

OFFICE OF GOVERNMENT ETHICS

AGENCY: Office of Government Ethics

Privacy Act of 1974; Systems of Records

55 FR 6327

Friday, February 22, 1990

ACTION: Notice of the establishment of two Office of Government Ethics government-wide systems of records for the executive branch.

SUMMARY: This notice fulfills the requirement of the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) that an agency publish in the Federal Register notice of its systems of records. It documents the establishment of two government-wide executive branch Privacy Act systems of records of the Office of Government Ethics: OGE/GOVT-1 and OGE/GOVT-2. Apart from updating changes to reflect the new Ethics Reform Act and Executive Order on ethics and certain other, minor changes, these systems are virtually identical to the systems of records, OPM/GOVT-4 and OPM/GOVT-8, that were managed by OGE for the Office of Personnel Management (OPM) when OGE was a part thereof. OGE and OPM have agreed that these Privacy Act systems of records should be published as OGE systems in accordance with OGE's new status as a distinct and separate agency. Accordingly, OPM has deleted OPM/GOVT-4 and OPM/GOVT-8 from their systems of records, see 55 FR 3802-3803 (February 5, 1990).

EFFECTIVE DATES: February 22, 1990 provided, that the new routine use b. of the OGE/GOVT-1 system of records shall only become effective on March 26, 1990.

ADDRESSES: Comments on any aspect of these OGE government-wide systems of records, including new routine use b. for OGE/GOVT-1, should be mailed to William E. Gressman, OGE Privacy Act contact,

Office of Government Ethics, Suite 500, 1201 New York Avenue, NW,
Washington, DC 20005-3917.

FOR FURTHER INFORMATION CONTACT: William E. Gressman
or John C. Condray, Office of Government Ethics, Suite 500, 1201
New York Avenue, NW, Washington, DC 20005-2917, telephone (202/FTS)
523-5757, FAX (202/FTS) 523-6325.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics,
formerly a part of the Office of Personnel Management, is now a
separate agency in the executive branch of the United States
government. This separate agency status, effective October 1, 1989,
was provided for in sections three and ten of OGE's 1988
reauthorization legislation, Public Law 100-598, amending the
Ethics in Government Act, 5 U.S.C Appendix IV, section 401. In
accordance with this change in status, OPM and OGE have agreed that
the two OPM systems of records managed by OGE as part of the OPM
systems of records (OPM/GOVT-4, Executive Branch Public Financial
Disclosure Reports and Other Ethics Program Records, and
OPM/GOVT-8, Confidential Statements of Employment and Financial
Interests), which have been deleted from the OPM systems of
records, should be established as OGE systems of records
OGE/GOVT-1 and OGE/GOVT-2. This notice describes the Office of
Government Ethics's two government-wide executive branch Privacy Act
systems of records as of February 22, 1990. These systems were last
published as part of OPM's systems of records at 49 FR 36962 and
36970, on September 20, 1984, and were included in the 1987
Compilation of Privacy Act Issuances, Volume V, pages 420 and 426,
as published by the Office of the Federal Register. As noted above,
they were recently deleted from OPM's systems (55 FR 3802-3803
(February 5, 1990)).

The present OGE notice reflects the new separate executive
agency status of OGE, whose Director remains the system manager for
these two systems of records. In addition to the correction of
typographical errors, various technical updating amendments are
also being incorporated to reflect OGE's new office location and
the additional bases for collection of the public and confidential
reports and other information under new Executive Order 12674 of
April 12, 1989 (54 FR 15159-15162), and the Ethics in Government
Act, as amended by the Ethics Reform Act of 1989 (Public Law
101-194). As a result of the recent ethics legislation, one new
routine use (b.) is being added to OGE/GOVT-1 to reflect public
availability of certain waiver exemption determinations (unless
they involve classified information). As noted, this new routine

use is subject to a 30 day delayed effective date. Further under the new law, a new category of filers of financial reports (a limited number of additional personnel in the Executive Office of the President) has been added to OGE/GOVT-1 (see the second list to last enumerated category of filers in the section on "Categories of individuals covered by the system").

OGE has consulted informally with the Office of Management and Budget (OMB) and reviewed OMB Circular A-130 as to this matter and has determined that the changes from the prior OPM/GOVT-4 and OPM/GOVT-8 systems that are being made in establishing OGE/GOVT-1 and OGE/GOVT-2 do not require the filing of new or altered systems reports under 5 U.S.C. 552a(r) of the Privacy Act. OGE has however, submitted advance copies of this notice to the Congress and OMB for their information. Therefore, this notice is effective upon publication in the Federal Register, February 22, 1990, except that new routine use b. of the OGE/GOVT-1 system of records will not become effective until March 26, 1990.

