report and your report will be due within 30 days after starting your [INSERT APPROPRIATE AGENCY ACRONYM: e.g., EDA, Census, ITA] employment and annually thereafter as long as you occupy a position that requires financial disclosure reporting. The report collects certain personal financial information from you so that the Department can ensure your personal financial interests do not conflict with the performance of your official duties. For questions about the filing requirements, please contact Stephanie Dyer at 202-482-8043 or [OGEform278@doc.gov](mailto:OGEform278@doc.gov). If you have any general ethics questions, please contact the ethics office at 202-482-5384 or [EthicsDivision@doc.gov](mailto:EthicsDivision@doc.gov).*

If the new employee is not a financial disclosure, neither of the above paragraphs are needed.

SUPERVISOR PARAGRAPH (if applicable):

If the individual is a new supervisor, add the following language:

*As a new supervisor, you are not only responsible for leadership in setting a tone of integrity and ethical conduct (see enclosed, New Supervisors Notice of Ethical Obligations) for your subordinate employees, but for personally ensuring that your subordinate employees are aware of their responsibilities under the government Standards of Conduct and know where to obtain ethics guidance if they have questions. Please review the enclosed information.*

## **ATTACHMENT 2**

### **New Supervisors Notice of Ethical Obligations**

## New Supervisors Notice of Ethical Obligations

Congratulations on your new supervisory position! As you assume this important role, we want to remind you of the Department's commitment to a strong ethical culture. The federal ethics regulations provide the following description of your new responsibilities:

Every supervisor in the executive branch has a heightened personal responsibility for advancing government ethics. It is imperative that supervisors serve as models of ethical behavior for subordinates. Supervisors have a responsibility to help ensure that subordinates are aware of their ethical obligations under the Standards of Conduct and that subordinates know how to contact agency ethics officials. Supervisors are also responsible for working with agency ethics officials to help resolve conflicts of interest and enforce government ethics laws and regulations, including those requiring certain employees to file financial disclosure reports and to complete required ethics training in a timely manner. In addition, supervisors are responsible, when requested, for assisting agency ethics officials in evaluating potential conflicts of interest and identifying positions subject to financial disclosure requirements.

5 C.F.R. § 2638.103.

As a supervisor, you become an integral part of the ethical culture. Awareness of and adherence to ethics principles and the Department's policies, in addition to ensuring the highest standards of honesty, integrity, and professionalism of our staff, is a vital part of your role. Your example will ensure transparency for your staff, boost confidence and morale, and contribute to a harmonious and effective workforce. Therefore, all Department supervisors are expected to ensure they and their subordinates meet the following *minimum* obligations of ethical conduct: comply with the ethics laws, standards, and guidelines; attend required ethics training; and provide accurate and timely financial disclosures, if applicable.

To refresh your understanding of the ethical values underlying Federal service, you should review the summary of the Principles of Ethical Conduct, Federal conflict of interest statutes, the Standards of Ethical Conduct for Employees of the Executive Branch, and other ethics laws on the Ethics Office's web page: <https://ogc.commerce.gov/page/ethics-rules>.

You should retain this handout for use as a reference. If you need additional information, you may also visit the Ethics Office's web page at [www.commerce.gov/ethics](http://www.commerce.gov/ethics). If you have any general questions on applicable ethics requirements, please contact the ethics office at 202-482-5384 or [ethicsdivision@doc.gov](mailto:ethicsdivision@doc.gov).

## **ATTACHMENT 3**

### **Determining Which Positions Should File A Confidential Financial Disclosure Report: A Worksheet**

## **Determining Which Positions Should File A Confidential Financial Disclosure Report: A Worksheet**



This job aid is designed to assist supervisors in determining whether a career employee should file a Confidential Financial Disclosure Report (OGE Form 450). If you have questions about the criteria listed below, please contact your Ethics Office or call (202) 482-5384.

