

## **Office of Government Ethics**

**94 x 17 -- 10/05/94**

### **Letter to an Agency Official dated October 5, 1994**

This is in response to your letter of August 23, 1994, in which you ask two questions on behalf of [a] National Council. These questions were initially addressed at a meeting in Seattle, Washington, which discussed the "Executive Branch Personnel Public Financial Disclosure Report" (SF 278).

Your first question concerns whether special Government employees (SGEs) are required to file an SF 278 on the anniversary date of their appointment even if in the prior calendar year the SGE did not work more than 60 days.

The answer to this question is that SGEs who do not perform the duties of their position for more than 60 days in a calendar year do not file SF 278s. SGEs fall under the same criteria for filing new entrant, incumbent, and termination SF 278s as other employees. If they meet the criteria for SF 278 filing because of their compensation level and work more than 60 days in a calendar year, then they must file SF 278s.

The regulation on public and confidential financial disclosure can be found at 5 C.F.R. part 2634. Section 2634.201(a) requires an incumbent public filer who performs the duties of his position for a period in excess of 60 days to file a public financial disclosure report on or before May 15 of the succeeding year. See examples 1 and 2 following section 2634.201(a) of the regulation.

Your second question concerns whether SGEs who do not meet the 60-day requirement should file confidential financial disclosure reports (SF 450). SGEs who do not file public financial disclosure reports must file confidential reports pursuant to section 2634.903(b). SGEs are not subject to a 60-day threshold of service requirement for filing new entrant SF 450s. SGEs should file SF 450s at the time of their initial one-year appointment and again upon any reappointment or redesignation for an additional year as an SGE.

However, if an SGE who was not expected to work more than 60 days in

a

calendar year actually performs his or her duties more than 60 days and exceeds the compensation level, then the SGE must file a new entrant SF 278 within 15 days after the 60th day. To avoid having the SGE complete both an SF 450 and an SF 278 as a new entrant if he or she in fact works more than 60 days, the ethics official may offer the SGE the option of filing an SF 278 in lieu of the SF 450. In this situation, the SF 278 would be marked "not for public release" and treated as confidential unless and until the SGE works more than 60 days.

If you have any questions concerning this letter or the regulation, please feel free to contact our Office.

Sincerely,

[A Division Chief]