NIH Policy Manual

2400-03 - Executive Branch Confidential Financial Disclosure Reporting System, OGE Form 450

Issuing Office: OD/NEO **Phone:** (301) 402-6628

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Transmittal Notice

1. **Explanation of Material Transmitted:** This chapter implements the rules that NIH employees are subject to regarding the Confidential Financial Disclosure Reporting System using OGE Form 450. This chapter is part of the NIH Ethics Manual (in the 2400 series of NIH policy chapters). It incorporates some information from the obsolete NIH Manual Chapter 2300-735-1 regarding conflicts of interests.

   Partial Revision: 4/01/11*

   ***Note:** 4/01/11 revision further clarifies that any NIH employee serving as a member of a National Advisory Council (NAC), Program Advisory Committee (PAC), including a Board of Scientific Advisors (BSA), or a Board of Scientific Counselors (BSC) must be an OGE 450 filer (if not already an OGE 278 filer).
2. **Filing Instructions:**

Remove: NIH Manual Issuance 2300-735-1.
Insert: NIH Manual Issuance 2400-03 dated 06/02/09.

PLEASE NOTE: For information on:

- Content of this chapter, contact the issuing office listed above.
- NIH Manual System, contact the Division of Management Support, OMA on (301) 496-2832, or enter this URL: http://oma.od.nih.gov/manualchapters

A. Purpose

The Executive Branch Confidential Financial Disclosure Reporting System is mandated by the Ethics in Government Act of 1978 as amended by the Ethics Reform Act of 1989 (5 USC App). Implementing regulations provided by the Office of Government Ethics (OGE) are published at 5 Code of Federal Regulations (CFR) Part 2634. The purpose of a financial disclosure report is to verify that employees do not have financial interests or other relationships which may be affected by their official duties. The information requested on the Confidential Financial Disclosure Report OGE Form 450 correlates to the requirements of the

conflict of interest statutes. The Confidential Financial Disclosure Reporting System set forth in 5 CFR § 2634 Subpart I is designed to complement the Public Financial Disclosure Reporting System. Public financial disclosure report filers are specified in the law, and the Director, OGE may identify additional positions of equal classification. Employees in other positions where the duties involve the exercise of significant discretion in certain areas of Government action may be required to file the Confidential Financial Disclosure Report, OGE Form 450. For information on the Public Financial Disclosure Reporting System, see NIH Manual Chapter 2400-02, Executive Branch Personnel Public Financial Disclosure Reporting System, Standard Form 278 (pending release).

This chapter provides guidance on implementing the Confidential Financial Disclosure Reporting System at the National Institutes of Health (NIH), in the US Department of Health and Human Services (HHS), including who must file, forms to use, when to file, distribution of forms, review of reports, and file maintenance.

For authorities and references, see NIH Manual 2400-01 Introduction to Government Ethics at the NIH (6/18/08)

It is important that all managers and supervisors work closely with the Institute/Center (IC) ethics officials to identify filers in a timely manner, and to assist the ethics officials when employees are non-compliant or do not respond to requests for additional information.

B. Additional Reference

In addition to the authorities and references listed in NIH Manual 2400-01, the following references may assist the review of a Confidential Financial Disclosure Report:

1. OGE Form 450: A Review Guide, at http://www.usoge.gov/forms/oge450_pdf/rf450guide_96.pdf published by the Office of Government Ethics (OGE), on the OGE web site (uses the old form but review instructions are relevant to the current form)
2. Delegation of Authority to NIH Deputy Ethics Counselor from HHS Designated Agency Ethics Official (5/28/08) at http://ethics.od.nih.gov/topics/DOA-NIH-DEC-2008-05-28.pdf.
3. DAEO Supplemental Instruction No. 06-02, dated December 13, 2006, entitled *Confidential Financial Disclosure System Procedures for the Department of Health and Human Services* at http://intranet.hhs.gov/ethics/SupInstructConfidFinancialDisclosProced.pdf
4. Memorandum from the HHS DAEO to Deputy Ethics Counselors and Ethics Contacts entitled *Annual Distribution and Review of the Confidential Financial Disclosure Report OGE Form 450* dated December 22, 2008. Available from the NIH Ethics Office.

