

UNITED STATES OFFICE OF  
**GOVERNMENT ETHICS**



Preventing Conflicts of Interest  
in the Executive Branch

# Conflicts of Interests:

**OGE WANTS TO HELP YOU AND  
YOUR INVESTIGATIONS**

# OGE



## Who We Are & How We Can Help

1. Focus of Presentation
2. OGE in General
3. Primary Prevention Role

# How OGE Helps Investigators



OGE FORM 202, PART 1

## NOTIFICATION OF CONFLICT OF INTEREST REFERRAL PART 1: INITIAL NOTIFICATION

*(to be filed by the referring office)*

File Part 1 of this form with the U.S. Office of Government Ethics (OGE) upon any referral made to the U.S. Department of Justice (DOJ), pursuant to 28 U.S.C. § 535, involving:

- (1) A possible violation under section 203, 205, 207, 208, and/or 209 of title 18, United States Code;
- (2) A civil or criminal matter related to the filing or non-filing of a financial disclosure report under applicable legal authorities (*e.g.*, 5 U.S.C. app. § 104 or 18 U.S.C. § 1001); or
- (3) A civil matter involving outside earned income under 5 U.S.C. app. § 501 or outside activities under 5 U.S.C. app. § 502.

Submit this form via email to [referrals@oge.gov](mailto:referrals@oge.gov). OGE will confirm receipt and notify the referring office of the OGE tracking number assigned.

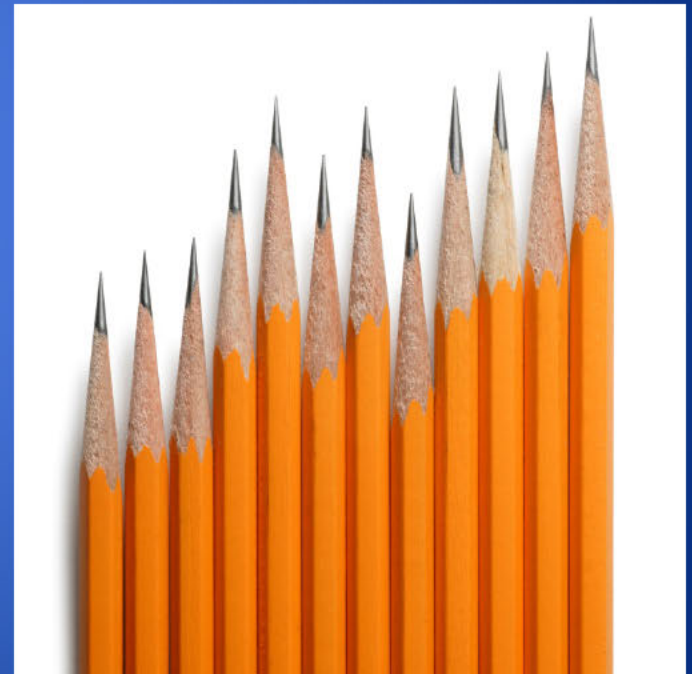
1. Federal office referring the matter to the Department of Justice:		2. Date of referral:	
<input type="text"/>		<input type="text"/>	
3. Point of contact at the referring office:			
Name: <input type="text"/>		Title: <input type="text"/>	
Telephone: <input type="text"/>		Email: <input type="text"/>	

# How OGE Helps Investigators



## Assistance in Understanding:

- Criminal COI Laws
- Non-Criminal COI Laws
- Standards of Conduct
- Ethics Documents



# Ethics Documents To Know



- Public Financial Disclosure Reports (OGE 278)
- Confidential Financial Disclosure Reports (OGE 450, alternatives)
- Ethics Agreements
- Ethics Pledge
- Outside Activity Prior Approval Forms
- Conflict of Interest Waivers
- Training Files
- Advice Files & Opinion Letters

# Ethics Documents



## Public Financial Disclosure Reports (OGE 278)

New Entrant Report | U.S. Office of Government Ethics; 5 C.F.R. part 2634 | Form Approved: OMB No. (3209-0001) (March 2014)

### Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e)

#### Filer's Information

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Doe, John Q.

Deputy Assistant Secretary, Department of Technology

Date of Appointment: 02/22/2015

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Other Federal Government Positions Held During the Preceding 12 Months:

Senior Technology Specialist (8/2007 - 2/2015)

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Electronic Signature - I certify that the statements I have made in this form are true, complete and correct to the best of my knowledge.

