



UNITED STATES DEPARTMENT OF STATE  
AND THE BROADCASTING BOARD OF GOVERNORS  
*OFFICE OF INSPECTOR GENERAL*

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Office of Inspections

September 2013

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# Review of the Department of State Ethics Program

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## **PURPOSE, SCOPE, AND METHODOLOGY OF THE INSPECTION**

This inspection was conducted in accordance with the Quality Standards for Inspection and Evaluation, as issued in 2012 by the Council of the Inspectors General on Integrity and Efficiency, and the Inspector's Handbook, as issued by the Office of Inspector General (OIG) for the U.S. Department of State (Department) and the Broadcasting Board of Governors (BBG).

### **PURPOSE AND SCOPE**

The Office of Inspections provides the Secretary of State, the Chairman of BBG, and Congress with systematic and independent evaluations of the operations of the Department and BBG. Inspections cover three broad areas, consistent with Section 209 of the Foreign Service Act of 1980:

- **Policy Implementation:** whether policy goals and objectives are being effectively achieved; whether U.S. interests are being accurately and effectively represented; and whether all elements of an office or mission are being adequately coordinated.
- **Resource Management:** whether resources are being used and managed with maximum efficiency, effectiveness, and economy and whether financial transactions and accounts are properly conducted, maintained, and reported.
- **Management Controls:** whether the administration of activities and operations meets the requirements of applicable laws and regulations; whether internal management controls have been instituted to ensure quality of performance and reduce the likelihood of mismanagement; whether instances of fraud, waste, or abuse exist; and whether adequate steps for detection, correction, and prevention have been taken.

### **METHODOLOGY**

In conducting this inspection, the inspectors: reviewed pertinent records; as appropriate, circulated, reviewed, and compiled the results of survey instruments; conducted on-site interviews; and reviewed the substance of the report and its findings and recommendations with offices, individuals, organizations, and activities affected by this review.



United States Department of State  
and the Broadcasting Board of Governors

*Office of Inspector General*

## **PREFACE**

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability, and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

The recommendations therein have been developed on the basis of the best knowledge available to the OIG and, as appropriate, have been discussed in draft with those responsible for implementation. It is my hope that these recommendations will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H.W. Geisel".

Harold W. Geisel  
Acting Inspector General

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## Key Judgments

- In a 2012 report, the Office of Government Ethics was critical of the Department of State's Ethics Program, noting backlogs in processing financial disclosure reports and ethics agreements, problems with ethics training, and insufficient staff. The Office of Ethics and Financial Disclosure, a division within the Office of the Legal Adviser, had largely eliminated the backlogs by the end of 2012. However, the Office of Government Ethics report expressed concern about the Office of Ethics and Financial Disclosure's limited resources to process a workload that is consistently higher than that of other agencies.
- In 2012 the Department of State provided annual ethics training to less than 70 percent of those employees required to complete it. The Office of Ethics and Financial Disclosure implemented an online training module in late 2012 that will make ethics training more easily available to employees, but the Department of State does not have a definitive plan to increase the percentage of employees taking the training.
- The Office of Ethics and Financial Disclosure is not systematically tracking ethics agreements to ensure that employees comply with the provisions.<sup>1</sup> The database used by the office is incomplete and does not include important relevant information.
- The Department of State does not have a consistent definition of who is required to file confidential financial disclosure reports. This shortcoming has a negative impact on the entire ethics program.
- In 2012 the Office of Ethics and Financial Disclosure implemented an online financial disclosure reporting process to assist filers in completing the required confidential and public reports. This system is still in the start-up phase.

All findings and recommendations in this report are based on conditions observed during the on-site review and the standards and policies then in effect. The report does not comment at length on areas where the OIG team did not identify problems that need to be corrected.

The review took place in Washington, DC, between April 15 and June 28, 2013. Associate Counsel Harrison Ford (team leader) and Anita Schroeder conducted the review.

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<sup>1</sup> Ethics agreements are promises by individuals submitting financial disclosure reports that they will undertake specific actions to resolve actual or potential conflicts of interest.

## Context

### The Office of Government Ethics

From November 2011 through May 2012, the Office of Government Ethics (OGE) conducted a review of the Department of State's (Department) financial disclosure process for Presidentially-appointed, Senate-confirmed (PAS) nominees. In September 2012, OGE issued a report of that review.<sup>2</sup> OGE concluded that the Department has an extremely limited capacity to respond to the increased demands on its ethics program during post-election periods. OGE also noted that the ethics programs of other Federal agencies had higher ratios of staff to workload than the Department. OGE made three recommendations:

- Revisit the ethics program staffing model to support the post-election period and address persistent backlogs for reviewing and certifying financial disclosure reports;
- Develop an action plan to ensure that covered employees complete annual ethics training by the end of each calendar year; and
- Reassess and document the ethics agreement process and consider ways to formalize tracking of compliance. Also, develop a plan to address the increased volume of ethics agreements during the post-election period and consider strategies to assign a higher priority to this aspect of PAS processing.

OIG conducted this ethics program review as a followup to the OGE report. Since the date of that report, the Office of Ethics and Financial Disclosure (L/EFD) has made a number of improvements, but more needs to be done.

### The Office of Ethics and Financial Disclosure

L/EFD is responsible for administering the Department's ethics program. Its primary task is to provide ethics advice to all employees. It is also responsible for tracking filers, and collecting, maintaining, and certifying around 5,000 public and confidential financial disclosure reports each year. L/EFD also oversees annual ethics training for approximately the same number of employees and initial ethics training for all new Department employees.

L/EFD has taken steps in the last year to improve the Department's ethics program. The office implemented an online course for annual ethics training. In fall 2012, it rolled out an online system for the submission of financial disclosure reports. On March 19, 2013, L/EFD provided Adobe Connect training for initial reviewers of financial disclosure reports, providing a general familiarization with the new online system. In April 2013, the office developed a video on post-employment issues, which was made available through BNET, the Department's internally broadcast television station. On May 17, 2013, L/EFD rolled out more comprehensive online training for initial reviewers of financial disclosure reports that is available from the Foreign Service Institute. The May 17 training focused on technical review and conflicts assessment. L/EFD also updated ethics materials and reassigned staff. L/EFD personnel told OIG that they are actively supporting the culture of ethics in the Department.

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<sup>2</sup> U.S. Office of Government Ethics. *Post-Election Readiness Review, Department of State*, September 2012.