C. Covered Employees

The NIH Deputy Ethics Counselor (DEC) is responsible for designating which categories of employee positions are required to file a Confidential Financial Disclosure Report, with input from Institute/Center (IC) DECs as necessary. IC DECs must apply the criteria published at 5 CFR § 2634.904 in conjunction with the expanded NIH definitions provided in Section C to identify and designate employees in their respective areas of responsibility as confidential filers. Individuals or classes of individuals which may fall under the designating criteria can also be evaluated for exclusion under the guidelines in 5 CFR § 2634.904(b) (see Section E. Exclusions, below).

Covered employees include all pay mechanisms, including Title 42 appointees. The OGE Advisory Opinion of February 11, 1998, (OGE Opinion 98 x 2) indicates that "basic rate of pay" means the lowest pay available for that particular pay mechanism. For Title 42, the lowest pay is below the threshold for the Public Financial Disclosure report so even though an employee's actual pay may exceed the threshold the employee will not file a Standard Form 278 **unless** they serve in a position already determined by the Director, OGE, to be of equal classification. See NIH Manual Chapter 2400-02, Executive Branch Personnel Public Financial Disclosure Reporting System, Standard Form 278 (pending release).

Confidential financial disclosure reporting is required when the duties and responsibilities of a position require the employee to participate personally and substantially through decision or the exercise of significant judgment, and without regular personal involvement of the supervisor, in taking certain Government actions. Personal and substantial participation occurs when an employee participates in a particular matter through: direct involvement; direct and active supervision of subordinates' involvement; decision; approval; disapproval; recommendation; investigation; or giving advice. Consider whether the employee's decision is independent or accepted with little or no review by the supervisor. A decision is substantial even if it does not determine the outcome, i.e., when an employee's participation is significant to the success or failure of the matter. Personal and substantial participation does not include general knowledge, perfunctory involvement, or involvement in an administrative or peripheral issue relating to the particular matter.

Therefore, disclosure is required when official duties entail personal and substantial participation, without substantial supervision and review, in making official decisions or using significant judgment in the activities described below. Each DEC must maintain a master list of filers and track the request and receipt of reports, including documenting when and why employees are added or removed from the filing requirement.

Individuals or classes of individuals or positions which fall under the designation criteria may be excluded from the filing requirement if they meet specific exclusion criteria. See 5 CFR § 2634.904(b) and Section E. Exclusions.

1. **Contracting or Procurement:** Covered positions include:

a. Contracting Officers and Specialists, Procurement Analysts and Agents, and any other employee with authority to obligate Federal funds. Included are:

   - All individuals with a warrant, regardless of level, i.e., all individuals with more than the micro-purchase authority, as each individual has a warrant;
   - All Contracting Officers and Specialists and Procurement Analysts at or above grade 13 or equivalent* and other individuals in the above positions who meet any other filing criteria; and
   - All Administrative Officers (AO) at or above grade 12 or equivalent* and AOs and others at lower levels who meet any other filing criteria.

   *Note: "Or equivalent" means individuals in other pay mechanisms who have equal level of responsibility, including, but not limited to, Commissioned Officers and Title 42 appointees. An Administrative Officer whose appointment mechanism is that of a Commissioned Officer may have the same level of authority as a GS-12 AO. "Or equivalent" intends to capture those individuals. Excluded are employees and positions where the only involvement in procurement is the submission of a purchase request on behalf of someone else, regardless of the value of the proposed purchase. Also excluded are employees whose involvement is limited to holding a purchase card, regardless of purchase authority, unless the employee has a warrant. In these two cases, the overall duties of such positions make remote the possibility that the employee will be involved in a real or apparent conflict of interest. See also Section E. Exclusions.

b. Project Officers and other employees who are responsible for the technical monitoring of a contract, or who are personally and substantially involved in the initiation and development of a contract, e.g., providing personal and substantial input into the statement of work, the negotiation of a contract, or the selection of the vendor.