/s/ Doe, John Q [electronically signed on 2/27/15 by Doe, John Q in Integrity.gov]

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Agency Ethics Official's Opinion - On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments below).

/s/ Smith, Jane Q, Certifying Official [electronically signed on 2/27/15 by Smith, Jane Q in Integrity.gov]

# Ethics Documents



## Confidential Financial Disclosure Reports (OGE 450)

OGE Form 450, 5 CFR Part 2634, Subpart I  
U.S. Office of Government Ethics (June 2008)  
(Replaces January 2007 edition)

Form Approved  
OMB No. 3209-0006

Date Received by Agency

Page Number

### CONFIDENTIAL FINANCIAL DISCLOSURE REPORT Executive Branch

Employee's Name ( <i>Print last, first, middle initial</i> )		E-mail Address	
Position/Title		Grade	
Agency		Branch/Unit and Address	
Work Phone	Reporting Status New Entrant <input type="checkbox"/> Annual <input type="checkbox"/>	If New Entrant, Date of Appointment to Position ( <i>mm/dd/yy</i> )	
Check box if Special Government Employee (SGE) <input type="checkbox"/>	An SGE is an executive branch officer or employee who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any consecutive 365-day period.		
If an SGE, Mailing Address ( <i>Number, Street, City, State, ZIP Code</i> )			

# Ethics Documents



## Ethics Agreements

### MODEL ETHICS AGREEMENT

(Date)

John H. Burns  
Designated Agency Ethics Official  
Department of XXX  
Washington, DC XXXXX

Dear Mr. Burns:

The purpose of this letter is to describe the steps that I intend to take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Deputy Secretary, Department of XXX.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a



# Ethics Documents



## Ethics Pledge

### **Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES**

EXECUTIVE ORDER

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#### ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

# Ethics Documents



## Outside Activity Prior Approval Forms

REQUEST FOR APPROVAL OF OUTSIDE ACTIVITY		
USDA Supplemental Standards of Conduct <a href="#">(5 CFR 8301.101-102)</a>		
<input type="radio"/> Initial Request <input type="radio"/> Revised Request		DATE 
<b>Part I - EMPLOYEE INFORMATION</b>		
1. EMPLOYEE'S NAME (Last, First, MI) 		
2. AGENCY/PROGRAM (Address) 	TELEPHONE, FAX & E-MAIL Phone:    Fax: E-Mail:	
3. TITLE OF POSITION 	4. GRADE/STEP 	5. SALARY \$
6. FINANCIAL DISCLOSURE FILING STATUS <input type="radio"/> Public (SF 278) <input type="radio"/> Confidential (OGE 450) <input type="radio"/> Other		
7. NAME OF IMMEDIATE SUPERVISOR 	SUPERVISOR'S TELEPHONE, FAX & E-MAIL Phone:    Fax: E-Mail:	

# Ethics Documents



## Conflict of Interest Waivers

SAMPLE 208(B)(1) WAIVER  
OUTSIDE ORGANIZATIONS: SERVICE AS OFFICER  
OR DIRECTOR IN OFFICIAL CAPACITY

[Date]

MEMORANDUM

TO: [Official with Waiver Authority]

FROM: [Deputy Ethics Counselor]

SUBJECT: Conflict of Interest Waiver for [Employee]

The purpose of this memorandum is to request that you grant **[name of employee]** a waiver of the criminal conflict of interest provisions that may apply to **[his or her]** service in an official capacity as **[an officer or a member of the board of directors, or other position]** of an outside non-profit organization. The need for a waiver is discussed below.

The criminal conflict of interest statute, 18 U.S.C. § 208(a), requires that an employee refrain from participating personally and substantially in an official capacity in any particular matter that will have a direct and predictable effect on the financial interests of any organization in which the individual serves as an officer, director, trustee, or employee.

