



October 22, 1999  
DO-99-039

**MEMORANDUM**

**TO: Designated Agency Ethics Officials**

**FROM: Stephen D. Potts, Director**

**SUBJECT: New Edition of the OGE Form 201 Ethics Act Access Form**

The Office of Government Ethics (OGE) is issuing a new October 1999 edition of the OGE Form 201, "Request to Inspect or Receive Copies of SF 278 Executive Branch Personal Public Financial Disclosure Report or Other Covered Record." The revised Ethics Act access form, for which OGE recently obtained renewed three-year approval under the Paperwork Reduction Act from the Office of Management and Budget, is attached to this DAEOgram.

As noted in OGE's DAEOgram of March 18, 1999 (# DO-99-011) and the two paperwork renewal notices for the form, most of the changes to the slightly modified version of the OGE Form 201 are minor. Among the more noteworthy of these changes, OGE has added mention of any trust dissolution report (and the list of trust assets at that time) to the list of publicly available Ethics Act-qualified trust materials in Part III of the form, while clarifying that any trust instrument provisions relating to testamentary disposition of trust assets are not publicly available. See section 102(f)(5)(A)(i), (C) & (D) of the Ethics in Government Act, 5 U.S.C. appendix, § 102(f)(5)(A)(i), (C) and (D), and OGE's executive branchwide regulations thereunder at 5 C.F.R. § 2634.408(a)(1)(i), (a)(3) and (d). Moreover, OGE has revised the reference in the notice at the bottom of the first page (in Part II.A) to the civil monetary penalty under section 104(a) of the Ethics Act, 5 U.S.C. appendix, § 104(a), for prohibited uses of an SF 278 public report to which access has been obtained. The maximum penalty assessable in a court action for such misuse was recently raised from \$10,000 to \$11,000 in coordinated inflation adjustment rulemakings by OGE and the Department of Justice pursuant to the 1996 Debt Collection Improvement Act revisions to the 1990 Federal Civil Penalties Inflation Adjustment Act. See OGE's DAEOgram of September 7, 1999 (# DO-99-033). Further, in response to the one comment received on the second round paperwork notice for the OGE Form 201 (none were received on the first round notice), OGE has clarified the text of Part I.5 of the form for requesting copies of particular SF 278 reports by adding the wording "most recent (or other, specify)." In addition, OGE has moved the reference to requesting copies of other covered records to the end of Part I.5.

This new October 1999 edition of the OGE Form 201 replaces the prior editions and is to be used instead of them. In addition to distribution as an attachment to this DAEOgram, a viewable and downloadable Portable Document Format (PDF) electronic image of the new version of the form is available in the Ethics Resource Library section of OGE's Internet Web site (Uniform

Resource Locator address: <http://www.usoge.gov>) and will be included in future editions of The Ethics CD-ROM. Moreover, the OGE Form 201 may be locally reproduced.

Attachment: Revised OGE Form 201.

# Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record

I. Application		Agency Use Only
1. Applicant's name and address (please print):		2. Date:
1a. Office telephone number: (      ) _____ ext. _____ (Optional)		3. Occupation:
4. If application is for or on behalf of any other person or organization, give the other's name:	4a. Address of the other person or organization:	
5. <input type="checkbox"/> Copy of the most recent (or other, specify) Public Financial Disclosure Report Form SF 278 requested for the following named individual(s):		
a.	d.	
b.	e.	
c.	f.	
Certain other types of records ("covered records") can also be requested using this form (See Part III below); if you are requesting another covered record, check this box <input type="checkbox"/> and specify which type of record(s): _____		

6. Applicant's signature: \_\_\_\_\_

## II. Notice of Action

- Copies of the report(s) or other covered record(s) you requested are enclosed. See the **Important Notice** below.
- Your request does not comply with the requirements of the statute. Please complete Part I of this form and return so we may comply with your request.
- Other. Explanation: \_\_\_\_\_
- Fees. If applicable, amount: \_\_\_\_\_ (when fees are required, make out a check payable to the U.S. Treasury and send it to the executive branch agency processing this request form).