Employee's Name: \_\_\_\_\_


Date: \_\_\_\_\_ aaaaaaaa\_\_

Position Title: \_\_\_\_\_




DOC Email: \_\_\_\_\_

I. Pay		
<p>1. <input type="checkbox"/> Is the employee's position classified at or below the GS-15 level, APMS or equivalent or, if uniformed services, below the rank of O-7? <b>OR</b></p> <p><input type="checkbox"/> If the employee is not paid on the GS scale, is the employee's rate of basic pay less than 120% of the minimum rate of basic pay for the GS-15 level?*</p> <p>Hqt"4244."vj ku'b gcpu"vj cv"vj g"go r mq{ ggau"tcvg"qh'dcule"rc{ 'ku'rguu"vj cp" &amp;357.68: ,r c{ 'f qgu"pqv'lpemf g"tqecrk\ 'r c{ o gpvu."dqpwugu."gve0Hqt" tgg0 r mq{ gf "cppwkcpru."vj g"tcvg"qh'dcule"rc{ 'ku"vj g"go r mq{ ggau"dcule"rc{ " dghqtg"cp{ 'ucrt{ 'qhugv'ku'cr r rkgf 0But see note below.</p>	<p><input type="checkbox"/> <b>Yes</b></p> <p>Go to Question 2.</p>	<p><input type="checkbox"/> <b>No</b></p> <div style="text-align: center;">  </div> <p>Your agency's Ethics Office will determine if this employee must file a public financial disclosure form.</p>
II. Type of Work Done By the Employee		
<p>2. Does the employee's work involve at least one of the following:</p> <p><input type="checkbox"/> contracting or procurement actions above the micro-purchase threshold (currently \$10,000) or with an annual total that is greater than the simplified acquisition threshold (currently \$250,000).</p> <p><i>Example: A GS-9 Admin Assistant makes GPC purchases of office supplies for her work unit, but each purchase totals less than \$5,000 and she never spends more than \$20,000 annually. She would be excluded from filing. If her annual purchases totaled more than \$250,000, then she would file.</i></p> <p><input type="checkbox"/> administering, awarding, monitoring, or making determinations regarding grants, subsidies, licenses, or other federal benefits;</p> <p><input type="checkbox"/> regulating, auditing, or inspecting non-federal entities*; or</p> <p><input type="checkbox"/> performing other activities when those activities will have a direct and substantial effect on the financial interests of non-Federal entities.</p> <p><i>Non-federal entities</i> include, for example, businesses, non-profit organizations, and state and local governments.</p>	<p><input type="checkbox"/> <b>Yes</b></p> <p>Go to Question 4.</p>	<p><input type="checkbox"/> <b>No</b></p> <p>Go to Question 3.</p>
<p>3. Is the employee serving in any other position where there is a potential for conflict of interest, appearance of favoritism or loss of impartiality?</p> <p>Examples include:</p> <p><input type="checkbox"/> investigating or prosecuting violations of criminal or civil law;</p> <p><input type="checkbox"/> representing the United States in litigation or other proceedings;</p> <p><input type="checkbox"/> scientific or social science research, when the research will have a direct and substantial effect on the financial interests of non-federal entities.</p>	<p><input type="checkbox"/> <b>Yes</b></p> <p>Go to Question 4.</p>	<p><input type="checkbox"/> <b>No</b></p> <div style="text-align: center;">  </div> <p>If you said "no" to questions 2 and 3, the employee does NOT need to file.</p>

\* NOTE: Personnel who are retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, are Special Government Employees, and are generally OGE 450 filers. E.g., Intergovernmental Personnel Act assignees, consultant or experts, Federal Advisory Committee members, rehired annuitants, etc.

<p>4. Does the employee:</p> <p><input type="checkbox"/> only provide information?</p> <p>Example: A GS-13 librarian for the Patent and Trademark Office (PTO) shows PTO staff members how to research the uniqueness of an invention and design complex search queries of the agency's electronic databases. The librarian does not make decisions on the patentability of the invention.</p> <p><b>OR</b></p> <p><input type="checkbox"/> only work on administrative or peripheral matters?</p> <p>Example: A draftsman prepares the drawings to be used by an agency in soliciting bids for construction work on a bridge. He is not involved in the contracting process associated with the construction.</p> <p>Example: An agency has just hired a GS-5 Procurement Assistant who is responsible for typing and processing procurement documents, answering status inquiries from the public, performing office support duties such as filing and copying, and maintaining an online contract database. The Assistant has no actual contracting or procurement responsibilities.</p>	<p><input type="checkbox"/> <b>Yes</b></p> <p></p> <p>The employee does NOT need to file a confidential financial disclosure report.</p>	<p><input type="checkbox"/> <b>No</b></p> <p>Go to Question 5.</p>
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### III. Employee's Level of Responsibility

