

# **SUPPORTING STATEMENT FOR THE OGE FORM 450**

## **EXECUTIVE BRANCH CONFIDENTIAL FINANCIAL DISCLOSURE**

### **A. Justification**

**1. - 2.** The authority for collection of the information on the existing OGE Form 450 as provided in the underlying OGE regulation, primarily at subpart I of 5 C.F.R. part 2634, is two-fold. First, section 201 (d) of Executive Order 12674 of April 12, 1989, as amended, directs OGE to establish a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public disclosure under the Ethics in Government Act of 1978 as amended (the Ethics Act), 5 U.S.C. appendix. Second, section 107 (a) of the Ethics Act authorizes OGE, as the supervising ethics office for the executive branch of the Federal Government, to require executive agency employees file confidential financial disclosure reports, “in such form as the supervising ethics office may prescribe.” The OGE Form 450 together with the underlying OGE regulation initially adopted in 1992 and subsequently modified at 5 C.F.R. part 2634 constitute the format prescribed by OGE for such confidential financial disclosure in the executive branch. See OGE's recent final rule amendments to its branchwide confidential financial disclosure regulation, effective January 1, 2007, as published at Federal Register (FR) 71, 28229-28239 (May 16, 2006); OGE's prior proposed rule amendments to that regulation were published at 70 FR 47138-47147 (August 12, 2005).

The OGE Form 450, a locally reproducible form for executive branch department and agency use, has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (control #3209-0006). In March 2006 OGE requested a one-year extension of approval (renewed clearance) by OMB of the current OGE Form 450 to allow sufficient time for OGE to receive and evaluate comments received from the additional first round paperwork notice, and to allow for the continued filing and submission of confidential financial disclosure reports using the existing form by new entrants for the remainder of 2006. See also the second round paperwork notice OGE published for the current version of the confidential report from at 71 FR 16158-16160 (March 30, 2006). OGE waived the fall 2006 annual filing requirements for incumbent reports otherwise due using the current version of the OGE Form 450. Once the modified version of the form is available for use starting next year, the new calendar year annual reports will be filed in February 2007, covering (the first time) the 15-month period (October 2005-December 2006) in order to avoid any gap in reporting.

The Office of Government Ethics is submitting this revised OGE Form 450 confidential financial disclosure form package for review and 3-year extension of approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. In August 2005, the OGE published in the Federal Register a first round paperwork notice that it intended to modify the OGE Form 450 Executive Branch

Confidential Financial Disclosure Report form, to improve its clarity and design, and to change, in part, the information that it collects. See 70 FR 47204-47206. Because OGE received so many helpful comments in response to that notice, OGE significantly redesigned the proposed new modified OGE Form 450 and published another first round paperwork notice in order to provide a further comment period. See 71 FR 13848-13850 (March 17, 2006). In response to additional comments to this second first round paperwork notice, OGE made additional modifications to the OGE Form 450 and recently published a second round paperwork notice. See 71 FR 54081-54086.

In this paperwork submission package, substantial revisions to the OGE Form 450 are proposed. OGE's goal is to reflect the regulatory amendments to 5 CFR part 2634, update the new aggregation threshold for the reporting of gifts and travel reimbursements, update the Privacy Act summary and the edition statement, and by a redesign of the form to make the OGE Form 450 easier for filers to complete and agency ethics officials to review.

First, the proposed modifications to the OGE Form 450 reflect the changes in the confidential financial disclosure regulation that will become effective on January 1, 2007. Generally, these changes to the information that will have to be reported on the OGE Form 450 include: Eliminating the reporting of diversified mutual funds, eliminating dates of honoraria, eliminating dates of agreements and arrangements (other than those for future employment), and eliminating the reporting of types of income that assets earned (*i.e.*, dividends, capital gains, or interest), and revising reporting requirements relating to liabilities by eliminating the requirement to report student loans, mortgages on rental property, and credit card debt if the loans are granted on terms made available to the general public.

