



**BILLING CODE 6345-03-P**

**OFFICE OF GOVERNMENT ETHICS**

**Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for a Modified OGE Form 278e Executive Branch Personnel Public Financial Disclosure Report**

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice of request for agency and public comments.

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**SUMMARY:** After publication of this second round notice, the Office of Government Ethics (OGE) intends to submit a modified OGE Form 278e Executive Branch Personnel Public Financial Disclosure Report to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995.

**DATES:** Written comments by the public and the agencies on this proposed modification are invited and must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments on this paperwork notice to the Office of Management and Budget, Attn: Desk Officer for OGE, via fax at 202-395-6974 or email at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) . (Include reference to “OGE Form 278e paperwork comment” in the subject line of the message).

**FOR FURTHER INFORMATION CONTACT:** Sara Nekou at the U.S. Office of Government Ethics; telephone: 202-482-9229; TTY: 800-877-8339; FAX: 202-482-9237; E-mail: snekou@oge.gov. An electronic copy of the OGE Form 278e is available in the Forms Library section of OGE's website at <http://www.oge.gov>. A paper copy may also be obtained, without charge, by contacting Ms. Nekou.

**SUPPLEMENTARY INFORMATION:**

Title: Executive Branch Personnel Public Financial Disclosure Report.

Form Number: OGE Form 278e.

OMB Control Number: 3209-0001.

Type of Information Collection: Revision of a currently approved collection.

Type of Review Request: Regular.

Respondents: Private citizen Presidential nominees to executive branch positions subject to Senate confirmation; other private citizens who are potential (incoming) Federal employees whose positions are designated for public disclosure filing; those who file termination reports from such positions after their Government service ends; and Presidential and Vice-Presidential candidates.

Estimated Annual Number of Respondents: 4,821.

Estimated Time per Response: 10 hours.

Estimated Total Annual Burden: 48,210 hours.

Abstract: The OGE Form 278 collects information from certain officers and high-level employees in the executive branch for conflicts of interest review and public disclosure.

The form is also completed by individuals who are nominated by the President for high-level executive branch positions requiring Senate confirmation and individuals entering into and departing from other public reporting positions in the executive branch. The financial information collected relates to: assets and income; transactions; gifts, reimbursements and travel expenses; liabilities; agreements or arrangements; outside positions; and compensation over \$5,000 paid by a source – all subject to various reporting thresholds and exclusions. The information is collected in accordance with section 102 of the Ethics in Government Act, 5 U.S.C. app. sec. 102, as amended by the Stop Trading on Congressional Knowledge Act of 2012 (Public Law 112-105) (STOCK Act) and OGE's implementing financial disclosure regulations at 5 CFR part 2634.

In 2013, OGE sought and received approval for the OGE Form 278e, an electronic version of the Form 278, implemented pursuant to the e-filing system mandated under section 11(b) of the STOCK Act. The OGE Form 278e collects the same information as the OGE Form 278. In 2014, OGE sought and received approval to incorporate the OGE Form 278e into its new *Integrity* e-filing application. *Integrity* has been in use since January 1, 2015, and OGE now requires filers to use a version of the OGE Form 278e rather than the old OGE Form 278. The version of the Form 278e that is produced by *Integrity* is a streamlined output report format that presents only the filer's inputs in given categories and does not report other categories not selected by the filer.

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 update the Privacy Act statement in accordance with changes to the applicable system of records and to make certain minor formatting changes and corrections to the instructions and one of the data entry fields.

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. *See* 83 FR 32122 (July 11, 2018). OGE received three responses to that notice. The first response was unrelated to the notice and did not address the information collection.

The second comment suggested eliminating the requirement to report diversified mutual funds. The financial disclosure requirements are dictated by the Ethics in Government Act (EIGA), 5 U.S.C. app. sec. 102, as amended. The commenter's suggested change could not be made without revisions to the EIGA. Accordingly, OGE declines to adopt this suggestion as a modification of the OGE Form 278e.

The third comment was from an individual identifying himself as a former nominee to a Presidentially-appointed, Senate-confirmed position. The commenter made several suggestions about how the government should address potential conflicts of interest identified through the financial disclosure review and certification process, as well as ways that the government could make that process more efficient. These matters are beyond the scope of the information collection and cannot be addressed through the modification of the OGE Form 278e. The commenter also made suggestions regarding the detail with which filers are required to report certain assets, suggesting that the form requires excessive reporting of "low value" data. As discussed above, the financial disclosure requirements are dictated by the EIGA. Therefore, OGE cannot make substantive changes to the financial disclosure reporting requirements through a modification of the OGE Form 278e.

Finally, the third commenter also stated that the government's estimate of the reporting burden vastly understates the actual burden for candidates with extensive or complicated financial holdings. In addressing this issue, the commenter noted that completing the form required "at least 40 hours of work" by him and his family. He also noted that the

government's cumulative response time during the review and certification process was 114 days. As an initial matter, OGE notes that its estimate of the average reporting burden for the 278e is currently ten hours, not three as stated by the commenter. Moreover, the estimated burden properly does not include the time spent by the government in reviewing and responding to the filers' completed forms. OGE's estimated time per response 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.

Request for Comments: Agency and public comment is again invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility, and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice may be included with the OGE request for approval of the modified information collection. The comments will also become a matter of public record.

Approved: September 26, 2018.

Diana Veilleux,

Chief, Legal, External Affairs and Performance Branch,

Office of Government Ethics.

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