2. **Administering or Monitoring Grants, Licenses or Other Benefits:** Covered positions include:

   a. Grants Management Officers and Specialists with Grants Management Officer (GMO) authority (official authority to commit Federal funds).
   b. Technology Transfer Specialists and Technology Transfer Licensing Specialists.
   c. Extramural Health Scientist Administrators, Scientific Review Administrators, Scientific Review Officers and other employees who oversee a scientific program and the progress of grants in his/her portfolio or area of scientific expertise. Examples of other covered position titles include Scientific Review Group Leader, Program Manager, or Program Official.

Example 1: As a Health Scientist Administrator, Pat's duties involve assisting in the review of applications, determining relevance to IC programs, and making funding recommendations. Pat also manages a portfolio of already funded grant applications. In particular, Pat is involved directly in making funding recommendations for specific research applications. Pat's supervisor typically accepts these recommendations without

further clarification. Such independent stewardship and the ability to affect the financial interest of an outside organization would be the basis for designating Pat as an OGE Form 450 filer.

Example 2: Nehad is a junior Grants Management Specialist who assists in the administration of grants. Nehad's participation in such matters is reserved to providing more technical review of grant applications but does not involve completing assignments independently nor without significant guidance. Therefore, Nehad does not need to file a Confidential Financial Disclosure Report. Once Nehad is given significant authority to provide a technical review of grant applications and make recommendations and decisions that are generally accepted without further review (e.g., GMO authority), Nehad's participation would then be personal and substantial without significant supervision. Nehad would then file the OGE Form 450.

3. **Positions with Duties Which Have an Economic Effect on Non-Federal Entities:** Covered positions include:

    a. All employee members of an NIH Institutional Review Board (IRB) or a Data and Safety Monitoring Board (DSMB).
    b. All employees who serve as a Principal Investigator or co-Principal Investigator on matters such as a clinical protocol, Cooperative Research and Development Agreement (CRADA), or M-CRADA.
    c. Senior level officials who have personal and substantial input into the programs and directions of the IC, such as employees whose responsibilities involve identifying new areas of research, analyzing grant or contract portfolios, or providing advice or proposing policy to top IC management. Examples of such positions include Senior Policy Advisor, Senior Science Policy Advisor, Special Assistant, and similar positions which exercise substantial influence over IC programs and direction.
    d. Any NIH employee serving as a member of a National Advisory Council (NAC), Program Advisory Committee (PAC), including a Board of Scientific Advisors (BSA), or a Board of Scientific Counselors (BSC) (if not already an OGE 278 filer).

Example 1: Merced is a newly appointed intramural scientist whose specialized expertise supports serving as a principal investigator on a new clinical protocol. Merced is required to file an OGE Form 450.

Example 2: Joni is a newly appointed intramural scientist who just finished post-doctoral training and is beginning a new career. Joni will serve as an Associate Investigator on multiple projects but not as a principle investigator. Joni is not required to file an OGE Form 450.

Example 3: As a special assistant to the IC Director, Kim's duties include, among other things, analyzing research grant and contract portfolios for adherence to policy. In this senior level position, Kim has personal and substantial input into IC policies regarding awarding research grants and contracts. Kim is required to file an OGE Form 450.

Example 4: Tim, a scientist from NIAID, is serving as a member of a PAC. His duties in NIAID do not require him to file a financial disclosure form; therefore, he does not have one on file. Tim will be required to file an OGE Form 450 to serve on the advisory committee.

4. **Other Positions:** Covered employees include those serving in any other position that the NIH Deputy Ethics Counselor determines to require the incumbent to file to prevent a conflict of interest, appearance of favoritism or loss of impartiality (i.e., a real or apparent conflict of interest), or other violation. Other covered positions include:

    a. Supervisors, when any subordinate is required to file a Confidential Financial Disclosure Report, regardless of whether the supervisor's other duties require filing.
    b. Intergovernmental Personnel Authority (IPA) appointees and detailees whose positions do not require filing Public Financial Disclosire form OGE 278 but whose duties otherwise meet any of the filing criteria.
    c. IC Deputy Ethics Counselors (DECs) and IC Ethics Specialists/Coordinators (ECs) who do not otherwise meet any of the above criteria, and other staff who participate personally and substantially in ethics actions, e.g., making a final determination regarding an ethics request or a financial disclosure report, e.g., Committee Management Officers and Specialists.

