

**National Instructions : Title 110 - Management**

## **OGE Form 450 Instructions**

### 308.0 Purpose

This instruction provides guidance and requirements for the administrative responsibility of the Confidential Financial Disclosure (OGE Form 450) process.

### 308.1 Background

A. This guidance supplements USDA Ethics Issuance 04-1, May 7, 2004, Criteria for the Identification of Public and Confidential Financial Disclosure Filers. Terms are explained in the "Definitions" section of the document.

B. The OGE Form 450 must be completed by employees GS-15 or below who have been determined to perform duties requiring personal and substantial participation through decision-making, or to exercise significant judgment in contracting or procurement; administering or monitoring grants, subsidies, licenses, or other benefits; regulating or auditing non-Federal entities; or performing other activities having a direct and substantial economic effect on non-Federal entities.

(1) Positions Required To File the OGE Form 450. See Exhibit A of this Instruction.

(2) Financial Disclosure Codes.

<b>Code</b>	<b>Definition</b>
0	Financial disclosure not required.
3	SF-278, Public Financial Disclosure Report, required.
4	SF-450, Confidential Financial Disclosure Report, required.

(3) "New Entrant" Filing Requirements. Ideally, position vacancy announcements will specify when the position is subject to financial disclosure. Employees entering a designated position are required to file an OGE Form 450 within 30 days of appointment. Contact the NRCS Ethics Office for specific guidance regarding Special Government Employees (SGE).

(4) Annual Filing Requirements. Employees in designated positions more than 60 days during the reporting period must file incumbent reports no later than February 15th annually. However, SGEs annually must file a "New Entrant" report on their anniversary date.

Note: An annual report is not required from an employee who is in a designated position less than 60 days during the reporting period. The employee would have just filed a new entrant report as required within 30 days of appointment to a designated position. For example, an employee who enters a designated position on December 20, 2006, must file a new entrant OGE Form 450 within 30 days of appointment but not an annual OGE Form 450 for the annual filing cycle.

### 308.2 Responsibilities Relating to Financial Disclosure

A. Director, NRCS Ethics Office, administers the Confidential Financial Disclosure Report Process,

and makes the final determination in instances of employee requests for reconsideration of filer status. The incumbent is also the NRCS Mission Area Ethics Advisor (MAEA).

B. National Program Manager has operational responsibility for the Confidential Financial Disclosure Report Process including consistent designation of filers and the timely submission and review of reports. Also identifies needs and assists with the creation of alternate or short-form disclosure reports. The National Program Manager is assisted by the Ethics Program Assistant, NRCS Ethics Office, who is responsible for initial review of 450s, file maintenance and assistance with reports.

C. State Administrative Officer has overall responsibility for the proper designation of filers, and the timely notice to file and collection of reports.

(1) State Ethics Advisor coordinates the consistent identification of new entrant filer positions (Public and Confidential report filers) with the manager/supervisor, human resource specialist and classification specialist; provides timely notice of the requirement to file for confidential filers; insures reports are timely received and forwarded along with supporting materials to the NRCS Ethics Office; and administers the review of positions with the serviced office supervisor/manager prior to each call for annual confidential disclosure process.

(2) Classification Specialist, through the classification and evaluation process, provides greater insight into a potential confidential filer's duties and responsibilities and the authority of the assigned position description.

(3) Employee confirms the accuracy of his/her position description's content and/or duties of collateral appointment, and recommends edits to his/her supervisor/manager as appropriate.

(4) Human Resources Specialist coordinates with the servicing ethics advisor to post correct financial disclosure codes in the National Finance Center database.

D. Supervisor/Manager maintains current and up-to-date employee position descriptions, collateral assignments and appointments (e.g., as Liaison to a non-Federal organization). Usually through an annual review prior to confidential disclosure, the supervisor assists the servicing ethics advisor by identifying duties and responsibilities of positions, especially collateral appointments, or assignments requiring confidential disclosure that are not reflected in the position description.

E. Special Government Employee (SGE) maintains a record of the number of days employed, the rate of pay received during each one-year appointment, and contacts the servicing ethics advisor and shares that information with the servicing ethics advisor upon each reappointment.

### 308.3 Reporting Process

A. The servicing administrative office is responsible for the timely notification of the requirement to file and collection of reports.

B. Availability of the new OGE Form 450. A copy of the newly revised OGE Form 450 will be available electronically by January 1, 2007, from the U.S. Office of Government Ethics at <http://www.usoge.gov/>. It may also be completed online with NFC through an Employee's Personal Page. Filers may also enter information directly on a printed hard copy of the form. Regardless of the option selected, covered employees must print, sign, date, and mail the original hard copy of the completed report to their servicing ethics advisor.

C. Notification and Timely Filing.

(1) Distribute the OGE Form 450 before or during initial processing of new entrants on or before

January 10, annually.

(2) Exhibit B is a notification template that can be used to develop your annual notice to OGE Form 450 filers.