<p>5. Does the employee:</p> <p><input type="checkbox"/> engage in the work activity identified in Section II by exercising significant judgment in performing any of the following job functions?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> making decisions;</li> <li><input type="checkbox"/> approving or disapproving;</li> <li><input type="checkbox"/> making recommendations;</li> <li><input type="checkbox"/> conducting investigations;</li> <li><input type="checkbox"/> rendering advice or opinions.</li> </ul> <p><b>OR</b></p> <p><input type="checkbox"/> actively supervise a subordinate's performance of any of the above-listed job functions?</p>	<p><input type="checkbox"/> <b>Yes</b></p> <p>Go to Question 6.</p>	<p><input type="checkbox"/> <b>No</b></p> <p></p> <p>The employee does NOT need to file a confidential financial disclosure report.</p>
<p>6. Does the employee receive substantial supervisory review?</p> <p><i><b>Example:</b> A contracting officer develops the requests for proposals for data processing equipment of significant value which is to be purchased by his agency. He works with substantial independence of action and exercises significant judgment in developing the requests. By engaging in this activity, he is participating personally and substantially in the contracting process. The contracting officer should be required to file a confidential financial disclosure report.</i></p>	<p><input type="checkbox"/> <b>Yes</b></p> <p></p> <p>The employee does NOT need to file a confidential financial disclosure report.</p>	<p><input type="checkbox"/> <b>No</b></p> <p></p> <p>The employee SHOULD file a confidential financial disclosure report.</p>

Printed Name and Signature of Supervisor: \_\_\_\_\_

Email and Phone Number: \_\_\_\_\_

## ATTACHMENT 4 – Sample OGE Annual Questionnaire Enforcement Reportable Information

### PART 10. ENFORCEMENT OF STANDARDS OF CONDUCT AND CRIMINAL AND CIVIL STATUTES

1.

Number of disciplinary actions taken in 2022 based wholly or in part upon violations of the Standards of Conduct provisions (5 C.F.R. part 2635) or your agency's supplemental Standards (if applicable). For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents

a. Total number of disciplinary actions that met the above criteria	
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Of those, how many were disciplinary actions were taken wholly or in part upon violations of:

i. Subpart A (General Provisions)	
ii. Subpart B (Gifts from Outside Sources)	
iii. Subpart C (Gifts Between Employees)	
iv. Subpart D (Conflicting Financial Interests)	
v. Subpart E (Impartiality in Performing Official Duties)	
vi. Subpart F (Seeking Other Employment)	
vii. Subpart G (Misuse of Position)	
viii. Subpart H (Outside Activities)	
iv. Agency's supplemental Standards of Conduct	

2. Number of disciplinary actions taken in 2022 based wholly or in part upon violations of the criminal conflict of interest statutes (18 U.S.C. sections 203, 205, 208, and 209), failure to file or filing false public financial disclosures (5 U.S.C. app. section 104 or 18 U.S.C. section 1001), civil matters involving outside earned income (5 U.S.C. app. section 501), or outside activities (5 U.S.C. app. section 502). For purposes of this question, disciplinary actions include removals, demotions, suspensions, and written reprimands or their equivalents

a. Disciplinary actions taken based on violation of ethics laws	
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Of those, how many were disciplinary actions taken based wholly or in part upon violations of:

i. 18 U.S.C. section 203 (Compensation in Matters Affecting the Government)	
ii. 18 U.S.C. section 205 (Claims Against and Matters Affecting the Government)	
iii. 18 U.S.C. section 208 (Acts Affecting a Personal Financial Interest)	
iv. 18 U.S.C. section 209 (Supplementation of Salary)	
v. 5 U.S.C. app. section 104 or 18 U.S.C. section 1001 (Failure to File or Filing False Public Financial Disclosures)	
vi. 5 U.S.C. app. section 501 (Outside Earned Income)	



vii. 5 U.S.C. app. section 502 (Outside Activities)	
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3. Number of referrals made in 2022 to the Department of Justice of potential violations of the conflict of interest statutes (18 U.S.C. sections 203, 205, 207, 208, 209), failure to file or filing false public financial disclosures (5 U.S.C. app. section 104 or 18 U.S.C. section 1001), civil matters involving outside earned income (5 U.S.C. app. section 501) or outside activities (5 U.S.C. app. section 502)

a. Referrals to Department of Justice	
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Of the referrals to DOJ (line a.), please note the DOJ referral status

b. DOJ Referral Status	
i. How many of those referrals were accepted for prosecution?	
ii. How many of those referrals were declined for prosecution?	
iii. How many of those referrals were pending DOJ's decision as of December 31, 2022?	

