

Administrative Conference of the United States
Substitute Confidential Employment and Financial Disclosure
Supporting Statement for ICR

1. The Administrative Conference of the United States (ACUS) is charged with developing recommendations for the improvement of Federal administrative procedures (5 USC 591). Its recommendations are the product of a research process overseen by a small staff, but ultimately adopted by a membership of 101 experts, including approximately 45 non-government members -- 5 Council members and up to 40 others (5 USC 593(b) and 5 USC 595(b)). These individuals are deemed to be "special government employees" within the meaning of 18 USC 202(a) and, therefore, are subject to confidential financial disclosure requirements of the Ethics in Government Act (5 USC App. 107) and regulations of the Office of Government Ethics (OGE). The ACUS "Substitute Confidential Employment and Financial Disclosure" form submitted ("Substitute Disclosure Form") is a substitute for OGE Standard Form 450, which ACUS members would otherwise be required to file.

At the time the agency's funding was terminated in 1995, ACUS was authorized to use for this purpose a simplified form that was a substitute for OGE Standard Form 450. The simplified substitute form was approved by OGE following a determination by the ACUS Chairman, pursuant to 5 CFR 2634.905(a), that greater disclosure is not required because the limited nature of the agency's authority makes very remote the possibility that a real or apparent conflict of interest will occur. In 1994, ACUS received PRA approval for this simplified substitute form.

ACUS was re-established in 2010, and OGE has renewed its approval for this simplified substitute form, which ACUS must provide to its non-government members in advance of membership meetings. In September 2010, ACUS received emergency approval for a 6-month period so that there would be no delay in commencing the committee and Conference activities of the non-government members necessary to the implementation of its statutory responsibilities to identify and recommend improvements of Federal administrative procedures. ACUS now seeks approval for use of the substitute form for a period of 3 years.

As required by the Ethics in Government Act, 5 USC App. 107(a); Executive Order 12674, sec. 201(d); and OGE regulations, 5 CFR 2634.901(d), copies of the substitute form submitted to ACUS by its members will be held in strict confidence.

NOTE: This Information Collection Request is being submitted by ACUS without waiving the agency's position that the Paperwork Reduction Act (PRA) does not require OIRA review and approval of this form, which is applicable solely to special government employees. The PRA does not apply to information collection requirements directed to Federal employees (44 USC 3502(3)). The only reason this form is required is that ACUS non-government members have been deemed by OGE (and OLC) to be Federal "employees."

2. The Substitute Disclosure Form will be used by the non-government members of the Administrative Conference. The information collected will be used to identify any potential conflicts of interest and to ensure that any participation in ACUS activities by such a member with a potential conflict of interest does not violate either the statutory requirements cited above or the Bylaws of the Administrative Conference. The number of non-government members at any particular time is approximately 45, although the identity of the individual members changes from time to time due to expiration of members' 2-year terms, resignation, change in employment status requiring termination of membership, or for other reasons.

In addition to the non-government members, the Chairman, with the approval of the Council, may appoint additional persons in various categories, for participation in Conference activities, but without voting privileges. These categories include senior fellows, special counsels, and liaison representatives. The estimated number of non-government individuals in these categories who are required to submit this form at any particular time is approximately 30.

Submitted forms will be reviewed, as necessary, by the Chairman or the agency's Designated Ethics Official, and will be kept in a confidential file with limited access.

3. The Substitute Disclosure Form will be available to ACUS members online or by e-mail. Members will be offered the ability to submit the form electronically. The content and information requested in the online form are identical to the content and information requested in the paper form. The format is modified minimally to achieve better usability of the form on the website. Authenticity of online submissions will be confirmed by e-mail follow-up. Completed forms may be submitted to the agency electronically or on paper prior to each committee or plenary session meeting of ACUS members.

4. The information needed to ensure compliance by non-government members with the applicable ethics requirements is not available to ACUS from any other source. The only legal alternative to use of such a form would be to require submission of OGE Standard Form 450, which would impose a greater burden on respondents. The Substitute Disclosure Form has been designed to reduce that burden to the minimum needed for compliance.

5. Administrative Conference members, regardless of their membership category, participate in Conference activities and deliberations as individuals, and not necessarily as representatives of any group or organization (ACUS Bylaws, sec. 302.2(a)). Any relationship between the non-government members of ACUS and small businesses or other small entities is incidental, and there is thus minimal impact, if any, on small entities.

6. If the Substitute Disclosure Form were unavailable for use by ACUS members, then the consequence would be the required use of the OGE Standard Form 450, resulting in a greater recordkeeping and time burden upon them.

7. ACUS non-government members are required to disclose the information requested on the Substitute Disclosure Form (or alternatively, the OGE Standard Form 450) prior to committee meetings and Conference plenary sessions. The average number of such meetings per year is estimated to be 2 plenary sessions and a maximum of 4 committee meetings for each member, so required new filings are likely to average no more than 6 times per year for each member. However, given the types of information requested on the form, the time and effort required after the initial filing will be minimal for most members.

8. On September 30, 2010, ACUS published in the Federal Register the 60-day notice required by 5 CFR 1320.8(d), which invited the public to comment on the proposed information collection (75 FR 60404). No comments were received. On January 21, 2011, ACUS published in the Federal Register the 30-day notice required by 5 CFR 1320.10(a), requesting that comments be submitted to OMB (76 FR 3876). The Substitute Disclosure Form has been used by the affected members of ACUS during the period authorized by the emergency approval. No problems have arisen and no issues have been reported in connection with usage.

9. There will be no payments or gifts to respondents other than reimbursement of travel and related expenses for non-government ACUS members who are attending meetings from outside the Washington, DC metropolitan area.

10. As required by the Ethics in Government Act, 5 USC App. 107(a); Executive Order 12674, sec. 201(d); and OGE regulations, 5 CFR 2634.901(d), copies of the substitute form submitted to ACUS by its members will be held in strict confidence.

11. The Substitute Disclosure Form requests no information of a sensitive nature, such as sexual behavior, religious beliefs, etc. The form requests only information that would be included in OGE Standard Form 450, but is less inclusive than that form.

12. Burden Estimate:

Number of Respondents	75
Frequency of Responses Per Year	6
Annual Number of Responses	450
Estimated Time Per Response	15 Minutes

Total Annual Hour Burden	113 Hours
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13. Respondents will not need any special record keeping. The total annual cost burden to respondents is zero.

14. The cost to the Federal government for collection and retention of the required information is zero. Forms will be submitted to the Chairman or the agency's Designated Ethics official and will be retained in a confidential file, with limited access. Because the information requested is very minimal, except under very unlikely circumstances, review will take no more than a few minutes in those very remote situations, and the cost of storage of records will be virtually zero.

15. The figures shown on the burden worksheet under the heading "Program Change Due to Agency Discretion" result from zeroing out the previously approved information collection in 1996, after termination of ACUS activities.

16. The information collected will be confidential and will not be published.

17. The form will contain any applicable expiration date.

18. Certification requirements under 5 CFR 1320.8(b)(3) and 5 CFR 1320.9 are met except:
5 CFR 1320.9(f) There is no recordkeeping requirement for respondents.
5 CFR 1320.9(i) Use of "effective and efficient statistical survey methodology" is not applicable.