### A. Important Notice

The law and implementing OGE regulations require that a report or other covered record not be available to any person except upon written application by such person stating his or her name, occupation and address, and that the person be aware of the prohibitions on improper use, set forth below.

Section 105(c) of the Ethics in Government Act of 1978, as amended and 5 C.F.R. § 2634.603(f) of the implementing OGE regulations provide that it is unlawful for any person to obtain or use a report:

- (1) for any unlawful purpose;
- (2) for any commercial purpose, other than by news and communications media for dissemination to the general public;
- (3) for determining or establishing the credit rating of any individual; or
- (4) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

The Attorney General may bring a civil action against any person who obtains or uses a report for any such prohibited purpose as set forth above. The court may assess against such a person a penalty in any amount not to exceed \$11,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

*(form continued on reverse side)*

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## B. Privacy Act Statement

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Section 105 of the Ethics in Government Act of 1978, as amended (5 U.S.C. App.) and 5 C.F.R. § 2634.603 authorize the solicitation of the information requested in this form. The primary use of the information on this form is to permit officials of the recipient agency to consider and process your request for inspection or receipt of a copy(ies) of the SF 278 Executive Branch Personnel Public Financial Disclosure Report form(s) or other covered record(s) to which you seek access. Failure to furnish the information, except for your office telephone number (which is an optional item of information to be used to assist in contacting you about your request), will result in this agency's inability to allow access to, or to provide copies of, the financial disclosure report form(s) or other record(s) requested. Otherwise, furnishing the requested information is voluntary. The information on this form itself may be publicly disclosed pursuant to proper request under section 105(b) of the Ethics Act or as otherwise authorized by law.

Additional disclosures of the information on this form may be made:

- (1) to a Federal, State or local law enforcement agency if the disclosing agency becomes aware of a violation or potential violation of law or regulation;
- (2) to a court or party in a court or Federal administrative proceeding if the Government is a party or in order to comply with a judge - issued subpoena;
- (3) to a source when necessary to obtain information relevant to a conflict of interest investigation or decision;
- (4) to the National Archives and Records Administration or the General Services Administration in records management inspections;
- (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and
- (6) in response to a request for discovery or for the appearance of a witness in a pending judicial or administrative proceeding, if the information is relevant to the subject matter.

See also the OGE/GOVT-1 executive branchwide Privacy Act system of records.

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## C. Public Burden Information

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Public burden reporting for this collection of information is estimated to take approximately ten minutes per response, including time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Associate Director for Administration, U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington DC 20005-3917. **Do not** file this form with this official; rather, file it with the appropriate office of the executive branch department or agency from which you are seeking access to a financial disclosure report or other covered records.

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0002, is displayed here and in the upper right-hand corner of the front page of this OGE Form 201).

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## III. Other Covered Records

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In addition to requests for access to public SF 278 reports, this form can also be used to request access to certain other agency records which are covered under the access procedures of section 105 of the Ethics Act and the implementing OGE regulations ("covered records"). Such other covered records are: (1) certificates of divestiture; (2) Ethics Act qualified blind trust and qualified diversified trust instruments (other than those provisions which relate to the testamentary disposition of the trust assets), the list of assets transferred to such trusts (& of assets sold in the case of a qualified blind trust), as well as, in the case of trust dissolution, the report thereon and the list of trust assets at that time, and the certificates of independence and compliance with respect to qualified trusts; (3) 18 U.S.C. § 208(b)(1) & (3) waivers granted by the recipient agency (after deletion of any material withholdable pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (see 18 U.S.C. § 208(d)(1))); and (4) other OGE Form 201s. If you seek access to any such additional record(s), check the second box in Part I.5 on the front page and specify the record(s) sought.