The Designated Agency Ethics Official (DAEO) and the Alternate DAEO (ADAEO) supervise L/EFD. The office has eight full-time and two part-time attorneys, two paralegals, two expert consultants, and four managerial and administrative staff. There is an additional vacant paralegal position which, because of a hiring freeze, has not been advertised.

### **U.S. Government Financial Disclosure Process**

The Ethics in Government Act of 1978 sets forth a financial disclosure process in which U.S. Government employees are required to provide information concerning their outside interests and activities. Ethics officials review these financial disclosure reports to ensure that filers' outside interests and activities do not conflict with their official duties and that filers comply with applicable conflict of interest laws and regulations. There are two types of reports:

- OGE Form 450, Confidential Financial Disclosure Report. In accordance with the *Code of Federal Regulations* (5 CFR 2634.904(a)) and the *Foreign Affairs Manual* (11 FAM 611.3), the OGE Form 450 must be completed by employees or candidates for employment in positions classified at GS-15 or below or FS-01 or below, whose duties and responsibilities require them to participate personally and substantially through decision or the exercise of significant judgment, and without substantial supervision and review, in actions regarding contracting, procurement, administering, or monitoring grants; regulating or auditing non-Federal entities; or other activities that might result in conflicts of interest.
- OGE Form 278, Executive Branch Personnel Public Financial Disclosure Report. In accordance with 5 CFR 2634.202 and 11 FAM 611.3, Senior Executive Service, Senior Foreign Service, and other personnel whose salaries are a certain level or whose positions are of a confidential or policymaking nature must file the OGE Form 278.

In July 2012, the Department had approximately 1,760 public financial disclosure report filers, including 244 PAS officials, and about 3,700 confidential report filers.

### **The Presidential Appointee, Senate Confirmation Process**

With 244 PAS officials, L/EFD oversees ethics issues for the largest PAS program in the Federal Government.<sup>3</sup> In addition, OGE personnel told the OIG team that the Department has more filers with lengthy and complicated financial disclosure reports in its PAS program than any other agency. L/EFD is required to examine each line of a financial disclosure report for potential conflicts of interest or other ethics issues. The average report might include two or three pages of information on private financial interests and activities. Some Department PAS nominees have reports with hundreds of pages.

For incoming officials, L/EFD works with the White House, Office of Presidential Personnel, OGE, and other bureaus in the Department (Diplomatic Security, Human Resources, and Management) to process nominees. This coordination is time-critical and time-intensive. The primary role of L/EFD is to identify and rectify any potential conflicts of interest that a PAS

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<sup>3</sup> The November 2012 report by the Working Group on Streamlining Paperwork for Executive Nominations gave the number of full-time PAS nominees in the U.S. Government as approximately 1,150.

nominee might have, including personal assets that might be affected by decisions made by the filer while in office, arrangements for future employment, and positions held outside the government. L/EFD approves the nominee's OGE Form 278 before forwarding it to OGE where it must undergo a separate certification process.

During the review of OGE Form 278, L/EFD opens a dialogue with the nominee. The office often discusses the individual's financial interests with the filer's financial advisors, attorneys, accountants, or investment fund managers. L/EFD also requests an "issues memorandum" from the bureau or post to which the nominee will be assigned. The memorandum identifies specific companies whose financial interests are likely to be directly affected by actions in which the PAS official will participate, as well as current and upcoming issues in the country to which the individual will be assigned or in which he/she might be involved, such as proposed public/private partnerships, intellectual property rights protection, privatization, pending contracts, foreign investment disputes, etc. L/EFD compares the information in the issues memorandum to the person's financial interests and outside activities to identify any potential conflicts of interest between these assets and activities and the duties of the position the person will occupy. L/EFD also uses the issues memorandum for discussions about potential conflicts of interest with senior Department and other agency personnel.

Once the review of the financial report is complete, L/EFD drafts the ethics agreement outlining steps the nominee will take to avoid or remedy conflicts of interest. Following the confirmation of the nominee, L/EFD works with the individual to comply with the ethics agreement within 90 days of the date of the agreement.

There are other duties associated with the PAS program. L/EFD provides initial ethics orientation to nominees, including one-on-one counseling, if possible. The office also provides post-employment counseling before and after the departure of PAS officials and requires that they file termination financial disclosure reports.

### **The Stop Trading on Congressional Knowledge Act**

In 2012, the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) increased ethics reporting requirements. The STOCK Act stipulates that government employees who file OGE Form 278 must report certain investment transactions exceeding \$1,000 within 30 days of receiving notification of a transaction and not later than 45 days after the transaction on a OGE Form 278-T, Periodic Transaction Report. L/EFD reviews the OGE Form 278-T reports for PAS officials and forwards them to OGE. For non-PAS OGE Form 278 filers, L/EFD reviews and retains the OGE Form 278-T reports. In addition, the STOCK Act requires that any individual required to file a financial disclosure report under the Ethics in Government Act sign a disclosure statement with L/EFD within 3 business days after commencement of negotiation or agreement regarding future employment.

### **Other Office of Ethics and Financial Disclosure Responsibilities**

The ethics process in the Federal Government requires that each Federal agency submit numerous reports to OGE. These include annual training plans, annual questionnaires, reports of payments of travel from non-Federal sources, lists of OGE Form 278 filers, lists of extensions

granted to filers, and annual surveys of ethics officials. The 2013 Schedule of Important Ethics Dates, which is issued by OGE, lists the required reports (Appendix A).

L/EFD informed OIG that it receives approximately 200 general ethics inquiries every week from Department employees. The office has created an electronic mailbox for incoming questions and posts its telephone and fax numbers on the Department's intranet. L/EFD also maintains a readable, informative site on the Department's intranet covering topics such as gifts, conflicts of interest, outside activities, post-employment issues, and political activities.

With the rollout of the Department's online financial disclosure management system, L/EFD took on the responsibility of training filers to use it. L/EFD recently initiated an online training program for initial reviewers of the reports.

## Ethics Program Staffing and Financial Disclosure Reporting

L/EFD manages a complex ethics program with minimal resources. The Department has fewer ethics officials per public filer and per employee than any agency in the U.S. Government. According to OGE, in 2012 the Department had over 120 public filers per ethics official. Other agencies had no more than about 45, with most agencies having less than 20. In 2011, the number of Department public filers per ethics official was more than 140, and the number of public filers per ethics official for other government agencies ranged from less than 10 to about 50.

