

SUPPORTING STATEMENT FOR THE SF 278

EXECUTIVE BRANCH PERSONNEL PUBLIC FINANCIAL DISCLOSURE REPORT

A. Justification

1. - 2. Section 101 of the Ethics in Government Act of 1978 as amended (the Ethics Act), 5 U.S.C. appendix, and 5 C.F.R. part 2634, subpart B, require publicly available financial disclosure reports to be filed by certain officers and high-level employees in the executive branch. As the supervising ethics office for the executive branch, OGE is the sponsoring agency for the Standard Form 278 Executive Branch Personnel Public Financial Disclosure Report. Covered high-level executive department and agency officials fill out the SF 278 form, listing their outside income, assets, transactions, gifts/reimbursements, liabilities, non-Government employment agreements/arrangements, outside positions and certain compensation in excess of \$5,000 as specified in section 102 of the Ethics Act and subpart C of 5 C.F.R. part 2634.

The SF 278 reports are generally filed with the department or agency where the covered high-level official serves, will serve or used to serve. The reports are required upon entrance on duty, annually, and upon terminating Federal service. The executive branch filers are high-level position new entrants, Presidential nominees subject to Senate confirmation, candidates for President or Vice President, incumbents and those terminating such Government positions.

The Office of Government Ethics is requesting a 3-year renewal of approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act for the SF 278 report form. The first and second round paperwork notices published in the Federal Register noted that OGE intends to submit the SF 278 form with no changes. See 71 FR 64708-64710 (November 3, 2006); 72 FR 4012-4013 (January 29, 2007). Filers using the existing March 2000 edition of the SF 278 will continue to receive notification of two updates. One concerns the adjustment of the gifts/travel reimbursements reporting thresholds and the other, revisions to the Privacy Act Statement. Agencies will provide notification to filers through cover memorandum or other methods. Information concerning these updates is also posted along with the SF 278 in the forms section of the OGE Web site.

Every three years OGE issues final rule amendments that revise the executive branch financial disclosure regulation to increase the aggregation and exception thresholds for reporting of gifts, reimbursements and travel expenses for the public and confidential report systems. See 5 U.S.C. app. section 102(a)(2)(A) & (B). OGE's threshold adjustments are tied to the "minimal value" threshold of the Foreign Gifts and Decorations Act, as determined by GSA under 5 U.S.C. 7342. Since 2002, OGE has asked agencies to notify filers of the SF 278 of the updated adjustments to the reporting thresholds for gifts and reimbursements. Effective January 1, 2005, GSA raised the

"minimal value" threshold under 5 U.S.C. 7342 to \$305 or less for the three-year period 2005-2007. See 70 FR 2317-2318 (part V) (January 12, 2005). Following GSA's action, OGE advised agencies of the adjusted thresholds and revised its financial disclosure regulation to reflect the increase in the thresholds for SF 278 reporting of gifts and travel reimbursements received from any one source to "more than \$305" for the aggregation level for reporting and to "\$122 or less" for the de minimis aggregation exception threshold. See March 17, 2005 OGE memorandum to designated agency ethics officials (DO-05-007) and 70 FR 12111-12112 (March 11, 2005). Both GSA and OGE rulemakings and OGE's memorandum are posted on the OGE Web site. OGE anticipates that in 2008 there will be another change (increase) by GSA in the definition of "minimal value" under the Foreign Gifts and Decorations Act for the three year period 2008-2010. As a result, the SF 278 gifts and reimbursements overall and de minimis thresholds will most likely be raised from current levels about a year 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 branchwide financial disclosure regulation 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 SF 278 filers of the further thresholds adjustment.

In addition, OGE has updated the OGE/GOVT-1 Privacy Act system of records notice (covering SF 278 Public Financial Disclosure Reports and other name-retrieved ethics program records). See 68 FR 3097-3109 (January 22, 2003), as corrected at 68 FR 24744 (May 8, 2003). As a result, the Privacy Act Statement, which includes summaries of the routine uses on page 11 of the instructions on the SF 278, is affected. As explained in OGE memorandum DO-03-015 and the SF 278 notice posted on the OGE Web site, the system notice update added three new routine uses applicable to SF 278 reports. OGE will also ask agencies to inform filers of an update to the sixth listed routine use on the form in their periodic notifications to filers of changes to the SF 278. See revised routine use "h" at 68 FR 3100 for the OGE/GOVT-1 records system notice.

This request for a three-year renewal of approval does not propose a modification of the SF 278 to incorporate these updates to the gifts, reimbursements and travel thresholds, and the Privacy Act routine uses summaries, because OGE anticipates a more thorough revision of the form in the next couple of years. Since no modification to the standard form is proposed at this time, OGE will not request GSA standard forms clearance for this renewal.

3. OGE will continue to make the unmodified SF 278 (03/2000 edition) available to Federal employees and private citizen filers through the Forms, Publications and Other Ethics Documents section of OGE's Web site at www.usoge.gov. This site provides two different fillable options for preparing the SF 278 report on a computer (in addition to a downloadable blank form). In addition, two fillable versions are available in the Forms Library on the GSA Web site, www.gsa.gov.

4. Not applicable. The SF 278 is the only executive branchwide form used for high-level employee public financial disclosure under title I of the Ethics in Government Act and OGE's implementing regulations.

