

**OFFICE OF GOVERNMENT ETHICS****Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for Unmodified SF 278 Executive Branch Personnel Public Financial Disclosure Report**

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

**ACTION:** Notice.

**SUMMARY:** The Office of Government Ethics is publishing this second round notice and requesting comment on an unmodified Standard Form (SF) 278 for extension of approval for three years by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OGE is making no changes to the form at this time. As in the past, OGE will ask agencies to notify SF 278 filers of two updates to the information contained in the existing SF 278.

**DATES:** Written comments by the public and the agencies on this proposed extension are invited and must be received by February 28, 2007.

**ADDRESSES:** Comments should be sent to Brenda Aguilar, OMB Desk Officer for OGE, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; Telephone: 202-395-7316; FAX: 202-395-6974.

**FOR FURTHER INFORMATION CONTACT:** Paul D. Ledvina, Records Officer, Information Resources Management Division at the Office of Government Ethics; Telephone: 202-482-9281; TDD: 202-482-9293; FAX: 202-482-9237; E-mail: [pdledvin@oge.gov](mailto:pdledvin@oge.gov). A copy of a blank SF 278 may be obtained, without charge, by contacting Mr. Ledvina. Also, a copy of a blank SF 278 is available through the Forms, Publications & Other Ethics Documents section of OGE's Web site at <http://www.usoge.gov>.

**SUPPLEMENTARY INFORMATION:** The Office of Government Ethics intends to submit, shortly after publication of this notice, the unmodified Standard Form 278 Executive Branch Personnel Public Financial Disclosure Report (OMB control number 3209-0001) for extension of approval for three years by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The current paperwork approval for the SF 278 expires at the end of February 2007 (the clearance will be further extended during OMB review once OGE submits the complete package requesting renewed paperwork clearance of the SF 278 to OMB). The Office of Government Ethics, as the supervising ethics office

for the executive branch of the Federal Government under the Ethics in Government Act (the Ethics Act), is the sponsoring agency for the Standard Form 278. OGE will not request General Services Administration (GSA) standard forms clearance for this extension because no modification to this standard form is proposed.

In accordance with section 102 of the Ethics Act, 5 U.S.C. app. section 102, and OGE's implementing financial disclosure regulations at 5 CFR part 2634, the SF 278 collects pertinent financial information from certain officers and high-level employees in the executive branch on an annual basis and once they terminate their reportable positions, for conflicts of interest review and public disclosure. The SF 278 is also completed by individuals who are nominated by the President for high-level executive branch positions requiring Senate confirmation, new entrants to other public reporting positions in the executive branch, and candidates for U.S. President and Vice President. The financial information collected under the statute and regulations 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 other than the U.S. Government—all subject to various reporting thresholds and exclusions.

**Current Version of the SF 278**

The Office of Government Ethics is proposing no modifications to the SF 278 at this time. OGE will continue to make the unmodified SF 278 available to departments and agencies and their reporting employees through the Forms, Publications & Other Ethics Documents section of OGE's Web site. This provides filers with two electronic options for preparing their report on a computer (as well as a downloadable blank form). There is also a link on the OGE Web site to another electronic version of the SF 278 maintained by the Department of Defense. In addition, GSA separately maintains two electronic versions of the form on its Web site (<http://www.gsa.gov>).

The Office of Government Ethics has determined that at this time, electronic filing of the SF 278 using an Internet-based system will not be permitted. A printout and manual signature of the form are still required unless otherwise specifically approved by OGE.

**Agency Notification of Updates**

There are two ways in which the content of the current SF 278 report

form is affected. The first concerns adjustments in the gifts/reimbursements reporting thresholds. The second involves revised routine use language contained in the Privacy Act Statement of the form. OGE is proposing no revisions to the SF 278, but will continue to ask executive branch departments and agencies to inform SF 278 filers, through cover memorandum or otherwise, of these two updates when the existing March 2000 edition of the SF 278 report forms are provided for completion. See OGE's August 25, 2003 memorandum to designated agency ethics officials (DO-03-015), posted in the "DAEOgrams" section of the OGE Web site. Information regarding these changes is also posted along with the SF 278 in the forms section of OGE's Web site. In addition, OGE will post on its Web site an updated summary of one of the Privacy Act routine uses on the report form (see discussion below).

**Gifts/Reimbursements Reporting Thresholds**

Every three years OGE issues final rule amendments that revise the executive branch financial disclosure regulation to increase the aggregation and exception thresholds for reporting of gifts, reimbursements and travel expenses for the public and confidential report systems. See 5 U.S.C. app. section 102(a)(2)(A) & (B). The OGE aggregation threshold provides a limit below which the total value of gifts and reimbursements received from a source is not reportable. The exception threshold limits the value of individual gifts and reimbursements that must be counted toward the aggregation threshold.

OGC's threshold adjustments are tied to the "minimal value" threshold of the Foreign Gifts and Decorations Act, as determined by GSA under 5 U.S.C. 7342. Since 2002, OGE has asked agencies to notify filers of the SF 278 of the updated adjustments to the reporting thresholds for gifts and reimbursements. Effective January 1, 2005, GSA raised the "minimal value" threshold under 5 U.S.C. 7342 to \$305 or less for the three-year period 2005-2007. See 70 FR 2317-2318 (part V) (January 12, 2005). Following GSA's action, OGE advised agencies of the adjusted thresholds and revised its financial disclosure regulation to reflect the increase in the thresholds for SF 278 reporting of gifts and travel reimbursements received from any one source to "more than \$305" for the aggregation level for reporting and to "\$122 or less" for the de minimis aggregation exception threshold. See the March 17, 2005 OGE memorandum to

designated agency ethics officials (DO-05-007) and 70 FR 12111-12112 (March 11, 2005). Both GSA and OGE rulemakings and OGE's memorandum are posted on the OGE Web site.