The 2012 OGE report recommended that the Department revisit the ethics program staffing model to support the post-election period and address persistent backlogs for reviewing and certifying financial disclosure reports. OGE noted that, as of January 2012, the Department had a backlog of more than 800 public and confidential financial disclosure reports for the 2010 filing period that had not been reviewed or certified since their receipt in 2011. OGE Form 450 reports are due on February 15 of each year (March 15 for Department filers in 2013) and OGE Form 278 reports are due May 15 of each year. OGE reported that L/EFD did not expect to be able to review or certify all of the annual public reports for the 2011 filing period that were due May 2012 by the required certification deadline of July 2012.

In early 2012, L/EFD began a concerted effort to eliminate the backlogs. L/EFD made significant progress in reaching this objective, reducing the number of uncertified reports from past years to 278.<sup>4</sup> L/EFD also updated employee work requirements statements, to include completion of a specific number of financial disclosure reviews per week, and staff met weekly to discuss reviews. As of June 2013, L/EFD was in the midst of processing both types of reports.

Every 4 years, L/EFD experiences a surge as national elections, whether they bring about new administrations or retain existing ones, result in the resignation of existing PAS officials and the nomination and confirmation of newly-appointed ones. In 2011, L/EFD coped with this surge by training 12 attorneys from other Department offices to review routine financial disclosure reports, which allowed L/EFD attorneys to focus on more complicated PAS nominee reports. Augmenting staff in this manner, L/EFD leadership expressed confidence that they could “substantially handle” the current financial disclosure workload, although not all within the regulatory 60-day time frame.

Given current budgetary considerations, L/EFD’s low level of resources is not likely to change. The remainder of this report discusses ways in which the Department and L/EFD can continue to adopt practices that will help bring the ethics program into full compliance with statutory and regulatory ethics requirements.

As noted earlier, due to a hiring freeze, L/EFD has been unable to fill one vacant paralegal position. There are only three paralegal positions within L/EFD, and this vacancy has far reaching consequences. During the 2013 transition period, as with any other, the PAS nominees receive the highest priority and attention, and it is vital to keep that process flowing smoothly. The workload must be shifted to already overextended attorneys and other staff. The

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<sup>4</sup> L/EFD reported that the total number of public and confidential financial disclosure reports filed during this time period was 12,748.

increased duties slow the review of PAS financial disclosure forms and the management of PAS ethics agreements, both of which are vital activities that were criticized by OGE in its report.

Many of the attorneys in L/EFD are rotational; the paralegals are not. The corporate knowledge of the paralegal staff cannot be replaced. Keeping the paralegal contingent fully staffed is important to the continuing efficiency and productivity of the office.

**Recommendation 1:** The Office of the Legal Adviser should provide documentation for staffing the vacant paralegal position and request that the Under Secretary for Management approve filling the position. (Action: L)

## **The Department's Financial Disclosure Reporting Process**

There are a number of complex and time-consuming administrative aspects of the financial disclosure reporting process, including identification of OGE Form 278 and OGE Form 450 filers, maintenance of the databases of filers, initial reviews of the reports, and tracking of individuals who do not file reports promptly.

### **Identifying Who Must File and Maintaining Filer Databases**

#### ***OGE Form 450***

OGE Form 450 filers are difficult to identify and the number of filers is hard to pin down. Appendix B contains OGE guidance on how to determine if an employee must file OGE Form 450.

The Department does not have a consistent count of employees who meet the OGE Form 450 guidelines. For example, in the 2011 annual program questionnaire that was submitted to OGE, L/EFD listed the number of OGE Form 450 filers as 2,239. In the 2012 report, the number was 3,160, excluding special government employee filers, and 3,189 including special government employee filers. The number of special government employee filers was given as 100. In a July 2012 Department response to a preliminary version of the September 2012 OGE report, L/EFD gave the number of OGE Form 450 filers as about 3,700. For 2011, OGE counted the number of Department OGE Form 450 filers as 2,239 on one occasion and 2,475 on another.

The Office of Management Policy, Rightsizing and Innovation (M/PRI) and the Bureau of Human Resources are examining the possibility of automatic identification of Civil Service and Foreign Service positions whose incumbents would normally be required to file OGE Form 450 reports using such criteria as position descriptions, critical performance elements, and work requirements statements. The Department could also identify individuals who have contracting officer warrants or qualify as contracting officer's representatives. An individual performing these duties is required to submit a financial disclosure report regardless of the position encumbered. The Bureau of Human Resources and M/PRI are planning to maintain the information the Department gathers on positions and employees required to file OGE Form 450s on a human resources database, thereby easing the record-maintenance burden that currently falls to L/EFD.

However, there is not always a link between the duties shown in the position description and the activities of an incumbent or between the training and expertise of an individual and that employee's duties. For example, someone with a contracting warrant might not be assigned contracting officer duties for a period of time. Depending on rank and other duties, such an employee might not be required to file a confidential financial disclosure report. Alternatively, an individual assigned to a position in the GS-1102, Position Classification Standard for Contracting Series, might not have all the qualifications or training. In such cases the post or bureau might shift the contracting duties to another position whose incumbent has the necessary qualifications but whose position has not been designated as one that requires a financial disclosure report.

In addition to the lack of consistent correlation between employee activities and position duties, about one-third of Foreign Service personnel are reassigned every year. About two-thirds of Foreign Service personnel are overseas at any one time. Personnel reassignments in the Department are frequent and any prospective database would require constant updating.

A database would not eliminate the entire administrative burden. Other tasks now falling to bureaus and posts as well as to L/EFD would continue. The bureaus and posts have to identify the filers currently assigned to them and determine whether a specific employee's duties meet the guidelines for filing. L/EFD would continue to answer questions and help bureaus and posts make such determinations.

Nevertheless, the OIG team supports such a database and encourages the Department to continue with its development. The database could be an initial step to reduce the administrative burden on L/EFD of managing the OGE Form 450 process.

**Recommendation 2:** The Office of Management Policy, Rightsizing and Innovation, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should identify positions within the Department of State having duties that require submission of confidential financial disclosure reports and should maintain this information on a human resources database for periodic updating by each bureau in the Department. (Action: M/PRI, in coordination with DGHR and L)

Bureaus and posts interpret in a variety of ways the instructions found in 5 CFR 2634.904 that define confidential filers and provide guidelines for who must file. Some Department employees tasked with the identification of confidential report filers are concerned they are not applying the guidelines correctly and stated they need clarification from L/EFD. More specific guidance concerning who must file a confidential report would help the Department identify prospective filers expediently, systematically, and appropriately.