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 title I of the Ethics in Government Act and 5 C.F.R. part 2634, subpart B of the OGE executive branchwide regulations thereunder. (See also items 1-2 above.)

7. No special circumstances exist as outlined in the instruction for this item.

8. The information requested on the SF 278 report form is required by the above-noted provisions of the law and OGE's implementing regulations at 5 C.F.R. part 2634. OGE provided a first round Federal Register paperwork notice concerning its intention to submit a request for a three-year extension of approval for the SF 278. See 71 FR 64708-64710 (November 3, 2006). The one comment received was not specific to the SF 278, and one individual requested a copy of the form. A second round Federal Register paperwork notice has also been published. See 72 FR 4012-4013 (January 29, 2007) with any comments to be sent to OMB by February 28, 2007.

OGE continually seeks comments from individuals and agencies 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 remains open to any suggestions for improvement received in the course of public comment on the second round Federal Register paperwork notice. Comments received by OGE subsequent to this request for approval will be considered for the next paperwork renewal cycle.

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

10. There is no assurance of confidentiality to the filers of a SF 278 report. The SF 278 is a public financial disclosure form, available to the public for a six-year period upon the submission of a proper Ethics Act access request (utilizing the OGE Form 201 "Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records") in compliance with the provisions of section 105 of the Ethics Act and OGE's implementing regulations at 5 C.F.R. § 2634.603.

11. All of the information required on the SF 278 report form and in the underlying regulation is specified by current law for financial disclosure reporting by

filing individuals and conflict of interest review by executive branch departments and agencies.

12. Based on OGE's annual agency ethics program questionnaire responses for 2003 through 2005, OGE estimates that an average of approximately 23,971 SF 278 report forms are filed annually at departments and agencies throughout the executive branch. (Questionnaire responses for 2006 are not yet available.) This estimate is based on the number of reports filed branchwide for 2003 through 2005 (22,852 in 2003, and 23,881 in 2004, and 25,181 in 2005) for a total of 71,914, with that number then divided by three to give the projected annual average of 23,971 reports. Most of those executive filers are current Federal employees at the time that they file. However, OGE estimates that 2,475, or just over 10.3 percent, of the branchwide total of SF 278 filers over each of the next three years (2007-2009) will be members of the public. This annual estimate includes (a) private citizen Presidential nominees to executive branch positions subject to Senate confirmation (and their private representatives – lawyers, accountants, brokers and bankers); (b) other private citizen prospective new entrants to reportable positions; (c) those who file termination reports (or combination annual and termination reports) from such positions after their Government service ends; and (d) Presidential and Vice Presidential candidates. The OGE estimate includes an anticipated total of some 3,900 private citizen SF 278 reports (which yields an average of 1,300 per year) that will be filed in connection with the fall 2008 Presidential election and following transition.

The estimated average amount of time to complete the report form, including review of the instructions and gathering of needed information, remains the same as previously reported, at three hours. Thus, the overall estimated annual public burden for the SF 278 for the private citizen/representative nominee and terminee report forms processed in executive branch agencies, and those report forms processed by the OGE, including private citizen Presidential and Vice Presidential candidates report forms, is 7,425 hours. The estimated annualized hour burden cost to private citizen respondents is \$623,700. This estimate is based on the average annual number of private citizen filers multiplied by an average filer wage rate of \$84 per hour (equal to a mid-level Senior Executive Service (SES) salary, fully loaded).

The prior paperwork burden estimate for the 2003-2005 period was 1,347 hours. This estimate was based upon an annual average of 449 SF 278 forms, those received only at OGE from private citizen/representative nominee and terminee filers, and Presidential and Vice Presidential candidates. The burden hour estimate for 2007-2009 of 2,475 is adjusted to cover private citizen filers throughout the executive branch.

13. For the SF 278 Executive Branch Personnel Public Financial Disclosure Report form, 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 SF 278 to the Federal Government is \$16,812,000. This figure is comprised of: a) \$9,195,000, 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 SF 278 report forms (6,124 full- and part-time ethics employees in the salary range of SES to GS-7); b) \$5,417,000 rounded estimated annual cost to the Government for the time spent by an estimated 21,496 Federal employee filers (\$84 per hour average wage of a mid-level SES salary, fully loaded, multiplied by the estimated three hours required to complete the form); and c) \$2,200,000 estimated annual costs to OGE to process those SF 278 report forms reviewed by OGE, and to develop, monitor, and provide advisory and training support to executive branch department and agency ethics programs administering the SF 278 financial reports program.

15. Cost Burden to Respondents (Item 13)

OGE's previous paperwork submission (2003) for the SF 278 report form included, in consultation with OMB, an estimated annual burden cost of \$1,000. However, this amount was erroneously recorded in the current OMB inventory as \$2,000. OGE submitted an 83-C to correct this error (3/22/05) but the uncorrected amount remains in the current inventory. At present, OGE does not have a reliable basis upon which to estimate annual cost burden. Therefore, the estimated annual cost burden in this submission is "0."

Costs to Federal Government (Item 14)

Previously, OGE did not have a data model on which to develop an estimated total annualized costs of the SF 278 to the Federal Government. In consultation with OMB, the amount previously reported was \$1,000. Recent refinements in the collection of data in the OGE Annual Agency Ethics Program Questionnaire provide a more accurate basis to compute the branchwide Government cost estimate included in this submission.

16. Not applicable.

17. OGE requests continued permission not to display the expiration date on the SF 278 report form 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.