



United States

Office of Government Ethics

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DO-00-007

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: *Stephen D. Potts*
Stephen D. Potts
Director

SUBJECT: Use of brokerage statements in lieu of entries on SF 278s

Adherence to criteria governing the use of brokerage statements as attachments to a public financial disclosure report in lieu of entering data directly on the SF 278 has gradually eroded over the past few years. Brokerage statements, as well as bank statements, personal spreadsheets, and any other financial materials, are acceptable as attachments in lieu of direct entries on an SF 278 only if they meet the statutory and regulatory reporting requirements. Absent compliance with those requirements, the Office of Government Ethics (OGE) and agency reviewing officials cannot accept them. This memorandum will serve to reemphasize what is necessary for the proper use of attachments, and to seek more rigorous compliance from filers and reviewers.

The financial disclosure statute at 5 U.S.C. app. § 102(b)(2)(A) permits OGE to authorize the use of alternative formats for disclosing information otherwise required by one or more schedules of a financial disclosure form. By regulation, OGE accomplished that at 5 C.F.R. § 2634.311(c)(1): "In lieu of entering data on a schedule of the report form designated by the Office of Government Ethics, a filer may attach to the reporting form a copy of a brokerage report, bank statement, or other material, which, in a clear and concise fashion, readily discloses all information which the filer would otherwise have been required to enter on the schedule" (emphasis added).

Because brokerage statements and other financial reports exist in many varieties, it is impossible to enunciate guidelines that will cover every situation. It can be said, however, that attachments in lieu of entries on the SF 278 are insufficient for purposes of Schedule A when they do not disclose the type and amount of income from each asset during the full reporting period, or when they do not reflect income for assets that have been sold during the period, or when they do not clearly indicate which

assets are still held and provide a current value for each. Furthermore, attachments are inadequate if they require interpolation or estimation by reviewers in order to be understood, or if they require reviewers to perform extensive mathematical calculations or to compile several sets of monthly or quarterly values for a large number of assets. It cannot be said that such attachments "readily" disclose "in a clear and concise fashion" all information required by the SF 278, the statute, and the regulation. Similar concerns can arise with respect to the reporting of asset transactions (purchases, sales and exchanges) on Schedule B.

It is the responsibility of filers to ensure that they observe the limitations on using attachments in lieu of data entries on an SF 278, as the financial information to be disclosed is required by law and is fully described in the instructions to the SF 278. Nonetheless, we are asking ethics officials to remind filers, through appropriate guidance memoranda or other means, that if they choose to use attachments in lieu of direct entries, those attachments must clearly, concisely, and readily disclose all required information, in accordance with the above standards.

This applies immediately to all new public filers. However, incumbents who will be filing annual reports in 2000 or termination reports prior to May 31, 2001, may be permitted to continue using attachments that have previously been accepted for their reports, even though those attachments may not strictly meet the clarified standards enunciated herein. Other than that accommodation, the requirements outlined above for use of attachments must be followed by all filers of public financial disclosure reports. Of course, the same rules also apply to filers of confidential disclosure reports (OGE Form 450), under the regulation cited above, though the use of attachments with those reports may be less common.

Based on past experience, we can anticipate a large influx of new filers in connection with the upcoming Presidential transition. In the midst of the processing pressures surrounding review of financial disclosure reports for those nominee and new entrant filers, many of whom will be unfamiliar with the public financial disclosure system, it is easy to lose sight of the need for completeness of all reporting entries, including those supplied by information on attachments. Therefore, it is appropriate to reiterate now the scrutiny that will be applied in the review of financial disclosure reports. When in doubt, the better practice for filers may be to compile the data from their brokerage reports and enter it directly on the disclosure report form.