#### Privacy Act Statement

In addition, OGE has updated the OGE/GOV'T-1 Privacy Act system of records notice (covering SF 278 Public Financial Disclosure Reports and other name-retrieved ethics program records). See 68 FR 3097-3109 (January 22, 2003), as corrected at 68 FR 24744 (May 8, 2003). As a result, the Privacy Act Statement, which includes summaries of the routine uses on page 11 of the instructions on the SF 278, is affected. As explained in the above-noted OGE memorandum DO-03-015 and the SF 278 notice posted on OGE's Web site, the system notice update added three new routine uses applicable to SF 278 reports. Moreover, OGE will also ask agencies to inform filers of an update needed to the summary of the sixth listed routine use on the form in their periodic notifications to filers of changes to the SF 278. See revised routine use "h" at 68 FR 3100 for the OGE/GOV'T-1 records system notice. OGE has already updated that same sixth routine use summary for three of its other forms, the OGE Form 201, the OGE Form 450, and the OGE Optional Form 450-A. These forms are posted in the forms section of the OGE Web site. A summary of the updates relevant to that SF 278 statement will be included with the paperwork clearance submission to OMB.

#### SF 278 Filers

The SF 278 is completed by candidates, nominees, new entrants, incumbents and terminees of certain high-level positions in the executive branch of the Federal Government. These reports are routinely reviewed by the agencies concerned. The Office of Government Ethics, along with the agencies concerned, conducts the review of the SF 278 reports of Presidential nominees subject to Senate confirmation and incumbents in and terminees from such positions.

#### Reporting Burden

The Office of Government Ethics estimates, based on the agency ethics program questionnaire responses for 2003-2005, that an average of some 23,971 SF 278 report forms are filed annually at departments and agencies throughout the executive branch. (Questionnaire responses for 2006 are not yet available.) Most of those executive branch filers are current Federal employees at the time they file.

However, OGE estimates that approximately 2,475, or just over 10.3 percent, of the branchwide total of SF 278 filers over each of the next three years (2007-2009) will be members of the public. This annual estimate includes: (a) Private citizen Presidential nominees to executive branch positions subject to Senate confirmation (and their private representatives—lawyers, accountants, brokers and bankers); (b) other private citizen prospective new entrants to such reportable positions; (c) those who file termination reports (or combination annual and termination reports) from such positions after their Government service ends; and (d) Presidential and Vice Presidential candidates. The OGE estimate includes an anticipated total of some 3,900 SF 278 reports (which yields an annualized average of 1,300 per year) that will be filed in connection with the fall 2008 Presidential election and following transition. In OGE's first round SF 278 paperwork notice (noted below), the statistics OGE used to compute the reporting burden on the public over the next three years mistakenly omitted the estimated additional private citizen filers expected during the forthcoming Presidential election/transition.

The estimated average amount of time to complete the report form, including review of the instructions and gathering of needed information, remains the same as previously reported, at three hours. Thus, the overall estimated annual public burden for the SF 278 for the private citizen/representative nominee and terminee report forms processed in executive branch agencies, and those report forms processed by the OGE, including private citizen Presidential and Vice Presidential candidates report forms, is 7,425 hours (rather than the 3,525 hours as mistakenly indicated in the first round notice).

The current average yearly paperwork hour burden for the SF 278 form, based on OGE's prior 2003 annual estimate for the 2003-2005 period, is 1,347 hours. This burden estimate was based upon an anticipated annual average of 449 SF 278 report forms (x 3 hours per form) to be received at OGE only from private citizen/representative nominee and terminee filers, plus Presidential and Vice Presidential candidates whose report forms are also reviewed by OGE. OGE's new annual burden estimate for the 2007-2009 period has been adjusted to cover private citizen SF 278 filers anticipated throughout the executive branch, in accordance with updated OMB guidance for such a branchwide form.

#### Consideration of Comments

On November 3, 2006, OGE published a first round notice of its intent to request paperwork clearance for the proposed unmodified SF 278. See 71 FR 64708-64710. OGE received only one response to that notice, which was critical of the Government, and provided no specific comment about the SF 278 form. One other person requested a copy of the form.

In this second notice, public comment is again invited on the SF 278 Public Financial Disclosure Report as set forth in this notice, including specifically views on the need for and practical utility of this collection of information, the accuracy of OGE's burden estimate, the potential for enhancement of the quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments received, which will become a matter of public record.

Approved: January 23, 2007.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Office of the Secretary; Amendment To Extend the January 24, 2003, Declaration Regarding Administration of Smallpox Countermeasures, as Amended on January 24, 2004, January 24, 2005, and January 24, 2006

**AGENCY:** Office of the Secretary (OS), (HHS).

**ACTION:** Notice.

**SUMMARY:** Concern that terrorists may have access to the smallpox virus and attempt to use it against the American public and United States Government facilities abroad continues to exist. The January 24, 2003, declaration regarding administration of smallpox countermeasures is revised to incorporate statutory definitions from the Smallpox Emergency Personnel Protection Act of 2003 and extended for one year until and including January 23, 2008.

**DATES:** This notice and the attached amendment are effective as of January 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Rear Admiral William C. Vanderwagen, Deputy Assistant Secretary for Preparedness and Response and Chief