Second, OGE is proposing to incorporate in the modified OGE Form 450 the new aggregation threshold of more than \$305 for the reporting of gifts and travel reimbursements received from one source during the year by regular employee annual filers, with an exception for any items valued at \$122 or less that are not counted toward the overall threshold. These new thresholds are based on the General Services Administration's (GSA's) increase in "minimal value" under the Foreign Gifts and Decorations Act to \$305 or less for 2005-2007, to which the thresholds are linked by the Ethics Act and OGE regulation. See GSA's redefinition at 70 FR 2317-2318 (pt. V) (January 12, 2005), section 102(a)(2)(A) and (B) of the Ethics Act, OGE's regulatory adjustment of the gifts/reimbursements thresholds for both public and confidential reports at 70 FR 12111-12112 (March 11, 2005), and OGE DAEOgram DO-05-007 of March 17, 2005, all available on OGE's Web site at [www.usoge.gov](http://www.usoge.gov).

OGE anticipates that in 2008 there will be a change (increase) by GSA in the definition of "minimal value" under the Foreign Gifts and Decorations Act for the three year period 2008-2010. The reporting thresholds for gifts and reimbursements is now tied to any such change under section 102(a)(2)(A) & (B) of the Ethics Act and 5 C.F.R. §§ 2634.304 & 2634.907(a)(3) (§ 2634.907(g) of the regulation as amended effective January 1, 2007). As a result, the OGE Form 450 gifts and reimbursements overall and

de minimis thresholds will most likely be raised from current levels after OMB approves this request for paperwork renewal. OGE requests permission to adjust those thresholds on the form, which will likely be raised resulting in fewer items to report, without any further paperwork clearance from OMB. Instead, OGE would notify OMB and provide it with a copy of the updated form when the threshold values are adjusted. At that time, OGE would also notify the executive branch departments and agencies and ask them to notify their OGE Form 450 filers of the thresholds adjustment.

Third, OGE is proposing to update the OGE Form 450's Privacy Act Statement summary of the sixth listed routine use (see OGE's notice of revised Privacy Act records systems as published at 68 FR 3097-3109 (January 22, 2003) and routine use "f" at p. 3102 in particular).

Fourth, OGE proposes updating the form's edition statement.

Finally, OGE proposes various changes to the form's graphic layout, such as changing the form's orientation from a landscape (horizontal) position to a portrait (vertical) position because it is much easier to fill in a form electronically when it appears in a portrait orientation. The proposed new OGE Form 450 also replaces the "none" boxes that appear in each part of the current OGE Form 450 with five "yes" or "no" boxes that all appear on the signature page. The proposed form provides enough space for filers to type at least two lines of data in each block. Some instructions on the proposed OGE Form 450 have been revised for clarity, and all are now integrated within the respective response areas.

**3.** Once the revised OGE Form 450 is approved by OMB under the Paperwork Reduction Act, OGE will place a viewable and downloadable Portable Document Format (PDF) version of the form (fillable and savable) on the OGE internet Website at <http://www.usoge.gov>. This modified form is locally reproducible for use as needed by agencies and the public. In addition, OGE will continue to allow agencies to electronically duplicate the OGE Form 450, provided that the electronic versions precisely duplicate the paper original. The basis for these electronic initiatives is to lessen burden and to facilitate dissemination to and use of the new form by agencies and filers.

**4.** Not applicable. The proposed modified OGE Form 450 is the only executive branchwide form used for employee confidential financial disclosure, though individual agencies have obtained OGE approval for the collection of alternative forms, such as certificates of no conflict, or have separate or supplemental disclosures of information based on independent statutory authorities or other unique circumstances. OGE has also developed an alternative, the OGE Optional Form 450-A Confidential Certificate of No New Interests (Executive Branch). This alternative form is available for use in appropriate years by employees whose agencies permit the optional use of that form, for certain years in lieu of the complete OGE Form 450 report. Based upon previous consultation with OMB, the OGE Optional Form 450-A is only a certification

and not subject to paperwork clearance. The OGE Form 450 remains the only branchwide, complete financial disclosure report form for covered filers.

