

Financial Disclosure Reports

1. **REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) policy regarding financial disclosure reports.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive establishes VA responsibilities for using an electronic filing system to file, review, and process the OGE Form 278, Public Financial Disclosure Report, and the OGE Form 450, Confidential Financial Disclosure Report.
3. **RESPONSIBLE OFFICE:** The General Counsel is responsible for the recertification and contents of this Directive. Questions may be referred to the Office of the General Counsel (023) as appropriate.
4. **RELATED HANDBOOK:** VA Handbook 8002, Financial Disclosure Reports
5. **RESCISSIONS:** None

CERTIFIED BY:

GENERAL COUNSEL

/s/
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/s/
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1. PURPOSE. This directive describes the Federal conflict of interest laws that require some VA employees to file financial disclosure reports. This directive should be read in conjunction with VA Handbook 8002, which establishes responsibilities for using an electronic filing system (currently Financial Disclosure Management (FDM, located at <https://www.fdm.army.mil>)) to electronically file, review, and process the OGE Form 278, Public Financial Disclosure Report, and the OGE Form 450, Confidential Financial Disclosure Report. For details regarding procedures for identifying public and confidential financial disclosure report filers and administering the financial disclosure report process, see VA Handbook 8002. This Directive does not cover the filing and review of the Financial Conflict of Interest Statement, Alternative Form 450 procedure, used by VA researchers. See appropriate VHA Handbook on Financial Conflicts of Interest in Research.

2. POLICY. Government-wide regulations at 5 C.F.R. part 2634 provide the policy for the financial disclosure system. Public and confidential financial disclosure reports serve to prevent conflicts of interest and to identify potential conflicts by providing for a systematic review of the financial interests of certain current and prospective employees. These reports assist agencies in administering their Government ethics programs and providing counseling to employees. Financial disclosure reports seek only the information that the President, Congress, or the Office of Government Ethics (OGE), as the supervising Government ethics office for the executive branch, have deemed relevant to the administration and application of the criminal conflict of interest statutes, other statutes on ethical conduct or financial interests, and Executive Orders and regulations on standards of ethical conduct.

a. Conflicts of Interest. All VA employees, even those not required to file a financial disclosure report, are subject to the statutes and regulations on employee conduct, such as the Standards of Ethical Conduct for Employees of the Executive Branch and the criminal conflict of interest statutes. Employees should consult an Office of General Counsel (OGC) deputy ethics official regarding any question relating to the Government ethics statutes or regulations and should advise their supervisor before participating in a VA matter that could create a conflict of interest or the appearance of a conflict of interest.

(1) Prohibited Financial Conflict of Interest

All employees are prohibited by criminal statute from participating personally and substantially in a VA particular matter that could directly and predictably affect their financial interests unless they receive a written waiver or the financial interest is exempt under 5 C.F.R. part 2634. This prohibition extends to the financial interests of any of the following:

- (a) Their spouse or minor child,
- (b) Their general partner,

(c) An organization in which the employee serves as an officer, director, trustee, general partner, or employee, and

(d) An organization or person with which the employee is negotiating or has an arrangement for prospective employment.

(2) Appearance of a Conflict of Interest

Where a VA employee knows that a particular VA matter involving specific parties is likely to have a direct and predictable effect on the financial interests of a member of his household, or where the employee knows that a person with whom he has a “covered relationship” is or represents a party to such matter, and where the employee determines that a reasonable person with knowledge of the relevant facts would question his impartiality, the employee should not participate in the matter unless the employee has informed an agency designee (see paragraph 2.b.(4) below for a list of agency designees) and has received authorization from the agency designee to participate in the matter. An employee has a covered relationship with:

(a) Anyone with whom the employee has or seeks a business, contractual, or other financial relationship that involves other than a routine commercial transaction,

(b) A relative with whom the employee has a close personal relationship,

(c) A person for whom the employee’s spouse, parent, or dependent child is, to the employee’s knowledge, serving or seeking to serve as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee,

(d) Anyone the employee served during the past year as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee, and

(e) An organization, other than a political party described in 26 U.S.C. § 527(e), in which the employee is an active participant (involving service as an official, committee chairperson, or one directing activities of the organization).

b. Waivers of Criminal Conflicts of Interest and Authorizations to Participate

(1) Employees who have a conflict of interest, or the appearance of a conflict of interest, arising from a financial matter must not participate in the VA particular matter unless (1) the employee’s disqualifying financial interest is divested or (2) the employee obtains a written waiver (in the case of an actual conflict of interest), or authorization from an agency designee (in the case of the appearance of a conflict of interest), authorizing his or her participation.

(2) Employees seeking a waiver shall submit a request to the VA official responsible for the employee’s appointment.

(3) A deputy ethics official must review a waiver request and, when appropriate, draft the waiver and ensure the waiver process is followed.

(4) Employees seeking authorization to participate in the case of an appearance of a conflict of interest must seek authorization from an agency designee. Agency designees are Under Secretaries, Deputy Under Secretaries, VISN Directors, Medical Center Directors, Associate Medical Center Directors, Chiefs of Staff, VBA Area Directors, VBA Regional Office Directors, VBA Assistant Regional Office Directors, Assistant Secretaries, Deputy Assistant Secretaries, General Counsel, Regional Counsel, Inspector General, Deputy Inspector General, Chairman, Board of Veterans' Appeals, Chief of Staff, Deputy Chief of Staff, and Heads of Independent Facilities.

3. RESPONSIBILITIES. Supervisors at all levels must ensure that all of their subordinates who meet the filing criteria described in VA Handbook 8002 are identified and file in accordance with OGC instructions.

4. DEFINITIONS. None

5. REFERENCES.

a. 5 C.F.R. part 2634, "Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture"

b. 5 C.F.R. part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch"

c. 5 C.F.R. part 2640, "Interpretation, Exemptions, and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest)"

d. 18 U.S.C. § 208, "Acts Affecting a Personal Financial Interest"

e. Ethics in Government Act of 1978, as amended (5 U.S.C. App., section 101 et seq.)