

PUBLIC FINANCIAL DISCLOSURE REPORT – FILING DEADLINE 15 MAY

The Ethics in Government Act requires certain military and civilian employees to file financial disclosure reports. The Joint Ethics Regulation or “JER” lists 14 principles of ethical conduct required by government employees, one of which prohibits employees from holding financial interests that conflict with “the conscientious performance of duty.” The OGE Form 278 is a government-wide public financial disclosure form for employees in certain (i.e. O-7 and above; Senior Executive Service (career and non-career) & Senior Level (SLs); Non-GS employees (including IPAs, SGEs, and HQEs) earning 120% + of GS 15, step 1 (\$119,553.60, as of January 2011); PAS (Presidential Appointees with Senate Confirmation); Political Appointees (Schedule C) (regardless of income); Civilians detailed to positions covered by 2, 3, & 5 above and Reserve and National Guard officers (O-7 and above) if they served on active duty 61 + days/CY. The purpose of this report is to assist employees and their agencies in avoiding conflicts between official duties and private financial interests or affiliations. The agency ethics officials will review the list of the employee’s assets/liabilities/ outside positions, etc. to determine if any potential conflicts exist.

The **annual report** has to be filed by **15 May** and the new entrant report is to be filed within 30 days of taking over, SGEs within 15 days of 61st day of duty, nominees (between nomination and 5 days after transfer of nomination to Senate. You can file your OGE Form 278 electronically by going to <https://www.fdm.army.mil/>.

On 4 April 2012, the President signed into law the Stop Trading on Congressional Knowledge Act which requires the reporting of mortgages on personal residences (name of the lender, the terms and conditions of the loan, and make a notation as to whether the mortgage is on a personal residence or an investment property, not the address) and written notification of post-government employment negotiations or arrangements with a non-Federal entity. (reporting is triggered when filers directly negotiate or enter into an agreement with a non-Federal entity for future employment or compensation)(contact your Ethics Counselor for sample written statement). The Act also requires posting of all 2012 OGE Form 278 reports on the agency’s website. Filers are cautioned not to include information that is not required to be reported on the OGE Form 278, such as benefits received from the Federal Government (e.g., military or federal pay, retired pay, or TSP), account numbers, home addresses, names of spouses, or family members. If a filer submitted their form prior to 4 April 2012 it does not need to be amended to include mortgage information. However, reports submitted on or after 4 April 2012 will need to include this information. Note: this may require that reports already submitted, but submitted after 4 April, will need to be amended to include mortgage information.

Please be cognizant of the fact that the deadline for filing is **15 May 2012**. An official who files any OGE Form 278 more than 30 days after the due date or more than 30 days after the last day of an extension, whichever occurs later, must pay the United States a \$200 late filing fee. It is easier to request an extension rather than pay a late fee. For more detailed information about the Stock Act or the OGE Form 278 filing contact your Designated Ethics Counselor.

ETHICAL FAILURE: A former Census Bureau official was assessed the maximum fine when he failed to file his financial disclosure report as required by law upon ending his Government employment. Before his retirement, the official had received multiple memos reminding him of his obligation; after he missed the filing deadline, the official received a number of additional certified letters informing him of the availability of extensions and the consequences of failing to file. The Department of Commerce eventually referred the matter to the Department of Justice, which filed a complaint alleging that the official knowingly and willingly failed to file a financial disclosure report. Finding the official a totally unresponsive party with flagrant violations, a Federal court entered the default judgment and ordered an \$11,000 fine, the top civil penalty permitted under the statute. The court emphasized the flagrancy of the violation, citing the employee's choice to ignore the multiple notices and warnings provided to him. **The Law:** The Ethics in Government Act (EIGA), 5 U.S.C. app. § 101 et seq. (2003), requires senior officials, who file OGE FORM 278s, to file a final financial disclosure report "on or before the thirtieth day" after termination of their senior positions (in addition to annual filing requirements). Anyone who knowingly and willfully fails to provide such a disclosure faces prosecution and fines of up to \$10,000 (see 5 U.S.C. app. § 101(e)-(f), app. § 104).

**ARNORTH AND FORT SAM HOUSTON, OFFICE OF THE STAFF JUDGE ADVOCATE,
ADMINISTRATIVE/CIVIL LAW DIVISION. YOU CAN CONTACT A DESIGNATED ETHICS COUNSELOR
AT 210-295-2373.**