

PS1400.05 MANDATORY CONFIDENTIAL FINANCIAL DISCLOSURE



Program Statement

OPI: OGC
NUMBER: 1400.05
DATE: July 21, 1997
SUBJECT: Mandatory Confidential Financial
Disclosure

1. PURPOSE AND SCOPE. To implement a confidential financial disclosure system.

Effective October 5, 1992, Title 5, Code of Federal Regulations, Section 2634.904, established the revised confidential financial disclosure reporting system for executive branch departments and agencies. This system requires Department of Justice (DOJ) employees occupying certain sensitive positions at GM/GS-15 and below to report, annually, their financial interests and outside business activities to the DOJ to ensure against any actual or potential conflicts of interest. The confidential system will complement the current system of public financial disclosure that applies to higher-level government officials.

2. PROGRAM OBJECTIVES. The expected results of this program are:

a. A Financial Disclosure Report will be completed and submitted by every specified Bureau staff member.

b. A certification that Financial Disclosure Reports have been collected and reviewed will be made by October 31 each year.

3. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 1400.03 Mandatory Confidential Financial Disclosure
(02/01/94)

b. Directives Referenced

PS 3000.02 Human Resource Management Manual(11/01/93)
PS 3420.08 Standards of Employee Conduct(03/07/96)

DOJ 1735.1 Procedures for Complying with the Uniform
Standards and Other Ethics Requirements
(09/17/92)

5 CFR Part 2634 Subpart I

4. STANDARDS REFERENCED. None.

5. APPLICATION TO BUREAU EMPLOYEES. On October 2, 1992, the Bureau submitted to the Assistant Attorney General for Administration its designation of covered employees. Employees at GM/GS-15 or below in institutions, Training Centers, Regional Offices and Central Office whose positions require personal and substantial participation through decision or the exercise of significant judgment in the following positions are covered:

a. Contracting and Procurement

- (1) All Bureau Contracting Officers (including UNICOR Contracting Officers and Purchasing Agents),
- (2) All Bureau Contracting Officer's Technical Representatives (including Contract Oversight Specialists, Community Corrections Managers, and UNICOR Contracting Officer's Technical Representatives), and
- (3) Commercial Law Branch attorneys.

b. Administering or Monitoring Grants, Subsidies, Licenses, or Other Federally Conferred Financial Or Operational Benefits

National Institute of Corrections (NIC) Grant Monitors and Technical Assistance Program Specialists.

c. Positions Involved in Activities in Which the Final Decision or Action Will Have a Direct and Substantial Economic Effect on the Interests of any Non-Federal Entity

- (1) Employee Development Managers,
- (2) UNICOR Administrator of the Education Division,
- (3) UNICOR Managers for Customer Service,
- (4) UNICOR Ombudsman,
- (5) UNICOR Factory Managers,
- (6) UNICOR Program Managers,
- (7) UNICOR Assistant Program Managers,
- (8) Associate Wardens for Industries and Education and Superintendents of Industries,
- (9) Dentists,
- (10) Medical Doctors (including Psychiatrists and members of the Public Health Service),
- (11) Psychologists,
- (12) Health Service Administrators,
- (13) Community Corrections Administrators,
- (14) Food Service Administrators,

- (15) Facility Managers,
- (16) Supervisors of Education,
- (17) Controllers, and
- (18) Comptrollers.

d. Positions Required to Report Because the Bureau Concludes the Employee's Duties and Responsibilities Could Involve a Real or Apparent Conflict of Interest

- (1) NIC Deputy Director,
- (2) NIC Division Chiefs,
- (3) Non-SES Wardens,
- (4) Non-SES Deputy Regional Directors,
- (5) Non-SES Deputy Assistant Directors,
- (6) Deputy General Counsel,
- (7) Associate General Counsels,
- (8) Legal Administrative Officer,
- (9) Regional Counsels,
- (10) Staff Training Academy Director, and
- (11) Management and Specialty Training Center Director.