D. Appeals

Filers may appeal their filer designation if they believe that their position has been improperly classified as one which requires the submission of a Confidential Financial Disclosure Report. The employee must submit a written request for reconsideration, including a justification, through their IC DEC to the NIH DEC. The IC DEC shall attach relevant information and his/her own recommendation, consulting with the NIH Ethics Office (NEO) and/or the Office of General Counsel, Ethics Division (OGC/ED) as needed. All determinations are under the jurisdiction of the NIH DEC, whose decisions are final. If the decision is that the appellant must file an OGE Form 450 and she/he has not already filed, the report is due 30 days from the date of the decision by the NIH DEC, as if the appellant is a New Entrant beginning on that date.

E. Exclusions

Any employee or group of employees may be excluded from the reporting requirements if the NIH DEC determines that the possibility of a real or apparent conflict of interest is remote. The NIH DEC has the discretion to determine when the responsibilities of a specific position or class of positions do not meet the above criteria. The IC DEC may recommend to the NIH DEC to exclude specific positions or employees in their respective areas of responsibility if the IC DEC or Ethics Specialist/Coordinator and the supervisor recommend that a report is unnecessary because:

- The possibility of any impairment to the integrity of the Federal Government is remote; or
- The employee's work is substantially supervised or reviewed.

IC DECs will submit the recommendation in writing to the NIH Ethics Office. Any blanket exclusion decision must be in writing and maintained in the IC's Confidential Financial Disclosure Report file. For assistance in identifying categories which may be excluded, contact the NIH Ethics Office. An individual exclusion will also be filed in the individual's ethics file.

F. Annual Review of Designated Filers

Each year, IC DECs will review the filer list from the previous year, including the updates which occurred throughout the year, to identify all filers for the next filing year cycle. IC DECs will determine if all designated filers should remain filers, and identify additional filers. IC DECs will work with supervisors and other managers to ensure that each year the filer list is accurate and all filers are properly designated in the Ethics Management Information System (EMIS) and in the NIH Enterprise Ethics System (NEES).

G. Report Types, Naming Convention, Filing Deadlines, and Reporting Periods

There are two types of Confidential Financial Disclosure Reports, New Entrant and Annual (Incumbent). Reports are named using the naming convention developed by the Office of Government Ethics. The name is based on the date which causes the report to be filed. For example, an employee designated as a new filer on October 15, 2008, files a 2008 New Entrant report, even if the employee receives extensions of the due date and submits the report in the next calendar year. Likewise, an employee who must file an Annual (Incumbent) report in February 2009 will file a 2009 Annual (Incumbent) report, even though the report covers the previous calendar year. Use of the NIH Enterprise Ethics System (NEES) for submission of reports will automatically name reports in this manner. Specifics about each report type, its deadline and period covered by the report are as follows.

1. **New Entrant Report:** A covered employee (filer) as defined above must complete an OGE Form 450 within 30 days of entering on duty in a covered position, unless a later due date is approved (see Section I, Extension of the Due Date). See Example 1, below. A report is not required if the filer leaves a position covered by either the Public Financial Disclosure Reporting System, Standard Form 278 or the Confidential Financial Disclosure Reporting System, OGE Form 450, less than 30 days prior to assuming the new position if the employee previously satisfied the reporting requirement in that position. See Example 2, below. In this case, the new employee will assist the ethics official to obtain previous financial disclosure reports from the former employer, and the IC ethics office will evaluate the employee's financial interests compared to official duties in the new NIH position. Employees will provide additional information if requested.

The reporting period for a New Entrant Report is the 12 months immediately preceding the date the filer signs the report. Instructions on an OGE Form 450 take precedence over any summary in this manual chapter.

