

**FISH AND WILDLIFE SERVICE
GENERAL ADMINISTRATION AND ETHICS**

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Purpose, Authorities, and Background

2.1 What is the purpose of this chapter? This chapter explains the purpose of financial disclosure and the requirements and procedures for U.S. Fish and Wildlife Service (Service) employees.

2.2 Why does the Government require financial disclosure for certain employees? The aim of financial disclosure is to promote public confidence in the integrity of Government officials and to help prevent financial conflicts of interest. The public may lose confidence in the integrity of Government if people perceive that an employee’s Government work is influenced by personal interests or by payments from an outside source. An executive branch employee’s Government work may have the potential to benefit the employee personally, affect the financial interests of the employee’s family, or involve individuals or organizations with which the employee has some past, present, or future connection away from his/her Government job.

A. Employees who occupy positions that require financial disclosure must identify their personal financial interests on the appropriate financial disclosure form. This process should help them to:

- (1) Recognize whether their financial interests conflict with their official duties, and
- (2) Identify potential future conflicts.

B. Ethics Counselors who review these reports identify financial interests that may conflict with a filer’s official duties. Throughout the financial disclosure process, Ethics Counselors remind filers of their financial interests and educate them about the rules that may apply to those interests.

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C. Disclosing a financial interest does not resolve the conflict of interest, nor does it eliminate the possibility of criminal, civil, or administrative action. Disclosure of financial interests does not authorize an employee to receive income or gifts or be involved in transactions otherwise prohibited by law or regulation.

2.3 What are the authorities for this chapter?

A. Annual Ethics Training Requirements for Public Filers and Other Employees ([5 CFR 2638.704-705](#)).

B. Ethics in Government Act ([5 U.S.C. 101 et seq.](#))

C. Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture ([5 CFR 2634](#)).

D. [Executive Order \(E.O.\) 12674](#), Principles of Ethical Conduct for Government Officers and Employees.

E. Government Ethics Reform Act of 1989 ([103 Stat.1716](#)).

F. Public Financial Disclosure Requirements ([5 U.S.C. App. 4, 101-111](#)).

G. Standards of Ethical Conduct for Employees of the Executive Branch ([5 CFR 2635](#)).

H. Stop Trading on Congressional Knowledge (STOCK) Act ([Public Law 112-105](#)).

2.4 What terms do you need to know to understand this chapter?

A. Conflicts of interest occur if you work on a matter in which you have a personal financial interest, so you may be less than objective.

B. Divestiture means to sell or give away.

C. Financial interests include any current or contingent ownership, equity, or security interest in real or personal property or a business and may include a debt or compensated employment relationship. It includes, for example, interests in stocks or bonds, partnership interests, fee and leasehold interests, mineral and other property rights, deeds of trust, and liens, and extends to any right to purchase or acquire any such interest (see 5 CFR 2635.403(c)).

D. Recusal means to disqualify yourself from participation in a matter.

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Responsibilities

2.5 Who is responsible for the financial disclosure program? See Table 2-1.

Table 2-1: Responsibilities for Financial Disclosure	
These employees...	Are responsible for...
A. The Director (the Service’s Ethics Counselor)	Ensuring the Service has an ethics program and procedures for financial disclosure.
B. Deputy Ethics Counselor and Associate Ethics Counselor (i.e., “servicing Ethics Counselors” for Directorate members)	<ul style="list-style-type: none"> (1) Overseeing the financial disclosure program; (2) Identifying employees who occupy positions that must file Public Financial Disclosure Reports (OGE Form 278); (3) Notifying OGE Form 278 filers of reporting requirements; (4) Reviewing OGE Form 278 filers’ financial disclosure reports; (5) Assisting Assistant Ethics Counselors, Directorate members, and other employees, as necessary, to determine conflicts of interest; and (6) Coordinating with the Department’s Designated Agency Ethics Official (DAEO) and the Departmental Ethics Office (DEO) about conflicts of interest.
C. Regional and Headquarters Assistant Ethics Counselors (i.e., “servicing Ethics Counselors” for all employees except Directorate members)	<ul style="list-style-type: none"> (1) Identifying employees who occupy positions that must file Confidential Financial Disclosure Reports (OGE Form 450), (2) Notifying OGE Form 450 filers of reporting requirements, (3) Reviewing OGE Form 450 financial disclosure reports, and (4) Assisting employees to resolve any potential conflicts of interest identified on financial disclosure reports.
D. Supervisors	<ul style="list-style-type: none"> (1) Ensuring that employees who occupy positions that must file financial disclosure reports comply with this chapter, (2) Ensuring that employees comply with any actions necessary to resolve potential conflicts of interest (i.e., recusal, reassignment, divestiture), and (3) Ensuring that employees who file financial disclosure reports take the required 1 hour of annual mandatory ethics training.