**Recommendation 3:** The Office of the Legal Adviser should issue guidance and instructions based on the regulations set forth in 5 CFR 2634.904 to help individuals, posts, and bureaus in the Department of State identify employees who must file confidential financial disclosure reports. (Action: L)

### ***OGE Form 278***

The approximately 1,760 OGE Form 278 filers are reasonably well defined and generally easy to identify. Once employees reach the level of Senior Executive Service or Senior Foreign Service, they are repeat filers who must submit OGE Form 278 initially, annually and upon termination. Other personnel, such as Schedule C employees and some special government employees, must also file public financial disclosure reports. These individuals are usually readily identifiable from their employment mechanisms and documents. Others, such as persons serving in certain stretch positions, are less easy to pinpoint, but they make up a small proportion of the total universe of OGE Form 278 filers.

A personnel database of individuals automatically required to file public financial disclosure reports would provide a starting point for L/EFD and the bureaus in identifying, verifying, and tracking filers. As with the list of OGE Form 450 filers, the database would

require frequent monitoring and updating, but it would provide a basis for the identification of filers each year. Such a database would assist in reducing the administrative burden of processing OGE Form 278 reports.

**Recommendation 4:** The Office of Management Policy, Rightsizing and Innovation, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should identify the individuals with Senior Foreign Service and Senior Executive Service rank, Schedule C employees, and any others who are automatically required to file initial and annual public financial disclosure reports, and should determine how to maintain this information on a human resources database. (Action: M/PRI, in coordination with DGHR and L)

### **Implementation of the Department's Financial Disclosure Management System and Performance of Initial Reviews**

In fall 2012, the Department instituted the Financial Disclosure Management system (FDM) for OGE Form 278 and OGE Form 450 reports. This electronic filing system was originally used by the Department of Defense. It is designed to assist the filer in completing financial disclosure reports by asking relevant questions and providing instructions and examples. In addition, FDM prepopulates forms with data entered in previous years. Incomplete or inaccurate data are flagged. Except in a few specialized cases, the system eliminates the need for paper forms. Filer submission and reviewer approval trigger email notifications to ethics officials for their action. Forms and actions are time-stamped. Filers can upload attachments and include explanations regarding reported assets, gifts, and positions.

Along with the implementation of the online filing system, L/EFD updated its financial disclosure review process in a revision of 11 FAM 600. In an action memorandum signed by the Under Secretary for Management on October 15, 2012, the Department described a standard operating procedure that made bureau executive directors responsible for supporting the financial disclosure process. Regional bureau executive directors were also made responsible for ensuring that their posts complied. Although this shift of responsibility helped remove some of the administrative burden of managing financial disclosure reports from L/EFD, these duties were new to the bureaus and the directions were not well understood or universally interpreted. Also, bureau personnel reported to the OIG team that they were not consulted before the revised FAM was issued.

Under the updated procedure, bureau executive offices were asked to validate the lists of current OGE Form 278 and OGE Form 450 filers by November 9, 2012. Several bureaus noted that they were not aware until two days before the deadline that they had to include contracting officer's representatives and government technical monitors in the list of OGE Form 450 filers.<sup>5</sup>

L/EFD conducted a number of activities designed to introduce and explain FDM to users, issuing Department notices and cables and holding meetings with bureaus. In spring 2013,

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<sup>5</sup> This requirement is not new. The Office of the Procurement Executive, Procurement Information Bulletin No. 2012-15 notes that all contracting officer's representatives and government technical monitors must file a financial disclosure report and must complete mandatory annual ethics training. Guidance in the *Foreign Affairs Handbook*, 14 FAH-2 H-150, dated December 20, 2005, specifies that employees involved in acquisition must make an annual financial disclosure using Form OGE Form 450.

L/EFD contacted all OGE Form 278 filers by email to provide guidance on using FDM, links to training materials, and offers of assistance and held training sessions for initial reviewers.

In spite of these efforts, there have been a number of start-up problems with the Department's launch of the FDM system. Some of the terminology is unique to the military, including such wording as "general officers," "Joint Ethics Regulations," and "review chains and Org Units." FDM help and support sites directed Department users to Army email addresses.

The Bureau of Information Resource Management (IRM) created user names and passwords for FDM filers and initial reviewers under the same password complexity rules that are in place for OpenNet, but many users still encountered problems logging into the system. Bureau personnel reported to the OIG team that getting the user names and passwords was complicated. Requests for user names required the signature of a supervisor. Some individuals reported to the OIG team that the process of obtaining access to the system took a month to complete. Other bureaus noted that the passwords were unnecessarily lengthy and complicated, involving an embedded hidden character that made it difficult to copy and paste the password. IRM reported to the OIG team that the bureau processed more than 1,000 requests to change passwords.

Another update to the financial reporting system was the emphasis on having posts and bureaus identify initial reviewers who would complete a technical and conflicts review of each form as provided in 11 FAM 614.7. L/EFD noted that an individual in the post or bureau would know more about potential conflicts of interest than an attorney or paralegal in L/EFD. The instructions to the posts and bureaus were to identify, where possible, a single initial reviewer, generally a management official. The bureaus reported to the OIG team that the management officials usually knew very little about the daily activities of personnel in their bureaus or posts who dealt with technical issues such as treaties, international trade, and corporate business. Also, in some large posts a single initial reviewer might have from 40 to 50 reports to examine. Some posts and bureaus assigned the OGE Form 450s to one reviewer and the OGE Form 278s to another, lessening the burden on one individual. Others, based on the word "supervisor," assigned the initial reviews to actual supervisors.<sup>6</sup>

Although L/EFD provided instructions to initial reviewers, the individuals interviewed by the OIG team reported some confusion about these responsibilities. Some initial reviewers looked carefully at each investment and outside activity. Others only glanced at them to see if specific wording appeared that might indicate a conflict of interest. Most were unsure what to do if they noted a conflict of interest. A list of the general questions that L/EFD asked initial reviewers to consider is included in Appendix C. As of June 2013, L/EFD began to offer training to initial reviewers for the 2014 filing season.

Department personnel also reported to the OIG team that L/EFD did not provide sufficient training on how to use FDM. They recommended that the Department provide more technical instruction to filers on how to operate the system.

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<sup>6</sup> As an Army system, FDM defines supervisors as initial reviewers. As noted, the Department used another method to identify initial reviewers, but the FDM terminology retains the word "supervisor."

With the conclusion of the 2013 filing season, L/EFD has an opportunity to make adjustments to FDM for the 2014 reports to reflect the specific needs of the Department, including adapting the FDM terminology to fit Department usage, addressing training needs for filers and initial reviewers, refining instructions to posts and bureaus on how to select initial reviewers and perform initial reviews, and resolving issues with system passwords.