**5.** Not applicable. This collection of information does not involve small businesses or other small entities.

**6.** Not applicable. The collection frequency is required by 5 C.F.R. part 2634, subpart I, which OGE has promulgated under the cited statutory and Executive order authority.

**7.** No special circumstances exist as outlined in the instruction for this item. The OGE Form 450, pursuant to the Ethics Act, Executive Order 12674 as modified by E.O. 12731, and OGE's implementing regulation, is a personal confidential financial disclosure form filled out by individual agency employees and prospective employees. The report form is also subject to the protections of the Freedom of Information Act and the Privacy Act.

**8.** The information requested on the proposed modified OGE Form 450 is required by C.F.R. part 2634, subpart I. See the first and second paragraph to the response to items 1 & 2 above for a description of the prior Federal Register notices requesting comments on proposed modifications to the OGE Form 450, along with related amendments to the confidential disclosure regulation. As noted in the second round paperwork notice published last month, OGE received many helpful comments in response to the two first round notices, including in response to the second one, comments from fourteen executive branch agencies and one Federal Government employee association. A detailed analysis of general and specific comments is provided in that notice. See 71 FR 54081-54086. In summary, the comments focused upon suggested changes to design layout, clarification of instructions and terminology, suggested additional information to be reported, and methods to reduce the burden to filers and cost to government. Form layout and design changes were implemented when feasible and within the limitations for conversion to a Section 508 compliant form. The clarification of terminology and instructions were modified when appropriate. Other comments suggesting additional information to be reported on the form were not implemented because these were inconsistent with the current or amended (as of January 1, 2007) implementing regulations. OGE has also considered the comments received in response to the second round notice, for which the comment period closed last week. OGE decided not to make any further changes to the OGE Form 450 as proposed for modification, though two typographical errors have been corrected. The corrected version of the form is included in this submission package.

OGE's goal in revising the OGE Form 450, in addition to reflecting the regulatory amendments to 5 CFR part 2634 that will become effective on January 1, 2007, is to make the form easier to complete to reduce the filer hour burden, and easier to review by agency ethics officials, thereby reducing the cost to government to process the forms. The amount of information requested on the proposed modified OGE Form 450 has been reduced. The revised design layout visually links instructions to associated response

fields. Other revisions to the form are intended to reduce filer errors, reduce the time spent reviewing data by agency officials, and in certain circumstances, provide agencies the option of retaining only the signature page. The proposed OGE Form 450 is an electronic fillable form that will be provided in Adobe Acrobat PDF format. The file will be savable on the filer's personal computer so that a filer will be able to update the data to produce future reports. The proposed form also provides agencies with the option to accept digital signatures. Many agencies suggested that OGE provide a "smart" form in which the filer answers a series of questions and the responses are processed by a computer program that enters the relevant data and then generates the actual form. As a small agency, OGE's budget constraints do not permit it to take on this larger project. OGE considered requests to permit electronic filing of the proposed modified OGE Form 450. For this filing cycle, however, OGE has decided that electronic filing using an Internet-based system will not be permitted. Further developments on electronic filing may be forthcoming as part of a broader E-Gov initiative. OGE estimates that the proposed modified OGE Form 450 will take a filer an average of one hour to complete. This is a significant reduction from the current form that requires an estimated one and one-half hours to complete.

OGE continually seeks comments from persons outside the agency concerning the impact of its information collection instruments upon filers and agency ethics programs. OGE provides opportunities for comment at ethics conferences and symposia. OGE routinely alerts professionals in the ethics community to recently published OGE Federal Register paperwork notices via the Ethics News and Information listserv and "DAEOgram" memoranda sent to designated agency ethics officers. Visitors to the OGE Internet Web site are provided the opportunity to contact OGE with comments or suggestions. In addition, OGE has remained open to any suggestions for improvement received in the course of public comment on the first and second round paperwork notices published in the Federal Register. Further, the revised form, once finally adopted, will be available on OGE's Web site. Any ongoing comments received by OGE will be considered for the next paperwork renewal cycle in three years.