Of the referrals to DOJ (line a.), please note the agency disciplinary status

c. Agency Disciplinary Action Status	
i. Of the cases referred to DOJ, how many resulted in disciplinary or corrective action?	
ii. Of the cases referred to DOJ, how many resulted in a determination not to take disciplinary or corrective action?	
iii. Of the cases referred to DOJ, how many are pending a determination as to whether disciplinary or corrective action will be taken?	
iv. Of the cases referred to DOJ, how many involved employees who left the agency before the agency determined whether or not to take disciplinary action?	
v. Of the cases referred to DOJ, how many involved 18 U.S.C. 207, such that there was no option for disciplinary action?	

4. Did your agency notify OGE of all referral(s) and disposition(s) of the referral(s) via OGE Form 202 (as required by 5 C.F.R. 2638.206(a))?

- ☐ Yes  
☐ No (specify why) \_\_\_\_\_

☐ Not applicable because no covered referrals were made to DOJ

**ADDITIONAL COMMENTS FOR PART 10.** Please indicate the question number to which the comment corresponds.

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## ATTACHMENT 5 - Sample OGE Annual Questionnaire SGE reportable information

### PART 12. SPECIAL GOVERNMENT EMPLOYEES (SGEs)

1. How many Special Government Employees (SGEs) did your agency have, in total, during calendar year 2022? \_\_\_\_\_ (if zero, skip to Additional Comments for this Part)
2. Initial Ethics Training

a. How many SGEs who were expected to serve for 60 days or less on a board, commission, or committee were required to receive Initial Ethics Training (IET) by December 31, 2022 (5 C.F.R. 2638.304(b)(2))?	
i. How many of those SGEs received IET before or at the beginning of the first meeting?	
ii. How many of those SGEs received IET after the first meeting?	
iii. How many of those SGEs have not received IET as of today?	

If applicable, please explain why some SGEs received IET after the first meeting or have yet to receive IET. \_\_\_\_\_

3. Report the number of SGE public and confidential financial disclosure reports required to be filed by December 31, 2022, and the number of reports actually filed by December 31, 2022.

	Confidential Reports (OGE Form 450 or OGE- Approved Alternative Form)		Public Reports (OGE Form 278e)	
	Required	Filed	Required	Filed
a. Advisory Committee Members (FACA)				
b. Advisory Committee Members (non-FACA)				
c. Experts/Consultants				
d. Board Members				

e. Commissioners				
f. Other				
TOTAL				

*Example for new entrant and termination reports:* If an employee joined (or departed) the agency on December 15, 2022, and filed a new entrant (or termination) report prior to the end of the calendar year, include the report in your required and filed numbers. If, on January 1, the employee has not filed a new entrant (or termination) report, do not count that report in your required numbers. Instead, include the report in your 2023 questionnaire response to be filed in 2024.

If applicable, please explain discrepancies between the number of reports required to be filed and the actual number of reports filed. \_\_\_\_\_

4. Note the number of SGE disclosure reports certified or otherwise closed by your agency during the calendar year. Of those reports, indicate how many were initially reviewed within 60 days and how many were certified within 60 days. "Initially reviewed within 60 days" means having completed a technical review and conflicts analysis. See 5 C.F.R. 2634.605, section 4.02 of the Public Financial Disclosure Guide, and the Certification Requirements section of the Confidential Financial Disclosure Guide.

	Confidential Reports	Public Reports
a. How many reports did your agency certify or close in 2022?		
b. Of those certified or closed in 2022, how many were initially reviewed within 60 days?		
c. Of those certified or closed in 2022, how many were certified or closed within 60 days?		

If applicable, please explain why some reports were reviewed more than 60 days after submission.

\_\_\_\_\_

If applicable, please explain why some reports were certified or closed more than 60 days after submission. Check all that apply.

☐ additional information was being sought

☐ remedial action was being taken

☐ other (specify) \_\_\_\_\_

5. Number of SGEs excluded from all or a portion of the confidential filing requirements per 5 C.F.R. 2634.904(b): \_\_\_\_\_

6. Extensions and late filing fees for SGE financial disclosure reports:

	Granted filing extension	Granted waiver of late filing fee	Paid late filing fee
a. Number of OGE Form 278e Reports			
b. Number of OGE Form 450 or OGE-Approved Alternative Forms			

**ADDITIONAL COMMENTS FOR PART 12.** Please indicate the question number to which the comment corresponds.

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