

U. S. OFFICE OF GOVERNMENT ETHICS
SUPPORTING STATEMENT FOR THE OGE FORM 278E
EXECUTIVE BRANCH PERSONNEL PUBLIC FINANCIAL DISCLOSURE REPORT
OCTOBER 2018

A. Justification

1.-2. Explain the circumstances that make the collection of information necessary. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The primary use of the information on the OGE Form 278e is for review by Government officials to determine compliance with applicable Federal conflict of interest laws and regulations by individuals who are required to file public financial disclosure forms to report their financial interests. The authority for collection of the information on the OGE Form 278e is Title I of the Ethics in Government Act of 1978, as amended, 5 U.S.C. app. § 101 et seq., as amended by the Stop Trading on Congressional Knowledge Act of 2012 (Pub. L. 112-105) (STOCK Act), and OGE's implementing financial disclosure regulations at 5 CFR part 2634, subpart B, which 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 OGE Form 278e Executive Branch Personnel Public Financial Disclosure Report. The 278e form constitutes the format prescribed by OGE for public financial disclosure in the executive branch.

OGE is submitting a modified OGE Form 278e public financial disclosure form package for review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (control number 3209-0001). OGE proposes to make several modifications to the OGE Form 278e.

On October 5, 2016, OGE published a proposed rule for amending 5 CFR part 2634. *See* 81 FR 69204 (October 5, 2016). The final rule was published on July 18, 2018, and is effective on January 1, 2019. *See* 83 FR 33980 (July 18, 2018). The proposed modifications to the OGE Form 278e revise the instructions to reflect the changes to the financial disclosure regulation. Specifically, OGE proposes to: revise the reporting period for termination reports to include the entire preceding calendar year if a required annual report has not been filed; revise the income disclosure requirement to include only received income; revise the "widely diversified" criterion for purposes of determining whether a fund qualifies as an "excepted investment fund;" add a new feature (checkbox) for purposes of managing early termination report filing on the Integrity version of the Form 278e; clarify the Definition section of Part 2; clarify when a source of compensation need not be disclosed and the method for disclosing the existence of such sources; and eliminate the disclosure of transactions that occurred before the reporting individual became subject to the public financial disclosure requirements.

OGE is also proposing to make certain minor formatting changes and corrections to the instructions and one of the data entry fields.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

In 2014, OGE sought and received approval to incorporate the OGE Form 278e into its new *Integrity* e-filing application. When used, the application automatically renders information submitted by the filer in the format of an OGE Form 278e. *Integrity* is available to authorized public filers at <http://www.integrity.gov> and has been in use since January 1, 2015. OGE now requires all public filers to use a version of the OGE Form 278e, either via an electronic filing system or a paper version, rather than the old OGE Form 278. The paper version of the OGE Form 278e is available through the Forms Library section of OGE's Web site at www.oge.gov.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

Not applicable. The OGE Form 278e (either paper or electronic rendering) is the only executive branchwide form used for employee public financial disclosure reports.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

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

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

Not applicable. The collection, including its frequency, is required by title I of the Ethics in Government Act, as amended, and OGE's implementing regulations.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**

- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or that unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No such special circumstances exist.

8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB.

OGE published a first round notice of its intent to request paperwork clearance for a modified OGE Form 278e Executive Branch Personnel Public Financial Disclosure Report on July 11, 2018. *See* 83 FR 32122. OGE published a second round notice on October 1, 2018. *See* 83 FR 49385.