**Recommendation 5:** The Office of the Legal Adviser, in coordination with the Bureau of Information Resource Management, should make adjustments to the Financial Disclosure Management System for the 2014 filing season to reflect the specific needs of the Department of State, including adapting the system's terminology to fit Department of State usage, addressing training needs for filers and initial reviewers, refining instructions to posts and bureaus on how to select initial reviewers and perform initial reviews, and resolving issues with system passwords. (Action: L, in coordination with IRM)

### **Possible Future Developments in the U.S. Government Financial Disclosure Process**

The STOCK Act requires that OGE develop a financial disclosure management system and have it online by January 2014. OGE plans to have a new system for OGE Form 278 filers ready by that time. This system will apply only to OGE Form 278, not to OGE Form 450.

As of June 2013, OGE had not determined whether Federal agencies would be required to use the new financial disclosure system for OGE Form 278 filing in 2014 or those using FDM could continue to do so. There is also no information about the cost or the ability to migrate existing data to the projected OGE system. OGE has suggested that the 23 agencies (with 6,800 OGE Form 278 filers) currently using FDM might be able to share certain costs of switching to the new system, but as of the draft date of this report, OGE had not issued formal guidance.

According to OGE, FDM was planned with the user and supervisor in mind. OGE personnel noted that their new system was being designed from an agency management standpoint so that, for example, more information would be available on the overall status of financial disclosure processing and managers could generate status reports more easily. OGE has requested and received suggestions and input on its new system from L/EFD.

### **Tracking Individuals Who Do Not File Required Financial Disclosure Reports**

The Department's implementation of an automated financial disclosure system, whether it is FDM or OGE's new system, should make it easier to track individuals who do not submit the required financial disclosure reports. The FDM system indicates the dates the report was completed by the filer, reviewed by the bureau, and certified by L/EFD.

Bureau personnel stated they were unsure of their responsibilities regarding the tracking of non-filers. Some bureaus remind employees to complete the filing process; other bureaus are under the impression that once they have notified potential filers and completed the initial review of the submitted reports, they are no longer involved.

**Informal Recommendation 1:** The Office of the Legal Adviser should clarify instructions to bureaus concerning tracking employees who do not file required public and confidential financial disclosure reports.

## Ethics Training

The September 2012 OGE report recommended that the Department develop an action plan to ensure that covered employees complete annual ethics training by the end of each calendar year, as required by 5 CFR 2638.701. Each year L/EFD prepares an ethics training plan with a goal of 100 percent participation. The training plan for 2012 discussed training for new, continuing, and retiring employees. The plan did not present specific internal control measures, but it noted that L/EFD maintained a database for tracking compliance with training requirements and that all covered employees filing financial disclosure reports would be expected to comply with the annual training requirement.

The 2012 agency ethics program questionnaire submitted by the Department to OGE gave the following training completion rates:

	Ethics Training Required	Ethics Training Received	Completion Rate
OGE FORM 278 Filers – PAS	204	108	53%
OGE FORM 278 Filers – non-PAS	1,352	927	68%
OGE FORM 450 Filers	3,189	1,840	58%
Total	4,745	2,875	61%

Source: L/EFD

Since the date of the OGE report, L/EFD, with the assistance of the Foreign Service Institute, has implemented an online ethics course to aid in providing training to covered employees. The Department issues notices concerning ethics training, but does not follow up to enforce the requirement.

FDM has an “Ethics Training” tab for ethics officials to notify filers about ethics training and to enter information when training has been completed. The Department is not currently using this aspect of FDM. The process would require L/EFD to enter individual information on training for each filer—a task that would impose an administrative burden on an already overworked office. In future years, L/EFD could assign the task of entering training information to the bureaus. It might also be possible to require that FDM users upload training certificates or other proof of training as they complete their financial disclosure reports.

The OIG team spoke with Department personnel about the institution of penalties for covered employees who do not complete annual ethics training. One penalty under discussion parallels that for users of the Department’s OpenNet system. The Department denies system access and change of passwords to those who do not successfully complete the cyber security awareness training course. In addition, users of OpenNet answer cyber security questions or read hints as they log in each day. The OIG team and Department personnel have discussed the idea of instituting ethics hints and questions as log-in reminders in addition to the cyber security questions.

Another possibility, which the OIG team discussed with the Office of the Under Secretary for Management, would deny access to Department facilities (deactivation of the

security badge) to individuals who do not complete annual ethics training. Withholding promotions, awards, travel orders, and other training opportunities might also be considered.

As with tracking the submission of financial disclosure reports, tracking ethics training is made more complex by the loosely-defined and constantly fluctuating universe of covered employees, particularly OGE Form 450 filers. Some of the methods and penalties described above require accurate identification of covered employees. Uploading proof of training completion into FDM may be feasible for OGE Form 450 filers, but the future use of FDM for OGE Form 278 filers is currently in question.

**Recommendation 6:** The Bureau of Human Resources, in coordination with the Office of the Legal Adviser and the Office of Management Policy, Rightsizing and Innovation, should track individuals who do not complete annual ethics training and implement penalties when training is not completed. (Action: DGHR, in coordination with L and M/PRI)

## Ethics Agreement Process

OGE recommended that the Department reassess and document the ethics agreement process and consider ways to formalize tracking of compliance. Also, OGE suggested that the Department develop a plan to address the increased volume of ethics agreements during the post-election period and consider strategies to assign higher priority to this aspect of PAS processing.

As defined in 5 CFR 2634.802(a), an ethics agreement is any oral or written promise by a reporting individual to undertake specific actions in order to alleviate an actual or apparent conflict of interest. The actions might include recusal, divestiture, resignation, establishment of a blind trust, or request for a waiver. Individuals must complete the actions within a period not to exceed 3 months from the date of the agreement. From January 2009 to June 2010, OGE reported that Department PAS officials completed actions required by their ethics agreements in an average of 127 days, although the OGE deadline is 90 days. OGE also criticized L/EFD for taking an average of 177 days to notify OGE of compliance when the deadline is 93 days.

L/EFD currently operates the Financial Disclosure Tracking System, an Access database that allows L/EFD to track PAS nominees and maintain information on dates for financial disclosures, confirmation, and other events; however, the system does not identify ethics agreements. The system's user interface does not have entries to indicate that an ethics agreement exists.

L/EFD does not have a systematic procedure for following up on ethics agreements or for producing automatic reminders. According to L/EFD personnel, the office maintains information on reminders in the comments section of the form, and it sends reminders to PAS officials concerning compliance, but the data are not in a format to generate reports. Information on the actions of a particular PAS official to divest assets or resign from positions is available in paper form if it has been submitted to L/EFD, but there is no readily retrievable summary of whether PAS officials have taken the necessary steps to comply with their agreements.