Applicant Notification: Supervisors are reminded that job applicants must be informed of the filing requirement. Supervisors will ensure that the requirement to file is included in requests for personnel actions submitted to the Office of Human Resources (OHR). OHR staff is responsible for ensuring inclusion of the notice in the vacancy announcement and on the Optional Form (OF) 8, Position Description that is attached to the recruitment package. In addition, potential conflicts should be discussed before an employment agreement is reached especially if the applicant has outside activities or employment that they wish to continue while employed by the NIH. The Selecting Official must provide the applicant with the IC Deputy Ethics Counselor's contact information and advise the applicant to discuss any potential conflicts with the IC DEC or the IC Ethics Specialist/Coordinator. The IC DEC or the IC Ethics Specialist/Coordinator will identify remedies to resolve potential conflicts before the applicant accepts the position.

Example 1: An employee is promoted to a GS-12 Administrative Officer position. The employee has not previously filed a Confidential Financial Disclosure Report. This employee is required to submit a New Entrant report within 30 days of the promotion into the covered position, unless an extended due date is approved.

Example 2: On June 1st, an NIH employee in a position designated as a public filer changes jobs, assuming a position which is designated as a confidential filer position. The employee filed the combination Incumbent/Termination Standard Form 278 as required. That employee is not required to file a New Entrant OGE Form 450 upon entering the confidential filer position because she/he met the filing requirements in the previous position and there was no break greater than 30 days between the positions. The employee will file an Annual (Incumbent) OGE Form 450 the following year.

2. Annual (Incumbent) Report: Annual reports (also called Incumbent reports) are due no later than February 15th of each year unless a later due date is approved. See Section I, Extension of the Due Date. A report is not required if the employee did not serve at least 60 days in the position during the reporting period (previous calendar year). For example, a report would not be required from an individual who assumed the duties of a covered position during the last two months of the reporting period (after November 1st). Also, an annual (incumbent) report would not be required from an employee who served in an acting capacity in a covered position for 60 days or less at any time during the reporting period.

   Generally, the reporting period for the Annual (Incumbent) Report is the previous calendar year. Instructions on the OGE Form 450 take precedence over any summary in this manual chapter.

Annual (Incumbent) reports cannot be signed prior to the end of the day on December 31st to ensure reporting of all relevant events through that date. If the employee submitted a New Entrant report during the previous calendar year, the Annual (Incumbent) Report covers only that time since the date the New Entrant Report was signed through December 31st.

Example 1. A current Federal employee joins the IC as Deputy Executive Officer on May 1, 2008. She had not previously served in a covered position. She must submit a New Entrant report before June 1, 2008, unless an extended due date is approved. This is her 2008 New Entrant Report. In February 2009, the employee is required to submit her 2009 Annual (Incumbent) Report because she served more than 60 days during the reporting period (calendar year). The Annual (Incumbent) Report will cover the time from the date she signed the New Entrant Report through December 31st.

Example 2. A new government employee joins an IC in a covered position on November 15, 2008. He must file a 2008 New Entrant (NE) Report no later than December 15th, unless an extended due date is approved. In 2009, he is not required to complete an Annual (Incumbent) Report because he did not serve in the covered position more than 60 days during 2008, the time covered by the 2009 Annual (Incumbent) Report. However, in 2010 and each succeeding year during which he occupies a covered position, he will be required to submit an Annual (Incumbent) Report. When reviewing this employee's history of OGE Form 450s, there would be a 2008 New Entrant Report, there would not be a 2009 Annual (Incumbent) Report, and an Annual (Incumbent) Report for 2010 and each future year, as long as he occupies a covered position.

H. Review and Approval Authority and Delegation of Authority

The HHS Designated Agency Ethics Official (DAEO), located in the HHS Office of the General Counsel, Ethics Division (OGC/ED), delegates authority to the NIH Deputy Ethics Counselor, who redelegates authority to a DEC for each IC. Each IC DEC has the authority to receive and review Confidential Financial Disclosure Reports for covered employees within their respective organizations/areas of responsibility, and to certify the report. This authority may be redelegated to officials who are knowledgeable and at a high enough level within the organization to be consistent with good management of this authority and to maintain program integrity, e.g., an experienced Ethics Specialist/Coordinator. The IC DEC may also permit a knowledgeable person to perform the initial review and obtain additional information from an employee as needed, prior to review and certification by the IC DEC, e.g., an IC Ethics Specialist or IC Ethics Coordinator. All delegations to certify must be in writing, and copies forwarded to the NIH Ethics Office.

