

Financial Disclosure Reports

- 1. REASON FOR ISSUE:** This handbook implements the financial disclosure policies contained in VA Directive 8002.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook establishes responsibilities and procedures for identifying public and confidential financial disclosure report filers and administering the financial disclosure report process using an electronic filing system to file, review, and process the OGE Form 278, Public Financial Disclosure Report, and the OGE Form 450, Confidential Financial Disclosure Report.
- 3. RESPONSIBLE OFFICE:** The General Counsel is responsible for the recertification and contents of this Handbook. Questions may be referred to the Office of the General Counsel (023) as appropriate.
- 4. RELATED DIRECTIVE:** VA Directive 8002, Financial Disclosure Reports
- 5. RESCISSIONS:** Handbook 5025, Part VI

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Financial Disclosure Reports

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1. PURPOSE. This handbook contains mandatory procedures for identifying public and confidential financial disclosure report filers and administering the financial disclosure report process. This handbook also lists the financial disclosure responsibilities of offices and individuals. VA uses an electronic filing system (currently Financial Disclosure Management (FDM)) to file, review, and process the OGE Form 450, Confidential Financial Disclosure Report (CFD), and the OGE Form 278, Public Financial Disclosure Report (PFD). This Handbook does not cover the filing and review of the Financial Conflict of Interest Statement, Alternative Form 450 procedure, used by VA researchers. See appropriate VHA Handbook on Financial Conflicts of Interest in Research.

2. RESPONSIBILITIES.

a. Designated Agency Ethics Official (DAEO)

(1) The Assistant General Counsel (023) is the designated agency ethics official (DAEO) for the Department of Veterans Affairs. The DAEO has primary responsibility for the administration, coordination, and management of the VA Government ethics program.

(2) Ensures compliance with the financial disclosure requirements contained in the Ethics in Government Act of 1978, as amended, Executive Order 12674 (as modified by E.O. 12731), and OGE regulations at 5 C.F.R. part 2634.

(3) Updates, as needed, the list of positions and occupations requiring submission of a confidential financial disclosure report and is the only VA employee who may authorize the addition or deletion of positions and occupations on that list based on a determination of whether the positions or occupations meet the filing criteria specified in Office of Government Ethics (OGE) regulations (see paragraph 3.b. below).

(4) Delegates authority as necessary to the Alternate DAEO and Office of General Counsel (OGC) attorneys/Deputy Ethics Officials, and paralegals.

b. Director, Corporate Senior Executive Management Office (CSEMO). Appoints a CSEMO Point of Contact (CSEMO POC) to act as the liaison between CSEMO and OGC regarding senior executive public financial disclosure report filers (PFD filers). Ensures that the CSEMO POC fulfills responsibilities as directed below.

c. Corporate Senior Executive Management Office Point of Contact (CSEMO POC)

(1) Acts as the liaison between CSEMO and OGC regarding senior executive PFD filers.

(2) Maintains a current listing of all serviced employees required to file a PFD.

(3) Informs new employees who meet the PFD filing requirements (see paragraph 3.a.(1) below) that they must file a new entrant PFD. Also informs employees departing PFD filing positions that they must file a termination PFD. Also informs employees who are Acting in any public filing role for more than 60 days that they must complete a new entrant PFD.

(4) Informs the designated OGC Paralegal whenever an individual enters into a PFD filer position. This communication shall occur immediately upon the individual entering into the PFD filer position.

(5) Informs the designated OGC Paralegal whenever a senior executive departs a PFD filer position. This communication shall occur before the senior executive departs the PFD filer position and, if the senior executive is leaving VA, shall include the senior executive's post-VA contact information.

(6) Informs the designated OGC Paralegal whenever a senior executive moves from one PFD filer position to a different PFD filer position within VA, so that OGC can update the PFD filer's information in FDM. This communication shall occur before the senior executive moves to the different PFD filer position.