OGE received three comments in response to the first round notice. The first response was unrelated to the notice and did not address the information collection. The second and third responses suggested changes that could not be made without revisions to the Ethics in Government Act. The third response also disputed OGE's estimated average reporting burden, claiming that the government's estimate of the reporting burden vastly understates the actual burden for candidates with extensive or complicated financial holdings. OGE updated the estimated average time required to complete the form from three hours to ten hours because OGE's subject matter experts have noted in recent years an increase in the complexity of financial information provided by many filers. Therefore, OGE has already revised its estimate to more accurately reflect the actual time burden required to provide the information required. This estimate is an average based on the estimated burden on *all* types of filers -- those with complicated financial holdings and those with simpler financial holdings. While OGE recognizes that the burden for a filer with extensive or complicated financial holdings may be significantly more than ten hours, the estimated burden for the majority of filers is fewer than five hours. Accordingly, OGE declines to revise its estimated burden at this time. *See* 83 FR 49385.

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 symposia and other events. OGE routinely alerts professionals in the ethics community to recently published OGE *Federal Register* notices via its listserv, various social media applications, and Advisory Memoranda. 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. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Not applicable. Respondents receive no payments or gifts.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality to the filers of this financial disclosure report form. The proposed OGE FORM 278e is a public financial disclosure form, available to the public for a six-year period upon the submission of a proper Ethics in Government Act access request form (OGE Form 201) in compliance with the provisions of section 105 of the act and OGE's implementing regulations at 5 CFR § 2634.603.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

All of the information required on this 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. Provide estimates of the hour burden of the collection of information.

OGE estimates that an average of approximately 4,821 OGE Form 278e reports will be filed each year by private citizen filers. This number was calculated based on OGE records regarding nominees for Presidential appointments requiring Senate confirmation and annual agency ethics program questionnaire responses. (Private citizen filers are potential incoming employees or appointees whose positions are designated for public financial disclosure reporting, those who file termination reports from such positions after their Government service ends, and non-incumbent Presidential and Vice-Presidential candidates.)

OGE has updated the estimated average time required to complete the form from three hours to ten hours. The increase is not a result of any proposed changes to the form. Rather, OGE's subject matter experts have noted in recent years an increase in the complexity of financial information provided by many filers. Therefore, OGE has revised its estimate to more accurately reflect the actual time burden required to provide the information required. We note that the time to complete an OGE Form 278e varies greatly depending on the personal finances of the filer. The ten hour figure is an average based on the estimated burden on *all* types of filers—those with complicated financial holdings and those with simpler financial holdings. While OGE recognizes that the burden for a filer with extensive or complicated financial holdings may be significantly more than ten hours, the estimated burden for the majority of filers is fewer than five hours.

Based on the above, the annual reporting burden for private citizen filers is estimated to be 48,210 burden hours. The estimated annualized hour burden cost to private citizen filers is \$3,760,380. This estimate is based on the average annual number of private citizen filers multiplied by an average filer wage rate of \$78.00 per hour (equivalent to a GS-15/10).

13. Provide an estimate for the total annual cost burden to respondents or record-keepers resulting from the collection of information.

For the OGE Form 278e, OGE estimates annual burden hours and annual burden hours cost, not annual cost burden to the respondents.

14.-15. Provide estimates of annualized costs to the Federal Government. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

OGE previously reported that the estimated total annual cost of the OGE Form 278e to the Federal Government was \$28,708,049. This figure represents the cost to administer the entire public financial disclosure program. Subsequently, OGE realized that the calculation of the cost to the Federal Government should be based on the cost to administer the program to private citizen filers only, not the entire public financial disclosure program. Private citizen filers constitute approximately 17% of all public financial disclosure filers. Therefore, OGE has recalculated the cost to the Federal Government, considering only the cost to administer the public financial disclosure program to private citizen filers. The new estimated total annual cost is approximately \$5,815,000.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Not applicable. The procedures for disclosing this information are mandated by the Ethics in Government Act, as amended.

17. If you are seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

OGE requests a partial exemption from the requirement to display the expiration date with respect to the *Integrity* version of the OGE Form 278e. Because OGE must pay its contractors for every modification of the application, this partial exemption will lower OGE's costs to maintain the system.

18. Explain each exception to the topics of the certification statement identified in Certification for Paperwork Reduction Act Submissions.

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.