(3) All OGE Form 450s are due to you beginning January 15 through February 15. The reports cover October 1, 2005 through December 31, 2006, annually. We cannot accept an annual OGE Form 450 Report signed and dated before January 1, 2007.

D. Extension for Filing the OGE Form 450. Extensions of the filing due date generally will not be granted except for these extenuating circumstances — medical emergency, active military duty, or natural disaster. Each request must include a written justification and be received before February 15, 2007. The following outlines procedures for seeking an extension —

(1) The State Conservationist may issue individual extensions up to 14 days for good cause shown (cannot be re-delegated).

(2) The Director, NRCS Ethics Office, through the State Conservationist, may issue extensions for more than 14 days.

(3) No group extension may be granted without written concurrence of the Director, NRCS Ethics Office.

E. Submission of the OGE Form 450. The original OGE Form 450 must be placed in a sealed envelope marked "TO BE OPENED BY ADDRESSEE ONLY Contains OGE Form 450" and addressed to —

(1) State Ethics Advisor for State employees.

(2) Ethics Advisor, Fort Worth, TX, for employees of the National Centers.

(3) NRCS Ethics Office, Beltsville, MD, for State Administrative Officers and national headquarters employees.

#### 308.4 Review and Certification of the OGE Form 450

A. Authority to access and review completed forms is limited to the following:

(1) State Ethics Advisors —

(i) Date stamp receipt on bottom front of form.

(ii) Review for completeness.

(iii) Review form to determine whether any non-Federal entity listed in Part I, Assets and Income or Part III, Outside Positions, does business with NRCS. If so, you must note it in the margin or on back of the form.

(iv) Initial and date all notations.

(v) Sign and date in block marked "Signature and Title of Supervisor/Other Intermediate Reviewer."

(vi) Sign and date in block marked "Signature and Title of Agency's Final Reviewing Official" only

if the report is "negative."

Note: A negative report is one that has nothing to report AS SHOWN BY CHECKING THE "None" BOX IN EACH SECTION, after properly completing the general information requested. To be accepted, the employee either must provide positive information (specifics) in response to a section or have checked the "None" box. Writing "nothing to report" or not answering is not the same as "None." A form that simply does not have an answer in a section requires that you call the employee as the reviewer and ask what the answer is supposed to be, and initial your notation of the answer and date of your call. You must do this for every report where "None" is not checked but nothing is reported in a section, before you can know whether or not it is a 'negative' report versus just one not properly completed.

(vii) Attach the position description with the cover sheet and outside employment approval (if applicable) to each filer's OGE Form 450 Report.

(viii) Separate and bind the forms into two groups, Negative Reports (as described above) and Positive Reports.

(ix) Make a list and forward it with all OGE Form 450s to the NRCS Ethics Office by March 15, 2007. The mailing address is: NRCS Office of Ethics, 5601 Sunnyside Avenue, Room 2-2290, Beltsville, MD 20705-5476.

(2) The Ethics Advisor, Fort Worth, TX, reviews and certifies for employees of the National Centers. [Requires specific letter of authority from the Director, NRCS Ethics Office.] Review must adhere to OGE procedures as described in the OGE Form 450 Review Guide. These OGE Form 450 Reports are maintained in Fort Worth, TX.

(3) Ethics Assistant, NRCS Office of Ethics, receives and reviews OGE Form 450 Reports from state and national headquarters employees. Ethics Specialists will certify these Reports.

B. For additional guidance, refer to the OGE Form 450: A Review Guide, at [http://www.usoge.gov/pages/forms\\_pubs\\_otherdocs/fpo\\_files/reference/rf450guide\\_96.pdf](http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/reference/rf450guide_96.pdf).

#### 308.5 Utilization of the Confidential Certificate of No New Interests (OGE Optional Form 450-A)

A. The OGE Optional Form 450-A may be used by an incumbent filer in lieu of the OGE Form 450 if the filer can certify that he/she, his/her spouse or dependent children have not acquired new reportable interests and that the filer has not had a significant change in duties or change of position description assignment.

B. This form may be used for a maximum of three consecutive years. However, each election year all employees in designated positions must file the OGE Form 450.

C. Employees completing the OGE Optional Form 450-A by hand must use ink. All forms must be signed in ink.

#### 308.6 Custody of the OGE Form 450

All OGE Form 450s must be maintained in a locked file cabinet separate from the Official Personnel Folder.

(1) Administrative offices must abide by the Records Schedule at [http://www.archives.gov/records\\_management/records\\_schedules.html](http://www.archives.gov/records_management/records_schedules.html), specifically General Records Schedules 25 — Ethics Program Records, items 1-10, for all other ethics records.

(2) The NRCS Ethics Office maintains OGE Form 450 Report records for State and National

Headquarters employees.

(3) The Ethics Advisor, Fort Worth, TX, maintains OGE Form 450 Report records for employees of the National Centers.

