

## Office of Government Ethics

## § 2634.604

may be furnished without charge or at a reduced charge if the agency determines that waiver or reduction of the fee is in the public interest. The criteria used by an agency to determine when a fee will be reduced or waived shall be established by regulation. Agency regulations contemplated by paragraph (e) of this section do not require approval pursuant to §2634.103.

(f) It is unlawful for any person to obtain or use a public 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.

*Example 1.* The deputy general counsel of Agency X is responsible for reviewing the public financial disclosure reports filed by persons within that agency. The agency personnel director, who does not exercise functions within the ethics program, wishes to review the disclosure report of an individual within the agency. The personnel director must file an application to review the report. However, the supervisor of an official with whom the deputy general counsel consults concerning matters arising in the review process need not file such an application.

*Example 2.* A state law enforcement agent is conducting an investigation which involves the private financial dealings of an individual who has filed a public financial disclosure report. The agent must complete a written application in order to inspect or obtain a copy.

*Example 3.* A financial institution has received an application for a loan from an official which indicates her present financial status. The official has filed a public financial disclosure statement with her agency. The financial institution cannot be given access to the disclosure form for purposes of verifying the information contained on the application.

(g)(1) Any public report filed with an agency or transmitted to the Director of the Office of Government Ethics under this section shall be retained by the agency, and by the Office of Government Ethics when it receives a copy. The report shall be made available to the public for a period of six years after receipt. After the six-year period, the report shall be destroyed unless needed in an ongoing investiga-

tion, except that in the case of an individual who filed the report pursuant to §2634.201(c) as a nominee and was not subsequently confirmed by the Senate, or who filed the report pursuant to §2634.201(d) as a candidate and was not subsequently elected, the report, unless needed in an ongoing investigation, shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President. See also the OGE/GOVT-1 Governmentwide executive branch Privacy Act system of records (available for inspection at the Office of Government Ethics), as well as any applicable agency system of records.

(2) For purposes of paragraph (g)(1) of this section, in the case of a reporting individual with respect to whom a trust has been certified under subpart D of this part, a copy of the qualified trust agreement, the list of assets initially placed in the trust, and all other publicly available documents relating to the trust shall be retained and made available to the public until the periods for retention of all other reports of the individual have lapsed under paragraph (g)(1) of this section.

(Approved by the Office of Management and Budget under control numbers 3209-0001 and 3209-0002)

[57 FR 11821, Apr. 7, 1992; 57 FR 21854, May 22, 1992, as amended at 59 FR 34756, July 7, 1994]

### **§ 2634.604 Custody of and denial of public access to confidential reports.**

(a) Any report filed with an agency under subpart I of this part shall be retained by the agency for a period of six years after receipt. After the six-year period, the report shall be destroyed unless needed in an ongoing investigation. See also the OGE/GOVT-2 Governmentwide executive branch Privacy Act system of records (available for inspection at the Office of Government Ethics), as well as any applicable agency system of records.

(b) The reports filed pursuant to subpart I of this part are confidential. No member of the public shall have access to such reports, except pursuant to the order of a Federal court or as otherwise provided under the Privacy Act. See 5

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5 CFR Ch. XVI (1–18 Edition)

U.S.C. 552a and the OGE/GOVT-2 Privacy Act system of records (and any applicable agency system); 5 U.S.C. app. (Ethics in Government Act of 1978, section 107(a)); sections 201(d) and 502(b) of Executive Order 12674, as modified by Executive Order 12731; and § 2634.901(d).

[57 FR 11821, Apr. 7, 1992; 57 FR 21854, May 22, 1992]

§ 2634.605 **Review of reports.**

(a) *In general.* The designated agency ethics official shall normally serve as the reviewing official for reports submitted to his agency. That responsibility may be delegated, except in the case of certification of nominee reports required by paragraph (c) of this section. See also § 2634.105(q). He shall note on any report or supplemental report the date on which it is received. Except as indicated in paragraph (c) of this section, all reports shall be reviewed within 60 days after the date of filing. Reports reviewed by the Director of the Office of Government Ethics shall be reviewed within 60 days from the date on which they are received by that Office. Final certification in accordance with paragraph (b)(2) of this section may, of necessity, occur later, where additional information is being sought or remedial action is being taken under this section.

(b) *Responsibilities of reviewing officials*—(1) *Initial review.* The reviewing official may request an intermediate review by the filer’s supervisor. In the case of a filer who is detailed to another agency for more than 60 days during the reporting period, the reviewing official shall obtain an intermediate review by the agency where the filer served as a detailee. After obtaining any intermediate review or determining that such review is not required, the reviewing official shall examine the report to determine, to his satisfaction that:

(i) Each required item is completed; and

(ii) No interest or position disclosed on the form violates or appears to violate:

(A) Any applicable provision of chapter 11 of title 18, United States Code;

(B) The Act, as amended, and the implementing regulations;

(C) Executive Order 12674, as modified by Executive Order 12731, and the implementing regulations; or

(D) Any other agency-specific statute or regulation which governs the filer.

(2) *Signature by reviewing official.* If the reviewing official determines that the report meets the requirements of paragraph (b)(1) of this section, he shall certify it by signature and date. The reviewing official need not audit the report to ascertain whether the disclosures are correct. Disclosures shall be taken at “face value” as correct, unless there is a patent omission or ambiguity or the official has independent knowledge of matters outside the report. However, a report which is signed by a reviewing official certifies that the filer’s agency has reviewed the report, and that the reviewing official has concluded that each required item has been completed and that on the basis of information contained in such report the filer is in compliance with applicable laws and regulations noted in paragraph (b)(1)(ii) of this section.

(3) *Requests for, and review based on, additional information.* If the reviewing official believes that additional information is required, he shall request that it be submitted by a specified date. This additional information shall be made a part of the report. If the reviewing official concludes, on the basis of the information disclosed in the report and any additional information submitted, that the report fulfills the requirements of paragraph (b)(1) of this section, the reviewing official shall sign and date the report.

(4) *Compliance with applicable laws and regulations.* If the reviewing official concludes that information disclosed in the report may reveal a violation of applicable laws and regulations as specified in paragraph (b)(1)(ii) of this section, the official shall:

(i) Notify the filer of that conclusion;

(ii) Afford the filer a reasonable opportunity for an oral or written response; and

(iii) Determine, after considering any response, whether or not the filer is then in compliance with applicable laws and regulations specified in paragraph (b)(1)(ii) of this section. If the reviewing official concludes that the report does fulfill the requirements, he