

CONFIDENTIAL FINANCIAL DISCLOSURE PROGRAM STANDARD OPERATING PROCEDURES

Purpose. This Standard Operating Procedure (SOP) provides guidance for the Management of the Confidential Financial Disclosure Report Program and sets forth procedures for filing, review, certification, and maintenance of OGE 450 Confidential Financial Disclosure Reports (OGE 450).

Applicability/Scope. This SOP applies to ethics counselors and their support staff, supervisors and OGE 450 “confidential filers” working in [*insert command/agency/organization*]. The term “confidential filer” is defined under 5 C.F.R. Part 2634.904.

Overview. Timely filing and review of OGE 450 reports is a significant tool in the prevention of conflicts of interest and forms the foundation of an effective and efficient ethics program. This SOP establishes roles, responsibilities and procedures for OGE 450 program implementation. This SOP is subordinate to and should be read consistent with all applicable statutes, regulations, Office of Government Ethics issuances, and DoD Standards of Conduct Office issuances. Updates will be made as needed.

References/Guidance.

- a. Ethics in Government Act of 1978, 5 U.S.C. App 4 (Pub. L. 95-521)
- b. 5 C.F.R. Part 2634
- c. DoD 5500.7-R, Joint Ethics Regulation (JER)
- d. DEPSECDEF Memorandum Subj: Mandatory Electronic Filing of Confidential Financial Disclosure Reports, dated 7/19/16.
- e. Standards of Conduct Office website
http://www.dod.gov/dodgc/defense_ethics
- f. Office of Government Ethics (OGE) Website:
<http://www.oge.gov>
- g. OGE 450 Reviewer’s Guide
<https://www2.oge.gov/Web/oge.nsf/Confidential%20Financial%20Disclosure>
- h. Financial Disclosure Management (FDM) System Website
 - a. <https://www.fdm.army.mil>

Mandatory Electronic Filing.

Per Reference d., all OGE 450 financial disclosure filers in DoD are required to submit their reports electronically using the Financial Disclosure Management (FDM) system. Since FDM requires use of a filer’s Common Access Card (CAC), component DDAEOs may exempt personnel not issued a CAC or without access to CAC enabled computers.

Roles & Responsibilities. The below outlines the various categories of personnel supporting the ethics program. Note that for purposes of this SOP, the terms DAEO, Certifier, and Ethics Counselor below refer to those individuals appointed to or designated as having that position or

status and the associated authority to take certain actions. This should be distinguished from roles assigned in electronic filing systems, which often use the same terms. Assignment of a role to an individual in a given filing system does not confer authority to take any action in the system beyond that individual's actual authority outside the system (e.g., a paralegal given a 450 Certifier EC role in FDM does not have authority to certify an OGE 450 report).

1. Designated Agency Ethics Official (DAEO) – The individual with ultimate responsibility for the Department/Agency's ethics program. The DAEO may delegate day-to-day management of the ethics program to an Alternate DAEO or Deputy DAEO(s). The _____ is the DAEO for this command/agency.
2. Alternate DAEO (ADAEO): As authorized by the DAEO, the ADAEO may re-delegate all or some authorities for ethics program management to one or more Deputy DAEOs. The _____ is the ADAEO for this command/agency.
3. Deputy DAEO (DDAEO). As authorized by the DAEO/ADAEO, DDAEOs may appoint ethics counselors who are authorized to perform delegable duties related to ethics program management. The _____ is/are designated as DDAEO(s) for this command/agency.
4. Ethics Counselors (EC). Attorneys designated as an ethics counselor by a DAEO/ADAEO/DDAEO. Delegations letters should be in writing and maintained as part of the ethics program system of records. Only ECs may certify financial disclosure reports, authorize the granting of filing extensions, or waive late filing fees.
5. Administrative Staff. Includes paralegals, administrative assistants, interns, etc. While only an ethics counselor can certify reports, ethics offices may designate administrative staff to conduct initial technical reviews and work with filers to obtain clarifications or amendments prior to ethics official review and certification.
6. Personnel Offices. The Directors of personnel offices are responsible for providing the following information to their DoD Component DAEOs or designees: 1) Immediately upon the appointment of covered employees – the employee's name, position, organization and entrance-on-duty date/sworn-in date.
7. Administrative Officers. Each principle organization within a command or agency will designate an Administrative Officer (AO) who is the ethics POC for that organization. The AO is the individual responsible for the administrative management of personnel within a unit or office, including assistance with in- and out-processing, systems access, training, travel, or personnel actions for individuals within that unit or office. The AO notifies ethics counsel of arriving, departing, and moving employees and assists in keeping filer records up to date. The AO also serves as a liaison between the ethics office and their organization for purposes of tracking ethics requirements and disseminating information to the organization's leadership and members, as necessary and appropriate. The AO should be given FDM POC roles in FDM.