**Recommendation 7:** The Office of the Legal Adviser should adapt its database or design and implement a new database to track compliance with ethics agreements. The system should generate reports that show at a minimum whether an ethics agreement exists, the individual provisions, the dates of reminders and communication between the Department of State and the official, and the dates and actions taken by the official. (Action: L)

L/EFD is not generating reports from the Financial Disclosure Tracking System to track compliance. An automated tracking system would allow L/EFD to generate reports on the status of the ethics agreement process. Whether L/EFD uses the current system or develops an automated one, the office should generate reports to track compliance with ethics agreements. By frequently reviewing these reports and identifying and eliminating bottlenecks in the process, L/EFD would be able to decrease the compliance and reporting times.

**Recommendation 8:** The Office of the Legal Adviser should generate and review reports at least weekly on the status of the ethics agreement compliance process. (Action: L)

Among the activities that L/EFD has taken to improve its overall performance are weekly staff meetings with the DAEO during peak periods. These meetings increase the involvement of

upper-level management and provide frequent snapshots of office activity. The meetings are also an opportunity for L/EFD to review the status of compliance with ethics agreements. The meetings would be more beneficial if they included a review of the activities needed to ensure that employees complete their ethics agreements within the specified time periods and the steps taken by the Office of the Legal Adviser to ensure that its reports are submitted in a timely fashion.

***Informal Recommendation 2:*** The Office of the Legal Adviser should, during peak periods, include in its staff meetings a review of the status of compliance with outstanding ethics agreements.

## List of Recommendations

**Recommendation 1:** The Office of the Legal Adviser should provide documentation for staffing the vacant paralegal position and request that the Under Secretary for Management approve filling the position. (Action: L)

**Recommendation 2:** The Office of Management Policy, Rightsizing and Innovation, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should identify positions within the Department of State having duties that require submission of confidential financial disclosure reports and should maintain this information on a human resources database for periodic updating by each bureau in the Department. (Action: M/PRI, in coordination with DGHR and L)

**Recommendation 3:** The Office of the Legal Adviser should issue guidance and instructions based on the regulations set forth in 5 CFR 2634.904 to help individuals, posts, and bureaus in the Department of State identify employees who must file confidential financial disclosure reports. (Action: L)

**Recommendation 4:** The Office of Management Policy, Rightsizing and Innovation, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should identify the individuals with Senior Foreign Service and Senior Executive Service rank, Schedule C employees, and any others who are automatically required to file initial and annual public financial disclosure reports, and should determine how to maintain this information on a human resources database. (Action: M/PRI, in coordination with DGHR and L)

**Recommendation 5:** The Office of the Legal Adviser, in coordination with the Bureau of Information Resource Management, should make adjustments to the Financial Disclosure Management System for the 2014 filing season to reflect the specific needs of the Department of State, including adapting the system's terminology to fit Department of State usage, addressing training needs for filers and initial reviewers, refining instructions to posts and bureaus on how to select initial reviewers and perform initial reviews, and resolving issues with system passwords. (Action: L, in coordination with IRM)

**Recommendation 6:** The Bureau of Human Resources, in coordination with the Office of the Legal Adviser and the Office of Management Policy, Rightsizing and Innovation, should track individuals who do not complete annual ethics training and implement penalties when training is not completed. (Action: DGHR, in coordination with L and M/PRI)

**Recommendation 7:** The Office of the Legal Adviser should adapt its database or design and implement a new database to track compliance with ethics agreements. The system should generate reports that show at a minimum whether an ethics agreement exists, the individual provisions, the dates of reminders and communication between the Department of State and the official, and the dates and actions taken by the official. (Action: L)

**Recommendation 8:** The Office of the Legal Adviser should generate and review reports at least weekly on the status of the ethics agreement compliance process. (Action: L)

## List of Informal Recommendations

Informal recommendations cover operational matters not requiring action by organizations outside the inspected unit and/or the parent regional bureau. Informal recommendations will not be subject to the OIG compliance process. However, any subsequent OIG inspection or on-site compliance review will assess the mission's progress in implementing the informal recommendations.

***Informal Recommendation 1:*** The Office of the Legal Adviser should clarify instructions to bureaus concerning tracking employees who do not file required public and confidential financial disclosure reports.

***Informal Recommendation 2:*** The Office of the Legal Adviser should, during peak periods, include in its staff meetings a review of the status of compliance with outstanding ethics agreements.

## Principal Officials

<b>Title</b>	<b>Name</b>	<b>Arrival Date</b>
Designated Agency Ethics Official	Richard C. Visek	05/11
Alternate Designated Agency Ethics Official	Kathryn Youel Page	03/11

## Abbreviations

ADAEO	Alternate Designated Agency Ethics Official
CFR	Code of Federal Regulations
DAEO	Designated Agency Ethics Official
Department	U.S. Department of State
FAM	Foreign Affairs Manual
FDM	Financial Disclosure Management system
IRM	Bureau of Information Resource Management
L/EFD	Office of Ethics and Financial Disclosure
M/PRI	Office of Management Policy, Rightsizing and Innovation
OGE	U.S. Office of Government Ethics
OIG	Office of Inspector General
PAS	Presidentially-appointed, Senate-confirmed
STOCK Act	Stop Trading on Congressional Knowledge Act of 2012

## Appendix A – Office of Government Ethics 2013 Schedule of Important Ethics Dates

### January

**Reminder:** Agencies must complete an annual training plan for the current calendar year. This plan does not need to be submitted to OGE. Covered employees are required to receive annual ethics training before the end of the calendar year. (5 CFR § 2638.706(b) & 5 CFR § 2638.705)

**1 Reminder:** Today marks the beginning of the Public Financial Disclosure reporting period. Agency ethics officials may want to distribute financial disclosure packets to public filers. (5 CFR § 2634.308(a))

**1 Reminder:** Today marks the beginning of the Confidential Financial Disclosure reporting period. Agency ethics officials may want to distribute financial disclosure packets to confidential filers. (5 CFR § 2634.908(a))

**31 DUE TO OGE TODAY:** The Ethics Pledge Assessment is due to OGE today. Please follow the submission instructions on the online assessment module.