(7) Informs the designated OGC Paralegal whenever an employee is designated as "Acting" in a PFD filer position and the employee is expected to perform in that position in excess of 60 days, or when the employee is not expected to perform in that position in excess of 60 days but actually performs in excess of 60 days.

d. Director, Human Resources Information Service (HRIS). Provides to the designated OGC Paralegal, no later than October 1 annually, a list of all VA employees not paid under the General Schedule whose rate of basic pay exceeds 120% of GS-15/1 (not including locality pay).

e. Under Secretaries, Assistant Secretaries, Deputy Assistant Secretaries, Other Key Officials, and field facility directors

(1) Ensure that Human Resources Officers, with assistance from Supervisors, maintain awareness of all employees serviced by their office who are required to file a confidential financial disclosure report and all employees not serviced by CSEMO who are required to file a PFD, and that this information is communicated to the appropriate OGC Paralegal.

(2) Ensure that Human Resources Officers fulfill their responsibilities as directed below.

(3) Ensure that if an organization, office, or facility does not contain a Human Resources Officer, the Supervisor of that organization, office, or facility appoints an HR Point of Contact (see paragraph 2.g. below).

f. Human Resources Officers (HROs)

(1) Appoint an HR Point of Contact (POC) within the HR Office to act as the liaison between the facility/office and OGC regarding financial disclosure matters.

(2) Ensure that the HR POC maintains a current listing of all serviced employees required to file financial disclosure reports.

(3) Ensure that the HR POC monitors new entrants and individuals promoted or converted into a position or occupation covered by the confidential financial disclosure requirements and reports these employees to the appropriate OGC Paralegal before the employees enter the filing positions. This includes employees in an “acting” capacity who serve in a filing position for more than 60 days in a twelve-month period. Further ensures that, when a confidential filer leaves a filing position, the HR POC informs the appropriate OGC Paralegal before the filer leaves the confidential filing position.

(4) Annually by September 1, and with assistance from Supervisors, identify positions and occupations at the level of GS-15 or below in their facility that HROs believe should be subject to the confidential financial reporting requirement (see paragraph 3.b. below), but that are not listed in the OGC covered positions list, and submit these positions and occupations to the appropriate OGC Paralegal for possible addition, based upon the DAEO’s determination, to the OGC covered positions list.

(5) Ensure that the HR POC maintains a current listing of employees not serviced by CSEMO who are required to file a public financial disclosure report because they are not paid under the General Schedule and their rate of basic pay exceeds 120% of GS-15/1 (not including locality pay). Further ensure that, when such a public filer leaves VA or when such a public filer’s rate of basic pay falls to or below the level of 120% of GS-15/1 (not including locality pay), the POC informs the designated OGC Paralegal before such a change in status occurs.

g. HR Points of Contact (HR POCs)

(1) Appointed by HROs or Supervisors to serve as liaisons between facilities and OGC regarding confidential financial disclosure matters.

(2) Maintain and update a current listing of serviced employees required to file a CFD.

(3) Inform the appropriate OGC Paralegal whenever an individual enters into a confidential financial disclosure report filer (CFD filer) position. This communication shall occur immediately upon the individual entering into the CFD filer position. HR POCs are not authorized to add filers to FDM.

(4) Inform the appropriate OGC Paralegal whenever an employee departs a CFD

filer position. This communication shall occur before the employee departs the CFD filer position. HR POCs are not authorized to delete filers from FDM.

(5) Inform the appropriate OGC Paralegal whenever an employee moves from one CFD filer position to a different CFD filer position within VA, so that the OGC Paralegal can update the CFD filer's information in FDM. This communication shall occur before the employee moves to the different CFD filer position.

(6) Informs the designated OGC Paralegal whenever an employee is designated as "Acting" in a CFD filer position and the employee is expected to perform in that position in excess of 60 days, or when the employee is not expected to perform in that position in excess of 60 days but actually performs in excess of 60 days.

(7) Maintain a listing of employees not serviced by CSEMO who are required to file a public financial disclosure report because they are not paid under the General Schedule and their rate of basic pay exceeds 120% of GS-15/1 (not including locality pay). When such a public filer leaves VA or when such a public filer's rate of basic pay falls to or below the level of 120% of GS-15/1 (not including locality pay), inform the designated OGC Paralegal before such a change in status occurs.