Due Dates.

- a. Report Due Dates: Reference - 5. C.F.R. § 2634.903
 1. New Entrant – Due within 30 days from the date of appointment (date of entry) or for existing employees, from the date identified as a filer. New entrants report the required information for the 12 months preceding the filing of their form.
 2. Annual – Due February 15th of each new calendar year. Annual filers report the required information for the preceding calendar year (January 1- December 31).

When the report due date falls on a weekend or holiday, the report is due the next business day.

- b. Note: Employees who enter a covered position after November 1st and file a New Entrant report do not file an annual OGE 450 report in the next calendar year; this is because they have not fulfilled the annual filing requirement of being in the covered position for at least 61 days during the preceding calendar year. They will however, continue filing an annual report the following calendar year. (Example: Filer is appointed November 15, 2017 and files New Entrant Report. Filer will not owe an Annual report until February 15, 2019. No report is due in 2018 because the Filer worked less than 60 days during CY 2017.)
- c. Due date extensions: Extensions to submit can only be authorized by an ethics official, and must be made PRIOR to due date. Extensions may be granted for up to 90 days for good cause (e.g., extended TDY, pressing duty assignments, illness). Deployed members are exempt from filing until 90 days after their return – this is not automatic and must be recorded by ethics officials.
- d. FDM TIP – DUE DATES: When establishing due dates in FDM, it is imperative to use the correct functions so that FDM will generate accurate data for the annual OGE Questionnaire.
 1. Override due date – ONLY use this to enter the correct legal due date (vice the date automatically assigned by FDM). Ex: Filer started June 1 but agency received notification and assigned a report June 15 – FDM will set July 15 as the due date so you must override to make FDM reflect July 1 as the actual due date, and enter the EOD date in the reasons box. Note: To make this change, ensure you are in the proper “Role” within FDM (e.g. 450 Certifier EC role).
 2. Record Extension – ONLY use this when you are recording an extension to the legal due date in FDM. Ex: Using the above example, since the filer would have 1 day to file, you may also need to record an extension to allow the filer sufficient time to file. Enter the number of days for the extension and the reason (in the above situation you would check the “Other” box and say “Late Notice of EOD.”) Again, ensure you are in proper FDM “Role”.

TIP: Recommend recording all extensions such that due dates fall on either the 1st or the 15th of the month. This will enable you to calendar reminders and track since you will know exactly when the next batch of extended reports are due, vice having to track multiple ad hoc due dates.

Using FDM.

- a. Registering Filers: FDM registers filers by pulling from the Global Address Book. Occasionally, FDM will pull an old e-mail address from the Global (e.g. @ AF.mil), vice the employee's current enterprise email addresses (e.g., @ mail.mil). In such instances, just verify which e-mail address is or was associated with the filer you are trying to register and select the filer with that e-mail address to register. Once the filer is registered, they can go in and update to their current e-mail address. If there are multiple options for filers with the same name, you can verify by: a) asking the filer which e-mail address is or used to belong to the filer; or b) have them send you a digitally signed e-mail – this will capture the accurate CAC email address that FDM recognizes. If neither works, you may need to contact the FDM help desk for assistance.
- b. Assigning Reports: Once a New Entrant Report is assigned, be sure to notify the filer. If FDM had the correct enterprise e-mail address, you can use the FDM notification (however the text should be replaced almost entirely with your own tailored language). If FDM had the incorrect e-mail address, send a separate e-mail to the filer directly, with a copy to the AO/FDM POC and the filer's supervisor, to notify the filer of the report assignment and the due date and provide them with instructions on accessing FDM. In the notification, be sure to advise the filer to update their email address under the "My Info" tab.
- c. Technical Issues: Filers/supervisors will need to contact the FDM helpdesk at 443-861-8247.