Approved: February 15, 1990.

Donald E. Campbell,
Acting Director, Office of Government Ethics.

OGE/GOVT-1

System name:

Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records.

System location:

Director, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, and designated agency ethics offices.

Categories of individuals covered by the system:

This system contains records on: The President, Vice President, and candidates for those offices; officers and employees including special Government employees, whose positions are classified at grades GS-16 and above or at an equivalent rate under another pay schedule; individuals who are classified at GS-16 and above or in

equivalent positions who provide staff functions in support of an advisory committee composed of at least one special Government employee; officers or employees in a position determined by the Director of the Office of Government Ethics to be of equal classification to GS-16 or above; Administrative Law Judges; excepted service employees in positions that are of a confidential or policymaking nature unless an employee or grounds of employees are exempted by the Director of the Office of Government Ethics; each member of a uniformed service whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code; the Postmaster General, the deputy Postmaster General, Governor of the Board of Governors of the U.S. Postal Service and each officer of employee or employee of the U.S. Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16; the Director of the Office of Government Ethics and officials designated to act as agency ethics officers (designated agency ethics officials); any civilian employee employed in the Executive Office of the President (other than a special Government employee) who holds a commission of appointment from the President; and nominees for positions requiring Senate confirmation. This system includes both former and current employees in these categories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended, or who otherwise come under the requirements of the Ethics Act. For administering all provisions of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended, the system may contain information on any officer or employee of the executive branch.

Categories of records in the system:

This system of records contains: Financial information such as salary, dividends, receipts from the purchase or sale of land, exchange of property, spouse's and children's interest earnings, funds from trust accounts, gifts, reimbursements, interest on property, and compensation for duties performed; information on liabilities in excess of \$10,000; information about positions as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business, non-profit organization, labor organization, or educational institution; information about non-Government employment agreements, such as leaves of absence to accept Federal service, continuation of payments by non-Federal employer welfare and benefit plans; and information about assets placed in trust pending disposal; and other documents developed by

the Director of the Office of Government Ethics, or agency ethics officials in administering the Ethics of Government Act of 1978 or the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Such other documents may include, but will not be limited to: Ethics agreements, documentation of waivers issued to an officer or employee by an agency pursuant to section 208(b)(1) or section 208(b)(3) of title 18, U.S.C.; certificates of divestiture issued by the President or by the Director of OGE pursuant to section 502 of the Ethics Reform Act of 1989 (26 U.S.C. 1043); and information necessary for the rendering of advice or formal advisory opinions, or the resolution of complaints.

Authority for maintenance of the system:

Pub. L. 95-521, Ethics in Government Act of 1978 and Pub. L. 101-194, Ethics Reform Act of 1989, as amended.

Purpose(s):

These records are maintained to meet the requirements of the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989, as amended, regarding the filing of financial status reports, reports concerning certain agreements between the covered individual and any prior private sector employer, ethics agreements, and the preservation of waivers issued to an officer or employee pursuant to section 208 of title 18 and certificates of divestiture issued pursuant to section 502 of the Ethics Reform Act. Such statements and related records are required to assure compliance with these acts and to preserve and promote the integrity of public officials and institutions.

Note: When an agency is requested to furnish such records to the Director of the Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in these records may be used:

a. To disclose any and all of the information furnished by the reporting official, in accordance with provisions of section 205 of the Ethics in Government Act of 1978 (section 105 of the Ethics Act, as amended), to any requesting person.

b. To disclose, in accordance with section 105 of the Ethics in Government Act, as amended, and subject to the limitations contained in section 208(d)(1) of title 18, U.S.C., any determination granting an exemption pursuant to 208(b)(1) or 208(b)(3) of title 18, U.S.C., to any requesting person.

Note: No disclosures can be made pursuant to this new routine use until on or after March 26, 1990.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is a party to a judicial or administrative proceeding or in order to comply with the issuance of a subpoena.

e. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

f. By the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

These records are maintained in file folders, automated media, or on microfiche or microfilm.

Retrievability:

These records are retrieved by the name and social security number of the individual on whom they are maintained.

Safeguards:

These records are maintained in filing cabinets to which only authorized personnel have access.

Retention and disposal:

These records are generally maintained for a period of 6 years after filing, except when filed by a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected. In these cases, the record is destroyed 1 year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. Further, if the records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation. Destruction is by shredding or burning.