(8) Coordinate with OGC regarding an employee's filing status and any other financial disclosure issues, to potentially include, at OGC's discretion, activities such as contacting filers regarding their filing requirement.

h. Supervisors

(1) Ensure that employees required to file financial disclosure reports submit their reports by the appropriate deadline and respond promptly to OGC's request for additional information or for the filer to amend their report.

(2) Annually, prior to September 1, submit to HROs a list of positions or occupations at the level of GS-15 or below under their supervision that Supervisors believe should be subject to the confidential financial reporting requirement (see paragraph 3.b. below), but that are not listed in the OGC covered positions list.

(3) As necessary, in accordance with paragraph 2.e.(3) above for organizations without a Human Resources Officer, appoint an HR Point of Contact.

(4) As necessary, take administrative action against employees who fail to file the required report by the deadline or fail to respond to OGC requests for additional information or for the filer to amend their report.

i. OGC Attorneys/Deputy Ethics Officials

(1) Review and certify financial disclosure reports as authorized by the DAEO.

(2) Determine whether the financial interests disclosed in the reports could raise conflict of interest considerations.

(3) Inform employees and, if necessary, employees' supervisors of possible concerns regarding ethical matters that appear on their financial disclosure reports and assist employees in resolving those concerns.

j. OGC Paralegals

(1) Coordinate with HR POCs to identify filers and supervisors.

(2) Add and delete filers from FDM, based upon information provided by HR POCs.

(3) Review and certify financial disclosure reports in accordance with OGC standard operating procedures.

k. Filers. Responsible for timely filing (i.e., within 30 days after entering a position requiring such filing, or annually by 15 February for the OGE Form 450 or May 15 for the OGE Form 278), fully reporting required information, and promptly responding to OGC requests for additional information or for the filer to amend their report. PFD filers must also timely file OGE Form 278-T as required.

3. FILERS OF FINANCIAL DISCLOSURE REPORTS.

a. Identifying Filers of Public Financial Disclosure Reports (PFD filers)

(1) The following VA employees must file a PFD (and the 278-T for periodic transactions (see paragraph 4.j. below)): employees classified above GS-15 of the General Schedule; employees whose rate of basic pay is fixed, other than under the General Schedule, at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 (not including locality pay); and employees excepted from the competitive service by reason of being of a confidential or policy-making character. For physicians and dentists paid under 38 U.S.C. § 7431, "basic pay" is the amount paid under the "Physician and Dentist Base and Longevity Pay Schedule." In accordance with 5 C.F.R. § 2634.204, if the DAEO determines that a PFD filer is not reasonably expected to perform the duties of the PFD filer position for more than 60 days in a calendar year, the PFD filer need not file a PFD. However, if the PFD filer then performs the duties of the PFD filer for more than 60 days, the PFD filer shall file a PFD within 15 calendar days following the sixtieth day of duty in the filing position (this occurs when someone is "Acting" in a PFD filer position).

(2) The four categories of PFD filers are new entrant, incumbent, termination, and nominee.

(a) New Entrant. CSEMO shall inform the designated OGC Paralegal whenever an

individual enters into a VA senior executive PFD filer position. This communication shall occur immediately upon the individual entering into the PFD Filer position. HR POCs shall inform the designated OGC Paralegal whenever an employee not serviced by CSEMO meets the requirements for public filing. VA Administrations and Offices shall inform the designated OGC Paralegal of their intent to employ a special Government employee (SGE) for more than 60 days during a 365-day period if the SGE meets the public filing requirements. Prospective SGEs who meet the public filing requirements must file a PFD before receiving their appointment and shall not receive an SGE appointment until OGC certifies their New Entrant PFD.

(b) Incumbent. The designated OGC Paralegal shall be responsible for maintaining, with input from CSEMO and HR POCs, a list of PFD filers. All PFD filers will receive e-mail notification from OGC that their annual PFD is due by May 15.