Filing & Review Procedures

- a. Preparation for Filing Season.
 1. Steps should begin in late August/early September prior to upcoming filing season. Request AOs to review and update filer lists for upcoming filing season and ensure that filers are properly aligned to their correct supervisor. (Remember, this may not be their immediate supervisor – for financial disclosure purposes it just needs to be someone in the filer's chain of command.)
 2. It is imperative filers and supervisors make sure their email addresses are current in FDM; otherwise, notifications sent via FDM as well as the reports flowing properly through the system will not be received. Failure to receive notifications is NOT grounds for extension and does not excuse late filing/review under OGE policy.

b. Report Receipt & Tracking

1. Workflow - FDM provides a computer generated email advising when filers submit and when supervisors have signed.
2. Management Reports – Frequent and proper utilization of these reports is the ONLY way to maintain oversight of your program. Review screens do NOT provide complete and accurate status data.
 - i. Disclosure Report Detail – this is the ONLY complete picture of your reporting program. Shows all filers, reporting status, submission dates, supervisory review status, and certification status.
 - ii. Due Date & Extension Tracking Reports – these will enable you to track New Entrant due dates and due dates for filers with extensions.

c. Review and Final Certification

1. Reports must be certified within 60 days from filer's submission, unless additional information or amendment is required and is actively being pursued. Be sure to “end initial review” and track if this is the case.
2. Annual Reports. Compare the report with the prior report in file. Accept the report at face value unless there are noticeable omissions or there is independent knowledge of items not listed. The “Compare” function in FDM allows reviewers to view discrepancies.
3. New Entrant Reports. More extensive questions are typically asked of New Entrant filers. Because they are new to filing, it is prudent to ask new filers to verify that they understand the requirement and that negative responses are intentional vice an inadvertent omission.
4. Clarifications & Amendments. Reports should first be reviewed for technical compliance to ensure that all of the required information has been provided and the report is properly completed. Where report data is incomplete, ambiguous, or raises a potential conflict of interest:
 - i. Amendments – If the information required to correct is substantive (e.g., failure to report several underlying assets in a retirement account), the filer should be required to amend the report
 - ii. Clarifications – If information required to correct/clarify is minimal (e.g., failure to name the state sponsor of a 529 plan), the reviewer may use the comment function in FDM to make an “of record” clarification based upon written information provided by the filer. The filer’s written clarification should be uploaded as an attachment and the filer must correct in the next report. Clarifications via comments of record may also be used to address apparent conflicts that are not actual conflicts (e.g., filer works in CIO and owns Microsoft stock, but does not actually work on any matters relating to Microsoft and is not likely to do so).

5. Substantive Review & Certification. Once the report is accurate and complete, the ethics official will conduct a substantive conflicts of interest review for final certification of the report in FDM.
 - i. Ethics officials will provide guidance and recommendations to assist filers and supervisors in resolving any actual or apparent conflicts of interest in a filer's performance of official duties revealed during the review of a report.

Compliance.

1. Notifications to filers who are late in filing or from whom clarifications/information/corrections are required will be sent to the filer via e-mail. The ethics office will follow up at the one- and two- week marks, keeping all notifications together as a complete e-mail chain showing the succession of notifications. If the filer does not respond/comply after the second (week 2) notification, the matter will be escalated up the chain of command.
2. Organizations may take appropriate personnel or other action in accordance with applicable law or regulation against any individual for failing to file confidential reports, for filing such reports late, or for falsifying or failing to report required information. This may include adverse action under 5 CFR part 752, if applicable.

Records Management.

- a. Retention Period. Reports are retained for six years from the date of the filer's eSignature in FDM. Files may be retained longer if required for an investigation. At the end of the six-year period, the data will be destroyed.
 1. Reports eFiled in FDM are automatically marked for retention for six years when the DAEO, DDAEO, or designees, eSigns and completes the OGE 450 report.
 2. Retain Reports in FDM: In FDM, DAEOs, 450 certifiers and their ECs select to retain a report due to an investigation or a Qualified Trust Attachment on the Review
 3. In FDM, DAEOs, 450 certifiers, and their ECs can manage and permanently delete OGE 450 reports that are expired.
 4. Important! Once a report is Purged (deleted) from FDM, it cannot be recovered. Review the Expired Reports list first to determine if any report should be retained. An OGE 450 report will display on the Expired Reports page if it does NOT include a Qualified Trust Agreement, and six (6) years have passed since the report was filed.
- b. Confidentiality. The OGE 450 report is a confidential report; not releasable to the public, except pursuant to the order of Federal court or as otherwise provided under the Privacy Act.