System manager(s) and address:

Director, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW, Washington, DC 20005-3917.

Notification procedure:

Individuals wishing to inquire whether this system of records contains information about them should contact, as appropriate:

- a. For records filed directly with the Office of Government Ethics, contact the system manager.
- b. For records filed with designated agency ethics officials or the Secretary concerned, contact the designated agency ethics official or Headquarters, department or agency, Washington, DC (ZIP code).
- c. For records filed with the Federal Election Commission by

candidates for President or Vice President, contact the Staff Director, Federal Election Commission, 999 E Street, NW, Washington, DC 20463.

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office listed above. Individuals must furnish the following information for their records to be located and identified:

- a. Full name.
- b. Department or agency and component with which employed or proposed to be employed.

Record access procedures:

Individuals wishing to request access to their records should contact the appropriate office as shown in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

- a. Full name.
- b. Department or agency and component with which employed or proposed to be employed.

Contesting record procedures:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate office shown in the Notification Procedure section.

Record source categories:

Information in this system of records is provided by:

- a. The subject individual or by a designated person, such as a trustee, attorney, accountant, or relative.
- b. Federal officials who review the statements to make conflict

of interest determinations.

c. Persons alleging conflict of interests and persons contacted during any investigation of the allegations.

OGE/GOVT-2

System name:

Confidential Statements of Employment and Financial Interests.

System location:

Individual agency ethics offices or other designated agency offices.

Categories of individuals covered by the system:

Officers and employees who are required by their agency pursuant to or under Executive Orders 12674, 12565 and 11222 (as amended), 5 CFR part 735, or section 207 of the Ethics in Government Act of 1978, or section 107 of the Ethics Act, as amended, to file such statements. The system includes both former and current Federal employees in these categories.

Categories of records in the system:

These records contain statements and amended statements of personal and family holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions of counsel; and other information related to conflict of interest determinations.

Authority for maintenance of the system:

Executive Orders 12674, 12565 and 11222 (as amended); Pub. L. 95-521, Ethics in Government Act and Pub. L. 101-194, Ethics Reform Act of 1989, as amended.

Purpose(s):

These records are maintained to meet the requirements of or under Executive Orders 12674, 12565 and 11222, 5 CFR part 735, agency regulations thereunder, as well as section 207 of the Ethics

in Government Act of 1978 (section 107 of the Ethics Act, as amended by the Ethics Reform Act of 1989), concerning the filing of employment and financial interest statements. Such statements are required to assure compliance with the standards of conduct for Government employees contained in the Executive Orders, agency regulations and title 18, U.S.C., and to determine if a conflict of interest exists between the employment of individuals by the Federal Government and their personal employment and financial interests. To enable the Director of the Office of Government Ethics to ensure that these purposes are met, agency maintained records are to be made available to that office on request.

Note. When an agency is requested to furnish such records to the Director of the Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These statements and amended statements required by or pursuant to Executive Orders 12674 (Part II), 12565, and 11222 (Part IV), as amended, 5 CFR Part 735, agency regulations thereunder, and/or section 207 of the Ethics in Government Act of 1978 (section 107 of the Ethics Act, as amended), are to be held in confidence and no informations therefrom shall be disclosed except:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violaiton of civil or criminal law or regulation.

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, either when the Government is party to a judicial or administrative proceeding or in order to comply with the issuance of a subpoena.

c. To disclose information to any source when necessary to obtain information relevant to a conflict-of-interest investigation or determination.

d. To or by the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

f. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

These records are maintained in file folders, in automated media, or on microfiche or microfilm.

Retrievability:

These records are retrieved by the name and social security number of the individual on whom they are maintained.

Safeguards:

These records are located in locked metal file cabinets to which only authorized personnel have access.

Retention and disposal:

These records are disposed of when 6 years old; except that documents needed in an ongoing investigation will be retained until no longer needed in the investigation. Disposal is by shredding or burning.

system manager(s) and address:

Director of the Office of Government Ethics, Suite 500, 1201 New

York Avenue, NW, Washington, DC 20005-3917.

notification procedure:

Individuals wishing to inquire whether this system of records contains information about them should contact the Ethics Officer at the agency where the reports were filed.

Individuals must furnish the following information for their records to be located and identified:

- a. Full name.
- b. Department or agency and component with which employed or proposed to be employed.

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Individuals wishing to request access to their records should contact the Ethics Officer at the agency where the reports were filed. Individuals must furnish the following information for their records to be located and identified:

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Information in this system of records is provided by:

- a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative.
- b. Federal officers who review the statements to make conflict

of interest determinations.

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