(c) Termination. CSEMO and HR POCs, prior to a PFD filer leaving a filing position, shall inform the designated OGC Paralegal of the departing filer and notify the departing filer of the requirement to submit a termination PFD.

(d) Nominee. At any time after a public announcement by the President or President-elect of his intention to nominate an individual to a VA position, appointment to which requires the advice and consent of the Senate, the individual may, and in any event within five days after the transmittal of the nomination to the Senate shall, file a PFD.

b. Identifying Filers of Confidential Financial Disclosure Reports (CFD filers)

(1) Regular Employees

(a) Employees at the GS-15 level or below must file a confidential financial disclosure report (OGE Form 450) if they participate personally and substantially, through decision or exercise of significant judgment, and without substantial supervision and review, in:

1. Contracting or procurement,
2. Administering or monitoring grants, subsidies, licenses, or other Federally-conferred financial or operational benefits,
3. Regulation or auditing any non-Federal entity, or
4. 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.

(b) VA may also conclude that the duties and responsibilities of an employee's position require the employee to file a CFD to avoid involvement in a real or apparent conflict of interest and to carry out the purposes of any law or Executive Order. Such

positions include those with duties which involve investigating or prosecuting violations of criminal or civil law.

(c) Only the DAEO may determine which positions or occupations meet the criteria for filing a CFD. However, HR POCs, with the assistance of Supervisors and HROs, shall determine which employees fill the DAEO-determined filing positions in their facility or organization and notify the appropriate OGC Paralegal of the names of employees required to file. HR POCs, Supervisors, and HROs, in accordance with paragraphs 2.f.(4) and 2.h.(2) above, must annually review their positions and suggest to the DAEO positions that they believe should be added to or removed from the list of filing positions.

(2) Special Government Employees (SGEs). Generally, all SGEs must file a CFD. However, for SGEs who are members of an Advisory Committee, the DAEO may determine that the SGEs on certain Advisory Committees are exempt from the CFD filing requirement. All other SGEs (not on Advisory Committees) must file if they are paid at the rate of GS-15 or below or are paid above GS-15 but work 60 days or less in a 365-day period. Prospective SGEs must file a CFD before receiving their appointment and shall not receive an SGE appointment until OGC certifies their New Entrant CFD.

4. ADMINISTRATION OF FINANCIAL DISCLOSURE REPORTS.

a. Notifying Filers

(1) New Entrant filers

(a) Public Financial Disclosure Reports (OGE Form 278). CSEMO shall notify all employees required to file a New Entrant PFD. CSEMO will simultaneously notify the designated OGC Paralegal so that the Paralegal may add the filer to the VA electronic filing system (currently FDM), assign a New Entrant report, and inform the filer of the report deadline. New Entrant filers are required to submit their report within 30 days following assumption of a filing position. However, no report is required if the employee has already filed a PFD as a candidate or nominee for the position or if, within 30 days prior to assuming a filing position, the employee left another position or office for which a public financial disclosure report was required to be filed (in this situation, the employee will provide OGC with a copy of the previously filed PFD). See paragraph 3.a.(1), above, for guidance regarding employees reasonably expected to serve in a Public filer position for less than 60 days in a calendar year.

(b) Confidential Financial Disclosure Reports (OGE Form 450). Based upon information provided by HR POCs, OGC Paralegals will add new filers to the VA electronic filing system (currently FDM), assign a report to the new filer, and notify the filer of the filing requirement and deadline. New Entrant filers are required to submit their report within 30 days following assumption of a filing position. However, no report is required if the employee has already filed a CFD in connection with consideration for

appointment to the position or if, within 30 days prior to assuming a filing position, the employee left another position or office for which a CFD was required to be filed and the employee satisfied the previous filing requirement (in this situation, the employee will provide OGC with a copy of the previously filed CFD).

(c) Special Government Employees.