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Table 2-1: Responsibilities for Financial Disclosure	
These employees...	Are responsible for...
E. Employees	<p>(1) Filing financial disclosure reports in a timely manner if they occupy a position that must file such a report,</p> <p>(2) Responding to Ethics Counselors if they need additional information to certify a financial disclosure report,</p> <p>(3) Working with their Ethics Counselors to resolve any conflicts of interest identified on the report or that may come up in the future, and</p> <p>(4) Taking the required 1 hour of annual mandatory ethics training if they are required to file an annual financial disclosure report.</p>

OGE Forms 278 and 278T

2.6 What are the requirements for filing a Public Financial Disclosure Report, Office of Government Ethics (OGE) Form 278?

A. Who Must File an OGE Form 278:

- (1)** The Director.
- (2)** Career and non-career Senior Executive Service (SES) employees.
- (3)** Employees, under a pay system other than the General Schedule, such as Senior Level (SL) or Scientific or Professional Position (ST) whose rate of basic pay is equal to or greater than 120% of General Service (GS) 15, step 1.
- (4)** Schedule C employees, regardless of pay grade. Schedule C employees are certain employees appointed to a position because of its policy making implications.
- (5)** Special Government Employees (SGE) who are expected to work more than 60 days in a calendar year. SGEs are employees who we employ or appoint for temporary service (see 18 U.S.C. 202 for a complete definition).
- (6)** Employees who are serving in a detail for one of the positions above for more than 60 days.

B. When to File:

- (1) New Entrant Reports:** You must file an OGE Form 278 within 30 days of assuming a covered position, unless the Deputy Ethics Counselor or his/her designee grants you an extension.
- (2) Incumbent (Annual) Reports:** After the initial filing, you must file the form annually after January 1st, but no later than May 15th.

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(3) Termination Reports: You must file an OGE Form 278 no later than 30 days after leaving a covered position. You do not have to file a termination report if you assume another covered position within 30 days.

(4) Combined Annual/Termination Report: If you plan to leave your covered position on or within 90 days after the May 15th annual due date, you may file a combined annual/termination report if you request and receive an extension of the filing deadline.

C. How to File: You must use the FDOonline program to prepare and file your required financial disclosure reports. FDOonline guides you through entering reportable financial information and allows you to pre-populate each new report with information from the previous year. It also enables you to submit your report using a digital signature.

D. Getting an Extension:

(1) The Deputy Ethics Counselor or his/her designee may grant you an extension of up to 45 days past the filing date for “good cause.” Examples of “good cause” include:

- (a)** Long periods of official travel,
- (b)** Significant illness,
- (c)** Extremely pressing duty assignments, and
- (d)** The convenience of filing a combined annual/termination report.

(2) You must request an extension before the due date in writing (email will suffice).

(3) If you need more than 45 days, you must work with the Deputy Ethics Counselor or his/her designee to request an extension from the DEO. You must make the request in writing and provide an adequate reason(s) (email will suffice).

E. Late Filing Penalties: You are personally accountable for untimely reports.

(1) If you file your report more than 30 days after the due date or more than 30 days after the last day of an approved extension, you must pay a \$200 late filing fee. Other administrative sanctions also may be imposed.

(2) Write the check out to the “U.S. Treasury,” and give it to the Deputy Ethics Counselor. The Deputy Ethics Counselor will coordinate with the Division of Financial Management to ensure that your check is deposited as a miscellaneous receipt.

(3) You may send a written request for a waiver of the penalty to the Deputy Ethics Counselor for extraordinary circumstances.

F. Confidentiality: If someone requests it, we may release your OGE Form 278 report. The requestor must submit an OGE Form 201, “Request to Inspect or Receive Copies of OGE Form

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278/SF 278s or Other Covered Records.” To protect your privacy, do NOT include your spouse’s name, your child’s name, street addresses, or financial account numbers on your financial disclosure report.

G. Penalties for Failure to File or for Falsifying Reports: If you fail to file your report or willfully provide false information, the Deputy Ethics Counselor and the Director will give your name to the Attorney General. The Attorney General may bring a civil or criminal action against you. The Service also may take disciplinary and adverse personnel actions against you.

2.7 What are the requirements for filing a Periodic Transaction Report (OGE Form 278T)?

A. Who Must File an OGE Form 278T: The same people identified in section 2.6A must file this report too, when applicable.

