

U. S. OFFICE OF GOVERNMENT ETHICS

SUPPORTING STATEMENT FOR THE OGE FORM 450

EXECUTIVE BRANCH CONFIDENTIAL FINANCIAL DISCLOSURE REPORT

A. Justification

1. - 2. The authority for collection of the information on the existing OGE Form 450 as provided in the underlying Office of Government Ethics (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 (EIGA), 5 U.S.C. appendix 101. Second, section 107(a) of EIGA authorizes OGE, as the supervising ethics office for the executive branch of the Federal Government, to require that 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, constitutes 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).

OGE is submitting an unmodified OGE Form 450 confidential financial disclosure form package for review and approval of a three-year extension by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (control number 3209-0006). The OGE Form 450, a locally reproducible form, is the only executive branchwide form used in departments and agencies for employee confidential disclosure.

OGE anticipates that in 2014 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 2014-16. The reporting thresholds for gifts and reimbursements is now tied to any such change under section 102(a)(2)(A) & (B) of EIGA 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 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.

3. The OGE Form 450 is available on the OGE Website at <http://www.usoge.gov>. The form is a viewable and downloadable PDF version of the form that is both fillable and printable, providing a locally reproducible form 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 form by agencies and filers.

4. Not applicable. The 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 alternate form is available for use by employees whose agencies permit the optional use of that form, for certain years, in lieu of the complete OGE Form 450. Based upon previous consultation with OMB, the OGE Optional Form 450-A is only a certification and is not subject to paperwork clearance. The OGE Form 450 remains the only executive 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 EIGA, Executive Order 12674 as modified by Executive Order 12731, and OGE's implementing regulations, is a personal confidential financial disclosure form filled out by individual agency employees and prospective employees. The form is also subject to the protections of the Freedom of Information Act and the Privacy Act.

8. The information requested on the OGE Form 450 is required by the above-noted provisions of law and OGE's implementing regulations at 5 C.F.R. part 2634, subpart I. OGE published a first round *Federal Register* notice of its intent to request paperwork clearance for an unmodified form on May 21, 2013. See 78 FR 29753. OGE received two responses to that notice: one from a private citizen and one from an executive branch ethics official. The private citizen suggested several changes to the form including requiring filers to indicate whether or not a reported asset

in Part I was over \$15,000 and changing OGE's underlying regulation to require filers to report the value of any assets. OGE does not believe that making either change is necessary or desirable because reporting specific asset values will not provide the ethics official with sufficient information for making the required conflicts analysis. This commenter also suggested that OGE create a customized version of the OGE Form 450 for special Government employee (SGE) filers. OGE does not see the need for an additional form for use throughout the executive branch because agencies already have available an alternative procedure process at 5 C.F.R. § 2634.905(a) to collect the information necessary to perform the conflicts analysis tailored for their SGE filers. The comment from an executive branch agency ethics official suggested modifying the instructions for Part III of the OGE Form 450 by adding more examples. OGE has decided not to make this change to the form because this type of information is best conveyed to filers in reference materials that can easily be updated. OGE will consider creating reference materials containing additional descriptions of reportable positions to those provided in the broad language of 5 C.F.R. § 2634.907(e)(1).

OGE published a second round *Federal Register* notice September 4, 2013. See 78 FR 54466-54467. OGE received one comment from an executive branch agency ethics official as a result of this notice. This official's agency requested that OGE modify its language in the filer certification section of the form. The commenter requested that the existing language certifying that the filer has made true, complete, and correct statements on the form to the best of the filer's knowledge be replaced with language certifying that he/she has no potential conflicts or that conflicts of interest have been identified. OGE believes that the existing certification on the OGE Form 450 is sufficient. The obligation of filers under the confidential financial disclosure regulations, 5 C.F.R. §§ 2634.901-909, is to report their financial interests and outside business activities to their agencies. A truthful reporting is necessary for the agency ethics officials to advise filers on possible conflicts of interest, and the current language requires filers to make that certification. The regulation does not require filers to certify that they have no conflicts of interest between their job duties and their investments and outside business activities. An annual certification such as the agency ethics official proposes is ineffective. The analysis of whether a filer has conflicts of interest continues throughout the period of a filer's executive branch employment and cannot be limited to the date on which the filer signs a financial disclosure report.

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, the OMB Max site and various social media applications, and Advisory Memoranda sent to designated agency ethics officers. Visitors to the OGE Website 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*. Any ongoing comments received by OGE as a result of these various

means of availability will be considered by OGE for the next paperwork renewal cycle in three years.

9. Not applicable. Respondents receive 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 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 5 C.F.R. part 2634 is deemed necessary by OGE for proper reporting by employees and for 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 2010 through 2012, OGE estimates that an average of approximately 259,432 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 in the executive branch for 2010 through 2012 (247,406 in 2010, and 246,579 in 2011, and 284,312 in 2012) for a total of 778,297 reports with that number, then divided by three to give the projected annual average of 259,432 reports. Of these reports, OGE estimates that 7.65 percent, or some 19,847 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 form is estimated to take an average of one hour to complete. This yields an annual reporting burden for private citizen filers of 19,847 burden hours. The estimated annualized hour burden cost to private citizen respondents is \$1,369,443. This estimate is based on the average annual number of private citizen filers multiplied by an average filer wage rate of \$69 per hour (equal to a GS-14/4, fully loaded).

The annualized burden hours and burden hours cost during the most recent period 2010 through 2012, are slightly less than the amount reported previously for the 2006 through 2008 period because fewer OGE Form 450 reports were received by executive branch agencies during the most recent reporting period. The reduction in total annualized filers for this reporting period is noted in the 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.-15. OGE reported in the previous reporting period, 2006 through 2008, that the estimated total annual cost of the OGE Form 450 to the Federal Government is \$70,400,000. This figure is comprised of: 1) \$52,700,000, a percentage of the total estimated annual cost of salaries (with benefits) 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) \$16,800,000 in cost to the Government for the time spent by an estimated 243,544 Federal employee filers completing the form (\$69 per hour average wage of a GS-14/4, with benefits, multiplied by the estimated one hour required to complete the form); and 3) \$900,000 in estimated annual costs to OGE to develop, monitor, and provide advisory and training support to department and agency ethics programs administering the OGE Form 450 confidential financial reports program. OGE believes that the estimated total annual cost of the OGE Form 450 to the Federal Government reported in the previous three-year renewal submission of 2010, totaling \$70,400,000, will continue to accurately reflect costs for the 2013 through 2016 period. The largest contributing factor in the cost computations is the wages of ethics officials to implement the OGE Form 450. Federal wages have been frozen at the 2010 level since 2011, overall inflation rates have remained historically low, and due to reduced staffing levels in executive branch departments and agencies, there are fewer Federal employees and private citizen new job entrants required to complete this form.

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

17. OGE requests permission to not 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. Certification items (c), (f) and (i) are not applicable to this information collection.

B. Collections of Information Employing Statistical Methods

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