1. SGEs other than those assigned to VA Federal Advisory Committees. Offices intending to employ an SGE will inform their servicing HRO, who will inform an OGC Paralegal. After determining whether the SGE will be required to file a PFD or CFD, the appropriate OGC Paralegal will forward to the prospective SGE the appropriate financial disclosure report. The HRO may not issue an SGE appointment until OGC has certified the financial disclosure report. Upon reappointment, the SGE will file another New Entrant report (SGEs do not file Incumbent reports).

2. SGEs serving on a VA Federal Advisory Committee. For Advisory Committees whose SGEs are required to file a CFD, and that are intending to appoint a new SGE, the Committee's Federal Officer will ensure that a completed CFD is submitted to OGC. A prospective SGE cannot receive an SGE appointment until OGC certifies their CFD. Each year, the Committee's Federal Officer will ensure that SGEs submit a New Entrant CFD (SGEs do not file Incumbent reports) at least 30 days before the committee's first meeting of the calendar year. SGEs cannot participate in committee deliberations unless OGC has certified their CFD.

(2) Incumbent Filers

(a) Public Financial Disclosure Reports (OGE Form 278). Following the New Year's holiday, the designated OGC Paralegal will notify all employees required to file an annual PFD.

(b) Confidential Financial Disclosure Reports (OGE Form 450).

1. By October 1, OGC will finalize any updates to the list of confidential filing positions and occupations and distribute the list to HR POCs.

2. By November 1, HR POCs, with required assistance and input from Supervisors and HROs, will ensure that OGC Paralegals are notified of all employees who should be added to or deleted from FDM.

3. By November 28, OGC Paralegals will ensure that FDM's filer list reflects the information submitted by HR POCs.

4. Immediately following the New Year's holiday, OGC Paralegals will notify annual filers of the requirement to file and the due date (February 15).

(c) Termination Filers (OGE Form 278 only). Based upon information provided by

CSEMO and HR POCs, the designated OGC Paralegal shall notify all employees required to file a Termination PFD.

b. Filing Instructions

(1) New Entrant Filers

(a) Employees assuming a position that requires the filing of either a PFD or CFD must use the appropriate VA electronic filing system (currently FDM) to complete and file the appropriate report within 30 days after commencement of employment or the effective date of their promotion to annual filing position, unless they have been granted an extension by an OGC Paralegal.

(b) SGEs who are required to file and who have a VA email address will complete and file the appropriate report using the VA electronic filing system (currently FDM). SGEs serving on an Advisory Committee will submit a completed financial disclosure report to their Designated Federal Officer. The DFO will submit the report to an OGC Deputy Ethics Official for review.

(2) Incumbent Filers

(a) Public Financial Disclosure Reports.

1. Public filers must file a PFD by May 15 of each year, unless they have been granted an extension by the designated OGC Paralegal. *Note: If May 15 falls on a Saturday or Sunday, the due date will be moved to the Monday after May 15.*

2. Public filers must file the periodic transaction report, OGE 278-T, within 30 days of receiving notice of reportable transactions, but in no event later than 45 days after the reportable transaction.

(b) Confidential Financial Disclosure Reports. Regular employees (not SGEs, who always file a New Entrant CFD) must file a CFD by February 15 of each year, unless they have been granted an extension by an OGC Paralegal. *Note: If February 15 falls on a Saturday or Sunday, the due date will be moved to the next business day after February 15.*

(3) Termination Filers (OGE Form 278 only).

(a) Employees terminating a PFD filing position must file a termination PFD no later than 30 days after leaving that position and no sooner than the last day in that position unless, within thirty days of terminating the PFD filing position, they assume a new PFD filing position or are granted a filing extension by the designated OGC Paralegal.

(b) Termination Filers who leave Federal Service often cannot use FDM to file a

Termination PFD because VA employees access FDM with their VA username and password. Termination Filers who leave Federal Service should thus strive to submit their Termination PFD via FDM on their last day of Federal Service. CSEMO and HR POCs are responsible for ensuring that Termination Filers who leave Federal Service and did not submit their Termination PFD via FDM on their last day of service receive a PFD by mail or email, along with instructions for completion and filing with the designated OGC Paralegal.