B. What to Report: The STOCK Act requires you to file this financial disclosure report when you, your spouse, or a dependent child purchases, sells, or exchanges stocks, bonds, commodity futures, and other securities if the amount of the transaction exceeds \$1,000.

C. What Not to Report: You do NOT need to report transactions for the following:

- (1) Real property,
- (2) Mutual funds and other excepted investment funds;
- (3) U.S. Treasury bills, notes, and bonds;
- (4) Life insurance and annuities,
- (5) Cash accounts (certificates of deposit, savings or checking accounts, and money market accounts);
- (6) Thrift Savings Plan (TSP) or other retirement systems that the U.S. Government maintains,
- (7) Maturing of bonds;
- (8) Receipt of securities as a gift or inheritance; and
- (9) Transactions that are solely by and between you, your spouse, or dependent child.

D. When to File: You must file this report within 30 days of being notified of a transaction, but no more than 45 days after the transaction occurred.

For example, if you receive your brokerage statement on August 10th regarding a transaction that occurred on July 31st, the reporting deadline is September 9 (i.e., 30 days after you’re notified). If, instead, the August 10th statement indicates the transaction occurred on July 1st, the deadline is August 15th (i.e., within 45 days after the transaction).

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E. How to File: You must use the FDOOnline program to prepare and file your required financial disclosure reports.

F. Getting an Extension:

(1) The Deputy Ethics Counselor or his/her designee may grant you an extension of up to 45 days past the filing date for good cause.

(2) You must request an extension before the due date in writing (email will suffice).

G. Late Filing Penalties: You are personally accountable for untimely reports.

(1) If you file your report more than 30 days after the due date or more than 30 days after the last day of an approved extension, you must pay a \$200 late filing fee. Other administrative sanctions also may be imposed.

(2) Write the check out to the "U.S. Treasury," and give it to the Deputy Ethics Counselor. The Deputy Ethics Counselor will coordinate with the Division of Financial Management to ensure that your check is deposited as a miscellaneous receipt.

(3) You may send a written request for a waiver of the penalty to the Deputy Ethics Counselor for extraordinary circumstances (email will suffice).

OGE Form 450

2.8 What are the requirements for filing a Confidential Financial Disclosure Report (OGE Form 450)? The OGE Form 450 is for certain executive branch employees who are less senior than public filers to report their financial and other interests outside the Government.

A. Who Must File an OGE Form 450:

(1) Generally, you must file an OGE 450 if you are at grade GS-15 or below when:

(a) You participate personally and substantially through making decisions or exercising significant judgment, without substantial supervision and review, in taking official actions for:

(i) Contracting or procurement;

(ii) Administering or monitoring grants, subsidies, licenses, or other Federal benefits;

(iii) Regulating or auditing any non-Federal entity; or

(iv) Other activities in which a decision may have a direct and substantial economic impact on the interests of any non-Federal entity; or

(b) Your supervisor determines you must file an OGE 450.

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(2) Exhibit 1 lists the categories of positions that must file an OGE Form 450. There may be additional individual positions not on this list whose duties require that they file an OGE Form 450. If your supervisor is unsure whether you should file an OGE Form 450 report, he/she should consult with your servicing Ethics Counselor.

B. When to File:

(1) *New Entrant Reports:* You must file within 30 days of assuming a covered position.

(2) *Incumbent (Annual) Reports:* After you file the initial report, you must file the form annually after January 1st, but no later than February 15th.

(3) *OGE Optional Form 450-A in lieu Annual OGE 450:* You may file the optional form if you filed the previous year and there have been no changes. You cannot use the optional form during a Presidential election year—you must file the regular OGE Form 450.

C. How to File: You must use the FDOonline program to prepare and file your required financial disclosure reports. FDOonline guides you through entering reportable financial information and allows you to pre-populate each new report with information from the previous year. It also enables you to submit your report using a digital signature.

D. Getting an Extension:

(1) Your servicing Ethics Counselor may grant you an extension of up to 90 days past the filing date for “good cause.” Examples of “good cause” include:

- (a) Long periods of official travel,
- (b) Significant illness,
- (c) Extremely pressing duty assignments, and
- (d) The convenience of filing a combined annual/termination report.

(2) You must request an extension before the due date in writing (email will suffice).

E. Administrative Sanctions for Late Filing: Unlike the OGE Form 278, there is not a late filing fee. However, the Service may impose administrative sanctions such as disciplinary action, reassignment, or removal for filing late.

F. Confidentiality: Although the OGE Form 450 is not publicly available, the Service may give the form to the Office of the Inspector General, Office of Law Enforcement, or other Government offices that may need to review your information. To protect your privacy, we recommend that you do NOT include your spouse’s name, your child’s name, street addresses, or financial account numbers on your report.