IC DECs may not review or certify their own reports. If required to file an OGE Form 450, IC DECs submit their own report directly to the NIH Ethics Office (NEO). NEO staff will review and certify IC DECs reports. NEO staff who occupy a covered position will submit their OGE Form 450 report directly to the OGC/ED for review and certification. See Delegation of

Authority for NIH Ethics Actions (5/28/08), available from the NIH Ethics Office. Updated delegations will supersede this summary.

IC DECs may choose to forgo review of their own supervisor's OGE Form 450 by notifying his/her supervisor and NEO in writing. The IC DEC may then forward his/her supervisor's OGE Form 450 to NEO for review and certification.

I. Extension of Due Date

Filers with good cause who cannot meet the filing deadline may request an extension of the due date from their IC DEC. Employees will submit their request for an extended due date via the NIH Enterprise Ethics System (NEES) prior to the close of business of the current due date. IC DECs may grant up to 90 calendar days of additional time for good cause, in any increment(s) not to exceed 45 days in length. IC DECs may also grant initial extensions for groups of employees. IC DECs will inform the NIH Ethics Office and the HHS Office of the General Counsel, Ethics Division, of any such blanket extensions

In the occasional situation where an employee must submit a paper OGE Form 450, the request for an extension must be in writing. Use of electronic mail is acceptable.

Note: There is a special extension provision for employees who are on active military duty away from their permanent duty station (i.e., out of the NIH commuting area), including Reservists and National Guardsmen called into active service. See 5 CFR § 2635.903(d)(2) or contact your IC Ethics Office (http://ethics.od.nih.gov/coord.pdf) or the NIH Ethics Office for assistance.

J. How to File the OGE Form 450

NIH uses the NIH Enterprise Ethics System (NEES) for electronic completion and submission of the Confidential Financial Disclosure Report by the employee, and review and certification by the ethics officials. Paper reports may be submitted in some cases. Employees who must file will be notified via electronic mail from NEES when it is time to submit a report. NEES is available at https://nees.nih.gov/. IC ethics officials may also notify employees to file OGE Form 450.

Special Government employees (SGEs) will use the paper form OGE Form 450 for submission of their Confidential Financial Disclosure Report because they do not have access to NEES. See NIH Manual Chapter 1810-1, Procedures for Avoiding COI for NIH Special Government Employees (SGE) Advisory Committee Members (12/31/05).

K. What to Report

The instructions attached to the OGE Form 450 and visible on the screens in NEES provide details on reporting thresholds, types of assets and income to report, liabilities, and activities with non-federal organizations, and the time frame covered by the report. In addition, other helpful documents and training are available to employees. Employees may complete the

NEES OGE Form 450 training module to learn about what to report and how to use NEES to complete their reports.

Employees are responsible for reading the instructions thoroughly, and contacting their IC Ethics Office staff at http://ethics.od.nih.gov/coord.pdf if they have questions.

L. Review and Certification Time Line

Initial review of each Confidential Financial Disclosure Report shall be accomplished within 60 days of receipt of the report. Final certification of reports which are complete and which do not raise questions with the reviewer or certifier will be certified within that 60-day time frame, i.e., within 60 days after receipt. However, certification may occur later than 60 days after receipt when a report raises questions and additional information is required from the employee, or when remedial action is initiated. NIH policy requires certification to be accomplished as quickly as is practicable for those reports which require additional information or have a pending remedial action.