(c) CFD filers are not required to file any report upon leaving their filing position.

c. Late Filing Fee

(1) Public Filers are subject to a filing fee of \$200 if they file their report more than 30 days after the last day the report is required to be filed. If they have received an extension of time to file their report, they are subject to this fee if their report is filed more than 30 days after the last day of the extension period. OGC staff will notify late filers of the need to pay the fee, along with instructions for mailing payment, made payable to the U.S. Treasury, to OGC. A periodic transaction report is considered a "report" for purposes of the late filing fee.

(2) Employees may request a waiver of the late filing fee by submitting a written explanation of lateness to the designated OGC Paralegal. The DAEO may waive the late filing fee upon a determination that the delay in filing was caused by extraordinary circumstances, including the failure of OGC or CSEMO to notify a new entrant, first-time incumbent filer, or termination filer of the requirement to file, which made the delay reasonably necessary.

d. Assistance with Forms. Any questions concerning the use of an electronic filing system to complete and submit a report, or questions concerning OGE Forms 278, 278-T, or 450, should be directed to an OGC Paralegal or Deputy Ethics Official.

e. Extensions.

(1) Upon request, the DAEO, Alternate DAEO, Deputy Ethics Official, or designated OGC Paralegal may grant to a PFD Filer, for good cause, a filing extension of up to 45 days. They may grant an additional extension of up to 45 days for good cause. However, the filer must specify, in writing, the reasons why an additional extension is necessary and OGE personnel must approve or deny the request for an additional extension in writing.

(2) Upon request, the DAEO, Alternate DAEO, Deputy Ethics Official, or OGC Paralegal may grant a CFD filer an extension not to exceed 90 days.

f. Authorized Reviewers. Only the DAEO, Alternate DAEO, Deputy Ethics Officials, and OGC Paralegals or others so delegated may review financial disclosure reports. Only the DAEO or Alternate DAEO may certify PFDs submitted by Presidentially-

Appointed, Senate-Confirmed (PAS) nominees and appointees. Their certified reports, as required by regulation, are then sent to the Office of Government Ethics by the appropriate OGC ethics support staff. The DAEO may not review and certify his own report, but instead shall submit his report to the Secretary or his designee, which is currently the General Counsel, for review and certification. The DAEO's certified report is then, as required by regulation, sent to OGE by the appropriate ethics support staff.

g. **Timetable and Procedures for Obtaining Additional Information.** If additional information is required in order for OGC to certify a report, an OGC Paralegal or Deputy Ethics Official will notify the filer after initial review of the report. Filers shall promptly provide the requested information or amend their report in accordance with OGC instructions.

h. **Custody of Reports.** Reports filed electronically shall be maintained by the electronic filing system for a period of six years after receipt. In the case of reports filed in hardcopy, OGC will maintain the reports in locked file cabinets for a period of six years, at which point OGC will destroy the reports unless they are needed in an ongoing investigation.

i. **Public Access to Public Financial Disclosure Reports.** Federal law requires that all PFDs, including periodic transaction reports (OGE Form 278-T), be available for public review upon request.

j. **Period Transaction Reports.** Federal law requires that PFD filers use OGE Form 278-T to report certain financial transactions as they occur during the year. PFD filers will comply with OGC guidance regarding periodic transaction reporting.

k. **Security for Confidential Financial Disclosure Reports.** As required by the Ethics in Government Act, the information contained in a CFD will not be disclosed to the public and is exempt from release under the Freedom of Information Act.

l. **Pursuing Administrative or Legal Action.**

(1) If an employee willfully fails to file a PFD, willfully fails to provide necessary information, or willfully provides false or incomplete information, VA shall refer such individual to the U.S. Attorney General for possible civil action.

(2) Both public and confidential filers may be criminally prosecuted for providing false information on a financial disclosure report.

(3) Both public and confidential filers are subject to administrative action for failing to file, refusing to provide necessary information, or providing false or incomplete information. In such a situation, OGC will notify the filer's Supervisor, who shall take appropriate administrative action.