

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



June 25, 1997
DO-97-028

MEMORANDUM

TO:

Designated Agency Ethics Officials

FROM:

Stephen D. Potts
Director

SUBJECT:

Authority to Use Certificate of No New Interests in Lieu of Annual OGE Form 450

The Office of Government Ethics (OGE) has issued a final rule amending the financial disclosure regulation, which authorizes all executive branch departments and agencies to adopt a standardized certificate of no new interests (OGE Optional Form 450-A) in lieu of an annual OGE Form 450, for regular employee annual confidential disclosure filers who can make the required certifications. As a related matter, this amendment to the regulation notes the final phaseout of the old SF 450, effective August 31, 1997, after which the replacement OGE Form 450 must be used as the basic confidential disclosure document. See 62 Fed. Reg. 33972-33977 of June 24, 1997, amending 5 C.F.R. §§ 2634.601 and 2634.905, effective July 24, 1997.

A camera-ready copy of the standardized certificate of no new interests, OGE Optional Form 450-A, is attached for agency use in reproducing supplies locally. The other document, OGE Form 450, was previously distributed by DAEOgram of February 27, 1996 (DO-96-011), for local copying. Both documents are also available from OGE in electronic format, from which paper copies may be printed. To obtain these forms on computer disk, you may contact OGE's Ethics Information Center at 202-208-8000, or connect electronically to TEBBS (The Ethics Bulletin Board System) at 202-208-8030 or our Web site at <http://www.access.gpo.gov/usoge>.

BACKGROUND ON THE CERTIFICATE OF NO NEW INTERESTS

In 1994, OGE conducted a single-issue audit and two brown bag lunches, which focused on how to improve the confidential financial disclosure system. In furtherance of that goal, OGE announced, by DAEOgram of July 31, 1995 (DO-95-030), that the Department of Education had been authorized to test a certificate of no new interests as an alternative to an annual confidential disclosure report for the fall 1995 reporting cycle. We also indicated that we would monitor the results of that test and consider expanding use of the certificate to other agencies.

By DAEOgram of June 4, 1996 (DO-96-029), OGE announced that the Department of Education had reported highly favorable results of its test, so we then solicited the views of agency ethics officials on how to formulate a standardized certificate of no new interests for use throughout the executive branch. We received responses from 79 agencies, all with useful ideas and all in favor of expanding this option to their agencies. In September 1996, OGE conducted a focus group of approximately 100 interested attendees at our annual ethics conference in Philadelphia, for additional ideas on how to implement such a certificate for interested agencies.

Based on all of that input, OGE published a proposed rule on January 17, 1997, to allow optional use of a standardized certificate of no new interests throughout the executive branch for regular employee annual confidential filers (62 Fed. Reg. 2048-2052). After considering the seven comment letters received in response to the proposed rule, OGE has now promulgated the final rule cited above, to authorize the use of OGE Optional Form 450-A.

IMPLEMENTATION

Beginning with the next annual filing cycle in the fall of 1997, agencies may now permit all or specified groups of their regular employee confidential disclosure filers to use this new certificate in lieu of filing an annual OGE Form 450, in accordance with the requirements of new paragraph (d) of 5 C.F.R. § 2634.905.

This alternative procedure is designed to ease the administrative burden and streamline the confidential system for both filers and reviewers, while continuing to guard against conflicts of interest. The certificate requires users to certify that they (and their spouse and dependent children) have not acquired new reportable financial interests since filing their most recent previous OGE Form 450 (which they must first examine), and that they have not changed jobs at their agency since filing that previous report.

The new procedure permits several options for agency consideration, and it offers a flexible, simple alternative to requiring a new OGE Form 450 each year from regular employee confidential disclosure filers. As discussed in the amended regulation and in the preamble to both the proposed and final rules, this certificate of no new interests is completely optional with each agency. If an agency does not wish to implement it, no action is required. It should continue to follow the normal requirements of subpart I of 5 C.F.R. part 2634 for annual filing of OGE Form 450 or an agency-specific alternative format approved in writing by OGE (and the Office of Management and Budget, if required).

If an agency does decide to use the certificate of no new interests for all or specified groups of its eligible confidential filers, it must observe the requirements in new paragraph (d) of § 2634.905. The following precepts of that paragraph govern the certificate of no new interests:

- the certificate must be treated as a confidential document, in accordance with 5 C.F.R. §§ 2634.604(b) and 2634.901(d);
- before authorizing use of this certificate, agencies must determine that it is adequate to prevent conflicts of interest, in the context of their mission and employee responsibilities;