M. Failure to Submit a Report or Submitting a False Report

An individual may be prosecuted under criminal statutes for supplying false information on any financial disclosure report. In addition, appropriate disciplinary action may be taken against any employee who fails or refuses to file a report, or who knowingly falsifies information in a report. See 5 CFR § 2634.701. IC DECs will follow the NIH policy regarding managing non-compliance for ethics requirements. See NIH Manual Chapter 2400-08 Managing Employee Non-Compliance with Government Ethics Requirements (8/15/08)

N. Confidentiality of Documents and Release of Information

IC DECs maintain the original reports in accordance with NIH Manual Chapter 2400-01 Introduction to Government Ethics at the NIH (6/18/08). Confidential Financial Disclosure Reports (OGE Form 450 and OGE Form 450A) must be maintained in a secure area by the IC DEC or his/her designee, e.g., Ethics Specialist or assistant. The reports may not be released to the public, even under the Freedom of Information Act (FOIA). In certain circumstances, reports may be released to Congress. If an IC DEC or other official receives a request directly from a person or an entity Outside the NIH for a Confidential Financial Disclosure Report (OGE Form 450 or OGE Form 450A), do not release a copy and contact the NIH Ethics Office (301-402-6628).

Public and/or Confidential Financial Disclosure Reports are to be maintained in accordance with the Office of Government Ethics (OGE) Privacy Act Systems of Record Notices linked below:

1. OGE/GOVT-1, Executive Branch Personnel Public Financial Disclosure Reports and Other Name-Retrieved Ethics Program Records at http://oma.od.nih.gov/ms/privacy/pa-files/OGEGOVT1.htm

2. OGE/GOVT-2, Executive Branch Confidential Financial Disclosure Reports at http://oma.od.nih.gov/ms/privacy/pa-files/OGEGOVT2.htm

O. Records Retention and Disposal

Records Retention and Disposal: All records (e-mail and non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of the National Archives and Records Administration (NARA) General Records Schedule 25, Item 2b – Ethics Program Records. All other non-related records should be retained and disposed of under the authority of the NIH Manual Chapter 1743, "Keeping and Destroying Records," Appendix 1,

***NIH e-mail messages*:** NIH e-mail messages (messages, including attachments, that are created on the NIH computer systems or transmitted over the NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. These records must be maintained in accordance with current NIH Records Management guidelines. Contact your IC Records Officer for additional information.

All e-mail messages are considered Government property, and if requested for a legitimate Government purpose, must be provided to the requester. Employees' supervisors, the NIH staff conducting official reviews or investigations, and the Office of Inspector General may request access to or copies of the e-mail messages.

E-mail messages must also be provided to the Congressional Oversight Committees, if requested, and are subject to the Freedom of Information Act requests. Since most e-mail systems have back-up files that are retained for significant periods of time, e-mail messages and attachments are likely to be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.

P. Internal Controls

1. **Office Responsible for Reviewing Internal Controls Relative to this Chapter (Issuing Office):** Through this manual issuance, the NIH Ethics Office is responsible for ensuring that internal controls are implemented and working.
2. **Frequency of Review:** Ongoing, annual review.
3. **Method of Review:** The NEO will maintain oversight and ensure effective implementation and compliance with this policy by monitoring the final certification of all OGE-450 Confidential Financial Disclosure Reports with the Institutes and Centers via NIH Ethics Enterprise System and through the reporting requirements of the Office of Government Ethics Annual Questionnaire.
4. **Review reports are sent to:** The NIH Deputy Director, the NIH Deputy Ethics Counselor and the Deputy Director of Management. Issues of special concern will be brought to the immediate to the attention of the NIH Deputy Ethics Counselor.

Q. Additional Information

Additional information is available from the NIH Ethics Office, the OGC Ethics Division and the NIH Ethics Program web site (http://ethics.od.nih.gov). Employees should direct their questions initially to their IC's Deputy Ethics Counselor at http://ethics.od.nih.gov/decs.pdf or Ethics Specialist at http://ethics.od.nih.gov/coord.pdf

Additional information may also be obtained from the NIH Ethics Office (301-402-6628).

See the introductory chapter NIH Manual Chapter 2400-01, Introduction to Government Ethics at the NIH (6/18/08) for information regarding relevant Authorities and References (Section D).