### February

**1 DUE TO OGE TODAY:** The Agency Ethics Program Questionnaire is due to OGE today. Please follow the submission instructions on the questionnaire. (5 CFR § 2638.602(a))

**15 DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Confidential Financial Disclosure reports are due to agency ethics officials today unless the filer has been granted an extension. Remember to document the extension. (5 CFR § 2634.903(a) & 2634.903(d))

### March

**31 Reminder:** The October 1, 2012 – March 31, 2013 period for reporting payments of travel accepted from non-Federal sources ends today. Agencies should begin to prepare their 1353 travel reports. Agencies may use either the OGE Form 1353 or the Standard Form (SF) 326. (31 U.S.C. § 1353)

### April

**Reminder:** Unless further information is required, agencies should review and certify Confidential Financial Disclosure reports within 60 days of receipt. (5 CFR § 2634.605(a))

### May

**3 DUE TO OGE TODAY:** An updated list of Presidential appointees confirmed by the Senate (PAS), Designated Agency Ethics Officials (DAEO), and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification. Please submit your updated list to 278tracking@oge.gov. (5 CFR § 2638.601)

**15 DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Public Financial Disclosure reports are due today, unless the filer has been granted an extension. Remember to document the extension on the cover page of the report. (5 CFR § 2634.201(a))

**16 DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Confidential Financial Disclosure reports from filers granted 90-day extensions. (5 CFR § 2634.903(d))

**24 DUE TO OGE TODAY:** A list of extensions granted, and the length thereof, to PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification. Agencies should continue to forward to OGE any extensions granted to

PAS, DAEO, and other filers whose reports are required to be reviewed and certified by OGE. Please submit lists to 278tracking@oge.gov.

**31 DUE TO OGE TODAY:** The 1353 travel report for payments of travel accepted from non-Federal sources is due today. Agencies must submit either a positive or a negative report. The 1353 travel report should cover the period of October 1, 2012 – March 31, 2013. Please submit reports to 1353travel@oge.gov. (31 U.S.C. § 1353)

## June

**15 Reminder:** The late filing fee now applies to annual Public Financial Disclosure filers who did not submit their reports to agency ethics officials, unless the filer has been granted an extension. Remember, checks should be made payable to the U.S. Treasury. (5 CFR § 2634.704)

## July

**1 DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Public Financial Disclosure reports from filers granted first 45-day extensions. (5 CFR § 2634.201(f))

**1 DUE TO AGENCY ETHICS OFFICIALS TODAY:** Today is the last day for filers to request an additional 45-day extension to the Public Financial Disclosure deadline. Remember to document the extension on the cover page of the report.

(5 CFR § 2634.201(f))

**1 DUE TO OGE TODAY:** Agencies must submit a letter stating whether components currently designated should remain designated for purposes of 18 U.S.C. § 207(c). Agencies need not reply if their department or agency currently has no designated components and they do not wish to request the designation of any component.

(5 CFR § 2641.302(e)(2))

**15 Reminder:** Unless further information is required, Public Financial Disclosure reports that were submitted by the May 15 deadline should be certified by the agency. (5 CFR § 2634.605(a))

**29 DUE TO OGE TODAY:** The Public Financial Disclosure reports of PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification are due today unless an extension has been granted. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))

## August

**1 Reminder:** The late filing fee now applies to annual Public Financial Disclosure filers who were granted 45-day filing extensions but have not submitted their reports to agency ethics officials. Remember, checks should be made payable to the U.S. Treasury.

(5 CFR § 2634.704)

**13 DUE TO AGENCY ETHICS OFFICIALS TODAY:** All annual Public Financial Disclosure reports from filers granted second 45-day extensions are due today.

(5 CFR § 2634.201(f))

**30 Reminder:** Unless further information is required, agencies' annual Public Financial Disclosure reports that were submitted pursuant to a 45-day extension should be certified by the agency. (5 CFR § 2634.605(a))

## September

**13 DUE TO OGE TODAY:** The Public Financial Disclosure reports of PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification who were granted first 45-day extensions are due today. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))

**13 Reminder:** The late filing fee now applies to annual Public Financial Disclosure filers who were granted second 45-day filing extensions but have not submitted their reports to agency ethics officials. Remember, checks should be made payable to the U.S. Treasury.

(5 CFR § 2634.704)

**27 DUE TO OGE TODAY:** The Annual Survey of Ethics Officials is due to OGE today. Please follow the submission instructions on the survey.

**30 Reminder:** The April 1, 2013 – September 30, 2013 period for reporting payments of travel accepted from non-Federal sources ends today. Agencies should begin to prepare their 1353 travel reports. Agencies may use either the OGE Form 1353 or the Standard Form (SF) 326. (31 U.S.C. § 1353)

## October

**15 Reminder:** Unless further information is required, agencies' annual Public Financial Disclosure reports that were submitted pursuant to a second 45-day extension should be certified by the agency. (5 CFR § 2634.605(a))

**29 DUE TO OGE TODAY:** The Public Financial Disclosure reports of PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification who were granted second 45-day extensions are due today. Please submit reports to 278tracking@oge.gov. (5 CFR § 2634.602(c))

## November

**1 Reminder:** Only 61 days remain in the Financial Disclosure calendar year. Remember that employees need to serve in a position for 61 days or more to file an annual financial disclosure report. (5 CFR § 2634.204(a))

**30 DUE TO OGE TODAY:** The 1353 travel report for payments of travel accepted from non-Federal sources is due today. Agencies must submit either a positive or a negative report. The 1353 travel report should cover the period of April 1, 2013 – September 30, 2013. Please submit reports to 1353travel@oge.gov. (31 U.S.C. § 1353)

## December

**31 Reminder:** Today marks the end of the Public Financial Disclosure reporting period, except for the reporting period of Part II of Schedule C and Part I of Schedule D of the OGE 278, which continue up to the date of filing. (5 CFR § 2634.308(a))

**31 Reminder:** Today marks the end of the Confidential Financial Disclosure reporting period. (5 CFR § 2634.908(a))

## Ongoing

### To be sent to OGE:

Forward the following to your desk officer team at OGE as appropriate:

- Written designations by agency heads of new DAEOs and ADAEOs within 30 days of the delegation of authority. (5 CFR § 2638.202(c))
  - 18 U.S.C. § 208(b)(1) and (b)(3) waivers. (5 CFR § 2635.402(d))
  - Requests for exclusion from the public financial disclosure reporting requirement for Schedule C employees. (5 CFR § 2634.203)
  - Requests for a special waiver of the public financial disclosure reporting requirement. (5 CFR § 2634.205)
  - Requests for a waiver of restrictions of 18 U.S.C. § 207(c) and (f). (5 CFR § 2641.301(j))
- Forward notice of conflict of interest referrals (OGE Form 202) to referrals@oge.gov.