**9.** Not applicable. Respondents received no payments or gifts.

**10.** Assurance of confidentiality is provided to respondents directly in the instructions to the OGE Form 450. That confidentiality is guaranteed by section 201(d) of the Executive Order 12674 (as modified), section 107(a) of the Ethics in Government Act of 1978, 5 C.F.R. § 2634.604 of OGE's regulation and the OGE/GOVT-2 executive branchwide Privacy Act system of records.

**11.** All of the personal financial information required to be reported on the OGE Form 450 as provided in the part 2634 regulation is deemed necessary by OGE for proper reporting by employees and agency review for conflicts of interest purposes. No information on religious beliefs or other sensitive non-financial personal information is collected.

**12.** Based on OGE's annual agency ethics program questionnaire responses for 2003 through 2005, OGE estimates that an average of approximately 246,131 OGE Form 450 reports will be filed each year for the next three years throughout the executive branch. This estimate is based on the number of reports filed branchwide for 2003 through 2005 (218,130 in 2003, and 280,152 in 2004, and 240,111 in 2005) for a total of 738,393, with that number then divided by three to give the projected annual average of 246,131 reports. Of these reports, OGE estimates that 7.65 percent, or some 18,829 per year, will be filed by private citizens. Private citizen filers are those potential (incoming) regular employees whose positions are designated for confidential disclosure filing as well as potential special Government employees whose agencies require that they file their new entrant reports prior to assuming Government responsibilities. No termination reports are required for the OGE Form 450.

Each filing is estimated to take an average of one hour to complete. This yields an annual reporting burden for private citizen filers of 18,829 burden hours. The estimated annualized hour burden cost to private citizen respondents is \$1,129,740. This estimate is based on the average annual number of private citizen filers multiplied by an average filer wage rate of \$60 per hour (equal to a GS-14/4, fully loaded).

The changes of burden hours and annual burden hours cost from the current form are discussed in the second round Federal Register paperwork notice and in the Short Statement section of the ICR Summary of Burden.

**13.** For the OGE Form 450, OGE estimates annual burden hours and annual burden hours cost, not annual cost burden to the respondents.

**14.** The estimated total annual cost of the OGE Form 450 to the Federal Government is \$51,000,000. This figure is comprised of 1) \$36,800,000, a percentage of the total estimated annual cost of salaries (fully loaded) for all full time and part time ethics officials employed by executive branch departments and agencies to distribute, track, review for accuracy and completeness, resolve conflict issues, and certify the OGE Form 450 (6,124 full and part-time ethics employees in the salary range of SES to GS-7); 2) \$13,600,000 cost to the Government for the time spent by an estimated 227,302 Federal employee filers (\$60 per hour average wage of a GS-14/4, fully loaded, multiplied by the estimated one hour required to complete the form); 3) and \$750,000 estimated annual costs to OGE to develop, monitor, provide advisory and training support to department and agency ethics programs administering the OGE Form 450 confidential financial reports program.

**15.** The previous estimated total annual cost of the OGE Form 450 to the Federal Government (Item 14) was \$10,000,000. The basis for this figure, determined nearly 20 years ago, was adjusted annually to cover inflation and the proportional change in number of filers. Recent refinements in the collection of data in the OGE Annual Agency Ethics Program Questionnaire provide a more accurate basis to compute the branchwide cost to Government estimate included in this submission.

**16.** Not applicable. This is a confidential financial disclosure reporting form.

**17.** OGE requests permission not to display the expiration date on the OGE Form 450 so that it may continue to be used beyond the three-year paperwork approval period requested, subject to appropriate further OMB approval, if the form is not sooner modified.

**18.** Not applicable. There are no exceptions to the item 19 certification on the OMB Form 83-I for this submission.

**B. Collections of Information Employing Statistical Methods**

Not applicable. This collection of information does not employ statistical methods.