### 308.7 Quarterly Reporting Requirements

All State Ethics Advisors must forward "New Entrant's" OGE Form 450, position description with the cover sheet and any other documentation monthly to the NRCS Office of Ethics at 5601 Sunnyside Avenue, Room 2-2290, Beltsville, Maryland 20705-5476. The Ethics Advisor for the National Centers must submit a status report on the receipt and review of all OGE Form 450s to the NRCS Ethics Office on the 15th of December, March, June and September for each quarterly reporting period.

## **Exhibit A - Who in NRCS Has to File a Confidential Financial Disclosure Report**

Employees covered under Executive Order 11222 must file OGE Form 450 within 30 days of their appointment and annually thereafter by February 15. Employees under Executive Order 11222 are those "who occupy positions which require them to exercise judgment in making a Government decision, engage in activities having economic impact on any non-Federal enterprises including contracting or procurement, administer or monitor grants or subsidies, regulate or audit private or non-Federal enterprises, or perform duties which could lead to possible conflict of interest situations." In NRCS, it has been determined that this includes but is not limited to the following positions (unless required to file an OGE Form 278, Public Financial Disclosure Report):

- Associate Deputy Chief
- Division Director
- Administrative Officer
- Procurement Officer
- Contract Specialist (warranted)
- Grants and Agreements Specialist
- Responsible Officials (grants and agreements)
- Consultants and Advisers
- Realty Officer
- Special Assistant (to the Chief)
- Special Government Employee[1]
- State Conservationist
- Deputy State Conservationist
- Area Conservationist or its equivalent
- State Administrative Officer
- R C & D Coordinator
- Director, National Technology Support Center
- Director of Caribbean Area
- Deputy Director of Caribbean Area
- Administrative Officer of Caribbean Area
- Employees responsible for contracting or obligating funds

The servicing administrative office will make the determination upon identification of new positions. The supervisor is responsible for sharing information on collateral assignments and appointments with the servicing ethics advisor to correctly identify employees who have duties and responsibilities requiring confidential disclosure, including collateral appointments or assignments that are not reflected in the position description. For example, supervisors of

employees assigned to devote substantial time working closely with a specific non-Federal entity (other than local Conservation Districts) should consider whether those individuals should be designated to file.

#### Rural Abandoned Mine Program Report

An employee whose position description identifies any function or duty under the Surface Mining Control and Reclamation Act of 1977 (Rural Abandoned Mine Program) must also file form AD-1089 within 30 days of appointment and annually thereafter by February 15.

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[1] See GM 110 Part 405.34

## Exhibit B - Sample Confidential Financial Disclosure Report Memo

SUBJECT: Confidential Financial Disclosure Report (OGE Form 450)

TO: [Name of Financial Disclosure Filer]

### **ACTION REQUIRED BY: January 31, 2007**

You occupy a position with NRCS that requires the annual filing of an Executive Branch Confidential Financial Disclosure Report (OGE Form 450). This serves as a safeguard for you as well as the Government and provides a mechanism for determining both actual and potential conflicts between your official responsibilities and your private interests and activities. Your duties and responsibilities involve making decisions or using significant judgment relating to the following:

- (1) Contracting or procurement.
- (2) Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operation benefits.
- (3) Regulating or auditing any non-Federal entity.
- (4) Performing other activities in which the final decision or action will have a direct and substantial economic effect on the interests of any non-Federal entity.
- (5) Serving in any other position the agency determines requires filing to avoid an appearance of favoritism or impartiality.

This year, you can use the OGE Form 450-A (the short form) if you can certify that you, your spouse, or dependent children have not acquired new reportable interests and that your duties or position have not changed significantly. You must complete and submit to me the OGE Form 450 (the Long Form) or the OGE 450-A on or before February 15, 2007. **We cannot accept reports signed and dated before January 1, 2007.** The reporting period covers the 15 months from October 1, 2005 through December 31, 2006. A copy of the newly revised OGE Form 450 will be available electronically by January 1, 2007, from the U.S. Office of Government Ethics at <http://www.usoge.gov>. In addition, it may be completed online with NFC through an Employee's

Personal Page.

You are responsible for completing the OGE Form 450 accurately. If your position description identifies any function or duty under the Surface Mining Control and Reclamation Act of 1977 (Rural Abandoned Mine Program) you must also file form AD-1089 with your OGE Form 450.

Regardless of the option used, you must print, sign, date, and mail the original hard copy of your completed report. Seal the completed OGE Form 450 and any attachments in an envelope marked "To Be Opened By Addressee Only" and mail it to [State Office]. Keep a copy of your OGE Form 450 for your records.

If you are engaged in outside employment or an activity for which advanced approval is required, you must attach a copy of the approval with your OGE Form 450. If you do not have prior approval for outside employment, you must submit a request and receive approval before continuing with the outside employment. The Standard Operating Procedure for obtaining approval of outside employment is at [http://www.nrcs.usda.gov/intranet/ethics/SOP\\_OutsideEmployment.pdf](http://www.nrcs.usda.gov/intranet/ethics/SOP_OutsideEmployment.pdf)

If you have any questions, please contact me at [address/phone number/e-mail address]

Sincerely,

/s/

[State Administrative Officer]

[address]

Attachment