Send requests for certificates of divestiture to the Director of OGE. (5 CFR § 2634.1005)

Forward PAS ethics agreement compliance documentation to OGE within the applicable time frame. Please submit documentation materials to [ecompliance@oge.gov](mailto:ecompliance@oge.gov).

(5 CFR § 2634.803; PA-12-03)

Notify OGE, via email at [278tracking@oge.gov](mailto:278tracking@oge.gov), of a PAS official's termination date as soon as possible but no later than the day before the PAS official's termination date.

Forward new entrant 278 reports, termination 278 reports, and 278-T reports submitted by PAS, DAEO, and other persons whose Public Financial Disclosure reports are required to be forwarded to OGE for review and certification. Please submit reports to [278tracking@oge.gov](mailto:278tracking@oge.gov). (5 CFR § 2634.602(c))

Join the OGE Listserv if you are not already a member. [Sign up here](#).

**Within your agency:**

Remind filers that deadlines are dates by which the forms must arrive in the agency ethics official's office, not dates by which forms must be postmarked.

Collect Public Financial Disclosure reports or Confidential Financial Disclosure reports from special government employees. (DO-95-019)

Collect new entrant reports within 30 days when employees enter covered filing positions. (5 CFR § 2634.201(b) & 2634.903(b))

Collect termination 278 reports within 30 days when employees leave covered filing positions. (5 CFR § 2634.201(e))

Collect 278-T reports from employees in covered filing positions. (LA-12-04)

## Appendix B – Office of Government Ethics Job Aid, A Tool for Ethics Officials, Confidential Financial Disclosure

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

This job aid is designed to assist ethics officials in determining whether a career employee should file a Confidential Financial Disclosure Report (OGE Form 450). Some Special Government Employees and Schedule C employees may also be required to file confidential financial disclosure reports. If you have questions about the criteria listed below, contact your agency’s Ethics Office.

I. Pay		
<p>1. <input type="checkbox"/> Is the employee’s position classified at or below the GS-15 level?</p> <p style="text-align: center;"><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>For 2009, this means that the employee’s <b>rate of basic pay is less than \$117,787.20</b>. Basic pay does not include locality payments, bonuses, etc. For reemployed annuitants, the rate of basic pay is the employee’s basic pay before any salary offset is applied.</p>	<p><input type="checkbox"/> Yes</p> <p>Go to question 2.</p>	<p><input type="checkbox"/> No</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> <ul style="list-style-type: none"> <li><input type="checkbox"/> contracting or procurements above \$2,500;</li> <li style="padding-left: 20px;">Example: A GS-7 Office Automation Clerk is issued a purchase card to buy office supplies for her work unit as needed. Such an employee is generally excluded from filing.</li> <li><input type="checkbox"/> administering, awarding, monitoring, or making determinations regarding grants, subsidies, licenses, or other federal benefits;</li> <li><input type="checkbox"/> regulating, auditing, or inspecting non-federal entities*;</li> <li><input type="checkbox"/> performing other activities, when those activities will have a direct and substantial effect on the financial interests of non-federal entities.</li> </ul> <p><i>*Non-federal entities</i> include, for example, businesses, non-profit organizations, and state and local governments.</p>	<p><input type="checkbox"/> Yes</p> <p>Go to question 4.</p>	<p><input type="checkbox"/> No</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> <ul style="list-style-type: none"> <li><input type="checkbox"/> investigating or prosecuting violations of criminal or civil law;</li> <li><input type="checkbox"/> representing the United States in litigation or other proceedings;</li> <li><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.</li> </ul>	<p><input type="checkbox"/> Yes</p> <p>Go to question 4.</p>	<p><input type="checkbox"/> No</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>

<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>OR</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"/> Yes</p> <p></p> <p>The employee does not need to file a confidential financial disclosure report.</p>	<p><input type="checkbox"/> No</p> <p>Go to question 5.</p>
<b>III. Employee's Level of Responsibility</b>		
<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>OR</p> <p><input type="checkbox"/> actively supervise a subordinate's performance of any of the above-listed job functions?</p>	<p><input type="checkbox"/> Yes</p> <p>Go to question 6.</p>	<p><input type="checkbox"/> No</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>Example: A GS-13 employee at an independent grant making agency conducts the initial agency review of grant applications from nonprofit organizations and advises the Deputy Assistant Chairman for Grants and Awards about the merits of each application. Although the process of reviewing the grant applications entails significant judgment, the employee's analysis and recommendations are reviewed by the Deputy Assistant Chairman, and the Assistant Chairman, before the Chairman decides what grants to award.</p>	<p><input type="checkbox"/> Yes</p> <p></p> <p>The employee does not need to file a confidential financial disclosure report.</p>	<p><input type="checkbox"/> No</p> <p></p> <p>The employee should file a confidential financial disclosure report.</p>

## **Appendix C –Office of Ethics and Financial Disclosure Instructions to Initial Reviewers of Financial Disclosure Forms**

L/EFD requested that initial reviewers check reported financial interests for completeness and identify any that might potentially conflict with the filer’s official duties.

- Do/could any of the filer’s official duties affect the listed assets or interests, outside positions and/or agreements/arrangements?
- Did the filer adequately name the reported assets? An asset name of “stock,” mutual fund,” or “Fidelity investments” is not specific enough.
- Did the filer report his/her spouse’s assets and income? If the filer reported that his spouse is employed or is a partner or member of a firm, did the filer also report retirement benefits?
- Did the filer report private or non-government employment? If so, did the filer report any post-employment arrangement or agreement such as severance pay or continuing ownership of a 401(k) plan?
- If the initial reviewer is aware that the filer received reportable gifts during the reporting period, are they reported?
- If the filer has any part-time, nongovernment employment, did (s)he report it?
- Has the filer mentioned leaving government employment? If so, did the filer report a future employment agreement?
- Is there anything reported that you question, think is incomplete, or will keep you from conducting an accurate and thorough initial financial conflict of interest review?



**FRAUD, WASTE, ABUSE,  
OR MISMANAGEMENT  
OF FEDERAL PROGRAMS  
HURTS EVERYONE.**

CONTACT THE  
OFFICE OF INSPECTOR GENERAL  
HOTLINE  
TO REPORT ILLEGAL  
OR WASTEFUL ACTIVITIES:

202-647-3320

800-409-9926

[oighotline@state.gov](mailto:oighotline@state.gov)

[oig.state.gov](http://oig.state.gov)

Office of Inspector General  
U.S. Department of State  
P.O. Box 9778  
Arlington, VA 22219