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G. Penalties for Failure to File or for Falsifying Reports: If you fail to file your report or willfully provide false information, the Deputy Ethics Counselor and the Director will give your name to the Attorney General. The Attorney General may bring a civil or criminal action against you. The Service may also take disciplinary and adverse personnel actions against you.

Resolving Conflicts

2.9 How do Ethics Counselors and employees resolve conflicts of interest? The financial disclosure program is designed to reveal actual and potential conflicts of interest. Reporting an interest does not resolve the conflict of interest, nor does it eliminate the possibility of criminal, civil, or administrative action. Following are the ways that you and your servicing Ethics Counselor can work together to resolve conflicts of interest.

A. Recusal: A written disqualification from participating in specific Government matters is the most common and preferred method for dealing with potential conflicts of interest because it protects the Government without forcing employees to change their private interests. Your servicing Ethics Counselor will help you prepare the recusal. It must include the following information:

- (1) A description of the matters to which the recusal applies;
- (2) A statement of the process or method you and the Ethics Counselor will use to ensure recusal takes place, including the name and the position of the employee(s) delegated to work on the matters subject to the recusal; and
- (3) The positions of others involved in implementing the recusal (e.g., the individual's immediate subordinates and supervisors).

B. Reassignment: Reassignment of duties ranges from avoiding particular cases or matters to transferring employees to different sections or subject areas. Since the changing of an employee's duties is a personnel matter, the servicing Ethics Counselor must work with the employee's supervisor and Human Resources Officer to craft a solution.

C. Divestiture or Resignation: The Deputy Ethics Counselor may require an employee to divest (i.e., sell) a particular stock or resign from a position outside the Government to resolve a conflict of interest. The advantage of this approach is that it permanently resolves a conflict, but it might not be the first choice because of its severity.

- (1) The Deputy Ethics Counselor may order divestiture or resignation when maintaining the financial interest or position would:
 - (a) Disqualify you from matters so central or critical to performing your assigned duties that your ability to perform those duties would be significantly impaired, or
 - (b) Adversely affect the efficient accomplishment of the Service's mission because of the frequency or difficulty in reassigning responsibilities.

- (2) To ease the tax burden that you may incur from selling conflicting financial interests, Congress

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has authorized OGE to issue a certificate of divestiture. This certificate allows you to defer recognition (for income tax purposes) of capital gains from the sale of an interest that presented the conflict.

- (a) You must work with the Deputy Ethics Counselor to request such a certificate.
- (b) The process takes time, and only OGE can issue a certificate.
- (c) You must obtain the certificate BEFORE divesting an asset to secure the tax deferral. OGE cannot issue the certificate of divestiture retroactively.

D. Waivers and Exemptions: The criminal financial conflict of interest statute has four separate waiver/exemption provisions. To begin the waiver process, you must send a written request to the Deputy Ethics Counselor (email will suffice). He/she will review the request and must consult with the DEO and OGE before granting a waiver.

Mandatory Annual Ethics Training

2.10 Who must take 1 hour of annual mandatory ethics training? All public and confidential financial disclosure filers must take at least 1 hour of annual ethics training each calendar year. The deadline for completing this training is December 31st of the calendar year.

2.11. What qualifies as annual ethics training? To meet this training requirement, you must take training that is presented or prepared by a qualified instructor.

A. Presentation of training:

(1) OGE Form 278 filers must receive “verbal” training every year. Verbal training may be presented in person or by telecommunications, computer, audiotape, or videotape. A qualified instructor must be available during and immediately after the verbal training.

(2) OGE Form 450 filers also must receive training every year, but they are only required to receive “verbal” training every 3 years.

(a) Verbal training may be presented in person or by telecommunications, computer, audiotape, or videotape. A qualified instructor must be available during and immediately after the verbal training.

(b) For the other 2 years, they may substitute written training (i.e., reading training materials or informational documents), but the written material must have been prepared by a qualified instructor.

B. Qualified instructors include the DAEO and people he/she designates as qualified instructors, designated OGE employees, and the Service’s Deputy Ethics Counselor and people he/she designates as qualified instructors.

C. The content of the training must include, at a minimum, the 14 general principles and the

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standards of conduct (see 212 FW 1), supplemental agency standards, the Federal conflict of interest statutes, and Ethics Counselor contact information.

D. For questions about training or to ask if a course qualifies as annual ethics training, contact your servicing Ethics Counselor.

/sgd/ James W. Kurth
DEPUTY DIRECTOR

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