- only regular employee annual filers (not new entrants or special Government employees) may use this certificate;
- the certificate's due date is the same as specified in the regulation for the annual OGE Form 450 that would otherwise be due (including agency authority to grant due date extensions);
- to ensure current information and to maintain the focus on conflict prevention, filers may only use the certificate for a maximum of three consecutive years before being required to file a new OGE Form 450 every fourth year (but agencies may choose to further limit its use to one or two consecutive years before a new OGE Form 450 is required);
- for ease of administration, all regular employee annual confidential disclosure filers must file a new OGE Form 450 in 2000 and each year thereafter that is divisible by four (or in 1998 and each year thereafter that is divisible by two or three, if an agency chooses one of the more frequent options), regardless of how recently they may have filed that form;
- even if an agency decides to permit use of this certificate, each affected employee retains the option of using it (when applicable) or filing a new OGE Form 450;
- agencies should ordinarily provide filers with a blank OGE Form 450 and its instructions at the same time that they distribute the blank OGE Optional Form 450-A, for use as guidance on what is meant by "reportable" interests, but they may, instead, develop separate guidance or refer certificate users to other available sources (such as OGE's Web site);
- to further the purpose of reducing paperwork, certificate users need not attach a copy of their previous OGE Form 450 (unless required by their agency), but they must re-examine it prior to using the OGE Optional Form 450-A.

Please review the preamble to the proposed and final regulation for more details and for considerations in deciding whether to use the optional certificate of no new interests at your agency. You should make preparations now, if you do plan to offer this certificate of no new interests during the fall 1997 annual filing cycle for confidential financial disclosure reports. No further authorization is needed from OGE or the Office of Management and Budget, but you will need to make decisions concerning the various options afforded by this regulatory amendment, produce supplies of the blank certificate, inform filers and reviewers of the new procedure, and incorporate this option into your agency's internal written procedures on confidential financial disclosure.

If you have any additional questions on implementation, please contact your OGE desk officer.

Attachment

CONFIDENTIAL CERTIFICATE OF NO NEW INTERESTS (EXECUTIVE BRANCH)
IN LIEU OF ANNUAL OGE FORM 450

This optional form is to be used only by current employees of the executive branch (other than special Government employees), in accordance with 5 CFR 2634.905(d). If you have a previous OGE Form 450 on file with your agency and can certify to all of the following statements, your agency may permit you to use this OGE Optional Form 450-A instead of filing an annual OGE Form 450. If you cannot certify to all of the following statements or otherwise do not wish to use this OGE Optional Form 450-A, you must complete a new OGE Form 450 as your annual report. Consult your agency ethics office for more information.

After examining a copy of my last confidential financial disclosure report (OGE Form 450), I certify to the following:

A. NO NEW INTERESTS. Since filing my last OGE Form 450:

1. I have no new reportable assets or sources of income, for myself, my spouse, or my dependent children;
2. Neither my spouse nor I have new reportable sources of income from non-Federal employment;
3. I have no new reportable liabilities (debts), for myself, my spouse, or my dependent children;
4. I have no new reportable outside positions for myself;
5. I have no new reportable agreements or arrangements concerning future, current, or past non-Government employment for myself;
6. I have no new reportable gifts or travel reimbursements for myself, my spouse, or my dependent children.

(For a description of what interests are reportable, see OGE Form 450 and its accompanying instructions, and/or other agency guidance.)

B. NO CHANGE IN POSITION/DUTIES. Since filing my last OGE Form 450, I have not changed jobs at my agency. (The term "changed jobs" includes a new position description or other significant change in duties.)

I certify that the above statements are true, complete, and correct, to the best of my knowledge.

Signature of Employee _____ Date _____

Printed Name _____ Work Phone _____

Position/Title _____ Agency/Unit _____

FOR AGENCY USE

Date received:

Notes:

OGE OPTIONAL FORM 450-A
U.S. OFFICE OF GOVERN-
MENT ETHICS (4/97)

PRIVACY ACT STATEMENT

Pursuant to Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) and Executive Order 12674, the Office of Government Ethics regulations at 5 CFR Part 2634, Subpart I, permit the completion of this Certificate of No New Interests in lieu of an annual OGE Form 450, in appropriate cases.

The primary use of this form is for review by Government officials at your agency, to determine compliance with applicable Federal conflict of interest laws and regulations. Additional disclosures of this certificate may be made: (1) to a Federal, State, or local law enforcement agency, if the disclosing agency becomes aware of a violation or potential violation of law or regulation; (2) to a court or party in a court or Federal administrative proceeding, if the Government is a party or in order to comply with a judge-issued subpoena; (3) to a source, when necessary to obtain information relevant to a conflict of interest investigation or decision; (4) to the National Archives and Records Administration or the General Services Administration, in records management inspections; (5) to the Office of Management and Budget during legislative coordination on private relief legislation; and (6) in response to a request for discovery or for the appearance of a witness in a judicial or administrative proceeding, if the information is relevant to the subject matter.

This Certificate of No New Interests is confidential. No member of the public shall have access to it, except as authorized by law.

PENALTIES

Falsification of this certificate may subject you to disciplinary action by your employing agency or other authority. Knowing and willful falsification of the certificate may also subject you to criminal prosecution.