

U. S. OFFICE OF GOVERNMENT ETHICS
SUPPORTING STATEMENT FOR THE OGE FORM 201
REQUEST TO INSPECT OR RECEIVE COPIES OF EXECUTIVE BRANCH PERSONNEL
PUBLIC FINANCIAL DISCLOSURE REPORTS OR OTHER COVERED RECORDS
FEBRUARY 2020

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 this form is to collect information from, and provide certain information to, persons who seek access to OGE Form 278 and 278e Public Financial Disclosure Reports, OGE Form 278-T Periodic Transaction Reports, and other covered records. The form reflects the requirements of the Ethics in Government Act (EIGA), subsequent amendments pursuant to the Representative Louise McIntosh Slaughter Stop Trading on Congressional Knowledge Act, and OGE's implementing regulations, which must be met before access can be granted. These requirements include the address of the requester, as well as any other person on whose behalf a record is sought, and acknowledgement that the requester is aware of the prohibited uses of executive branch public disclosure financial reports. See 5 U.S.C. app. 105(b) and (c) and 402 (b)(1) and 5 CFR 2634.603(c) and (f). Under § 402(b)(1) of EIGA, OGE is authorized to establish procedures for providing public access to public financial disclosure reports.

OGE, as the supervising ethics office for the executive branch, created the OGE Form 201, entitled "Request to Inspect or Receive Copies of Executive Branch Personnel Public Financial Disclosure Reports or Other Covered Records," to collect information that meets the statutory requirements for permitting access to public financial disclosure reports as well as other covered records. Other types of records covered by the same EIGA access procedures (as listed in part III of the OGE Form 201) are certificates of divestiture, certain publicly available qualified trust documents, section 208 waiver determinations (after removal of any information exempt from disclosure under the Freedom of Information Act), other access requests, OGE-approved gifts reporting waiver request cover letters, and OGE-approved public reporting waiver request cover letters for certain special Government employees.

OGE is submitting a modified OGE Form 201 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 3209-0002). OGE recently revised its OGE/GOVT-1, Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records system of records. The revisions were published in the Federal Register on September 9, 2019, and went into effect on

November 8, 2019. The revisions included several new and modified routine uses. The information collected on the OGE Form 201 is maintained in the OGE/GOVT-1 Governmentwide system of records, and the form contains a Privacy Act statement referencing OGE/GOVT-1 as required by section (e)(3) of the Privacy Act. Accordingly, OGE proposes to update the Privacy Act statement in accordance with changes to the OGE/GOVT-1 system of records. This change will have no material effect on the burden to filers.

OGE also intends to update the maximum civil monetary penalty (CMP) for improperly obtaining or using a public financial disclosure report on both the automated and non-automated versions of the form, in accordance with 5 CFR § 2634.703. On January 15, 2020, OGE published a final rule making inflationary adjustments to the Ethics in Government Act civil monetary penalties in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. Pursuant to these changes, the penalty for misuse of public reports is now \$20,489. This change will have no material effect on the burden to filers.

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.

The OGE Form 201 is available on the OGE website at <http://www.oge.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 201, provided that the electronic versions precisely duplicate the paper original. OGE utilizes an automated version of the form on its website. The basis for these electronic initiatives is to lessen burden and to facilitate dissemination to and use of the form by agencies and requesters.

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 201 is the only executive branch-wide form used as the source of the information needed to process access requests.

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 impact 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 information on the form is required by statute and regulation to be collected from persons requesting access to executive branch public financial disclosure reports and other covered records. (See also items 1.-2. above.)

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 sought public comment in its first round *Federal Register* notice of its intent to request PRA approval for a modified form, published on November 25, 2019. *See* 84 FR 64895.¹ The public comment period closed on January 24, 2020. OGE received no responses to that notice.

¹ OGE's first notice did not mention OGE's intention to update the penalty for misuse of a public financial disclosure report. This change was necessary because the penalty was recently increased pursuant to a final rule published on January 15, 2020 making inflationary adjustments to the Ethics in Government Act civil monetary penalties. However, the second notice did include this information. OMB has generally taken the position that such a change is nonsubstantive and does not require public notice and comment.

OGE again sought public comment in a second round *Federal Register* notice published on February 7, 2020. *See* 85 FR 7305. Commenters were directed to send comments directly to OMB.

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 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. Any ongoing comments received as a result of these means of availability will be considered by OGE for a future modification.

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 as to the OGE Form 201. Rather, the form itself is publicly available for a period of six years upon a proper request in accordance with the provisions of the EIGA and OGE's implementing regulations as noted in items 1.-2., above.

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.

There are no sensitive questions on the OGE Form 201. All of the information required on the OGE Form 201 is deemed necessary by OGE for purposes of ensuring compliance with the statutory and regulatory requirements for permitting access to the records requested.

12. Provide estimates of the hour burden of the collection of information.

OGE estimates that an average of approximately 7,600 OGE Form 201 reports will be filed each year for the next three years. This number was calculated based on the actual number of OGE Form 201 requests OGE received over the past three years and the number of requests received by all other executive branch agencies in 2017 and 2018, as reported to OGE in response to its annual agency ethics program questionnaire. This resulted in an estimate of 7,600 forms expected annually over the next three years.

The estimated average amount of time to complete the form, including review of the instructions, remains at 10 minutes for both the non-automated and automated

versions of the form. Thus, the estimated annual public burden for the OGE Form 201 is 1,300 hours (7,600 forms at 10 minutes per form; rounded up from 1,267 hours).

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

The private sector cost burden to respondents for the OGE Form 201 is estimated to be "zero." Almost all the total annual cost burden is borne by the Federal Government and the agency ethics officials who review and process the relatively simple and short access forms.

14.-15. Provide an estimate of annualized costs to the Federal Government. Explain the reasons for any program changes or adjustments reported in items 13 or 14.

OGE reported in the previous reporting period that the estimated total annual cost of the OGE Form 201 to the Federal Government was \$248,000. Based on the data from the last three years, there has been an increase in volume of forms filed of approximately 660% over the previous three-year period. Because OGE expects that volume to continue, OGE estimates that the total annual cost of the OGE Form 201 to the Federal Government will be approximately \$1,885,000.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

Not applicable.

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

Not applicable.

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.