# Ethics Documents



## Training Files



# Ethics Documents



## Advice Files



# EXERCISES



## Three Fact Patterns

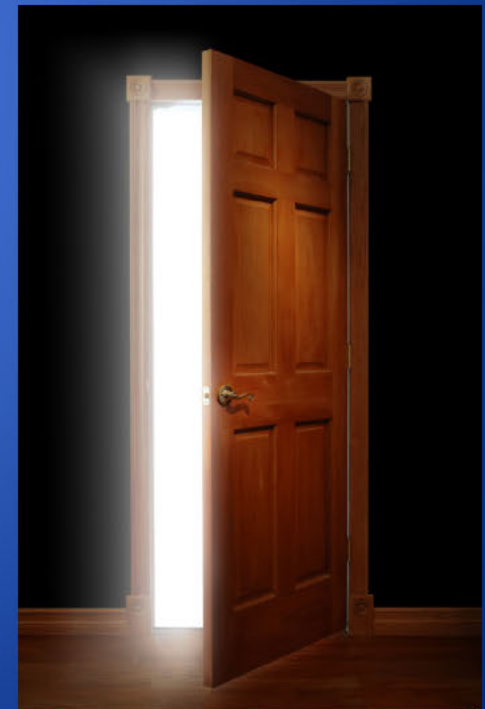
### 1. Entering Government



### 2. During Government Service



### 3. Post-Government Employment



# 18 U.S.C. 208



An officer or employee may not participate personally and substantially in a particular matter in which, to his knowledge, he has a financial interest\*



\*Including those imputed to him.

# FACT PATTERN #1



- What else would I like to know?
- What information can I get from ethics officials?
- What ethics documents might be helpful?
- Where can I get these documents?
- Possible crimes?
- Possible ethics violations?
- Consult with OGE?



# 18 U.S.C. 209



Prohibits an employee from getting paid from a source outside the Government for doing his or her Government job



# 18 U.S.C. 208



An officer or employee may not participate personally and substantially in a particular matter in which, to his knowledge, he has a financial interest\*



\*Including those imputed to him.

# FACT PATTERN #2



- What else would I like to know?
- What information can I get from ethics officials?
- What ethics documents might be helpful?
- Where can I get these documents?
- Possible crimes?
- Possible ethics violations?
- Consult with OGE?

# 18 U.S.C. 203 & 205



**Prohibitions against  
representing third  
parties before the  
Government  
with or without  
compensation**

# 18 U.S.C. 203



Generally employees are **prohibited** from directly or indirectly:

- Demanding, seeking, receiving, accepting or agreeing to receive any compensation
- for any representational services
- rendered by the employee or someone else,
- before any department, agency, court, or certain other entities
- in connection with any particular matter in which the United States is a party or has an interest
- if any part of the representation occurs while a Government employee

# 18 U.S.C. 205



**(a)(1)** generally prohibits an employee from:

- acting as agent or attorney
- for prosecuting any claim against the United States
- or receiving any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim



# 18 U.S.C. 205 (cont.)



**(a)(2)** generally prohibits an employee from:

- acting as an agent or attorney for, or otherwise representing, someone else
- before any department, agency, court, or certain other entities
- concerning any matter in which the United States is a party or has a direct and substantial interest

# 18 U.S.C. 207



## Three primary post-Government employment prohibitions

1. 207(a)(1)—Lifetime bar
2. 207(a)(2)—2 year bar
3. 207(c)—1 year bar





# 18 U.S.C. 207(a)(1)



## Lifetime Bar

Applies to a former employee and prohibits:

- any communication or appearance
- made with intent to influence
- to or before an officer or employee of the US
- in connection with any specific party matter
- in which the employee participated personally and substantially while a Government employee

# 18 U.S.C. 207(a)(2)



## Two-Year Bar

Essentially the same as the (a)(1) restriction except:

Applies only to specific party matters that were pending under the employee's official responsibility during his last year of Government service



# 18 U.S.C. 207(c)



## One-Year Bar

Prohibits a former “**senior employee**” from:

- making a communication or appearance with the intent to influence
- to or before an officer or employee of the agency where he served within one year prior to his termination as a senior employee
- on behalf of any other person
- in connection with any matter in which he seeks official action

# FACT PATTERN #3



- What else would I like to know?
- What information can I get from ethics officials?
- What ethics documents might be helpful?
- Where can I get these documents?
- Possible crimes?
- Possible ethics violations?
- Consult with OGE?

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Chief, Ethics Law & Policy Branch  
(202) 482-9303

OGE Website:  
**[www.oge.gov](http://www.oge.gov)**