6. PARTIAL YEAR IN POSITION AND INITIAL REPORT

- An individual who holds such a position and who performs the duties of that position for a period in excess of 60 days during the 12 month period ending September 30, including more than 60 days in an acting capacity, must file a confidential report on or before October 31 immediately following that period (see below).
- For new entrants, a confidential report must be filed not later than 30 days after assuming a new position as described above.
- However, no report is required if the individual has, within 30 days prior to assuming his or her position, left another position and has previously satisfied the reporting requirements applicable to that former position.

7. REPORT FORM, FILING, AND MAINTENANCE. The Office of Government Ethics has prescribed the use of Standard Form 450. The forms shall be issued to the Wardens, Regional Directors, Assistant Directors, and the NIC Director for dissemination to their respective covered employees. Processing of the forms (as indicated below) must be completed by October 31.

Each employee designated in Section 5 above must complete an SF 450. Each Bureau facility shall stock a sufficient number of such forms. If additional forms are needed, they may be obtained through the Bureau's Ethics Officer, Office of General Counsel.

The SF 450 is a two-page report with the following sections:

- Part I covers Assets and Income;
- Part II, Liabilities;
- Part III, Outside Positions;
- Part IV, Agreements and Arrangements; and
- Part V, Gifts and Travel Reimbursements.

There is no requirement for reporting the amounts or values of any item.

The completed reports shall be retained at the employee's work site in a secure location. Individual employee personnel files are not appropriate for this purpose.

8. REVIEW AND RETENTION OF REPORTS

a. Institutions. The direct supervisor of each covered employee is responsible for reviewing the report of his or her respective employee(s). This ensures the reviewer has knowledge of the filer's work assignments to determine what might pose a conflict. The reviewer must sign each report reviewed in the block marked "Signature of Supervisor/Other Intermediate Reviewer." The signature of the reviewer's supervisor is not required.

Each Warden is responsible for collecting all reports of his or her respective employees. Once the Warden has collected all reports, he/she must submit a certification to the Bureau's Ethics Officer containing:

- (1) a statement that all reports have been reviewed and collected;
- (2) a list of the name, title, and grade of all covered employees;
- (3) the date the review was completed on each report;
- (4) the total number of filers; and
- (5) the name, status and anticipated review date of any missing employees.

The certifications shall be retained in the Central Office for audit purposes.

b. Regional Offices. Regional Directors shall review the reports of all covered non-SES Wardens in their respective regions. After the Regional Director's review and signature, the report is to be returned to the institution from which it originated. Regional Directors also review the reports of all covered employees in their respective regional office.

Each Regional Director must submit certifications consisting of the information listed above on all non-SES Wardens and employees reviewed to the Bureau's Ethics Officer, for retention in the Central Office.

The Deputy General Counsel shall review the reports of all covered Regional Counsels. These reports will be retained in the Central Office in a secure location.

c. Central Office. The direct supervisor of each covered employee is responsible for reviewing and signing the report of his or her respective employee(s). The Assistant Directors are responsible for collecting all reports of his or her respective employees and providing a certification, consisting of the information indicated above, to the Bureau's Ethics Officer.

d. NIC. The direct supervisor of each covered employee is responsible for reviewing and signing the report of his or her respective employee(s). The Director of NIC is responsible for collecting the reports of all covered NIC employees in both the Longmont, Colorado and Washington, D.C. offices. The NIC Director is also responsible for providing a certification, consisting of the information indicated above, to the Bureau's Ethics Officer.

9. EXCLUSION FROM THE REPORTING REQUIREMENTS. Any employee who believes his or her position has been improperly determined to be one which requires the submission of a confidential disclosure report may seek a review of the designation by submitting a request, in writing, to the Assistant Attorney General for Administration within 30 days after receiving the notification to file. The determination of the Assistant Attorney General is final.

10. CONFIDENTIALITY. Pursuant to Section 107(a) of the Ethics in Government Act of 1978, as modified by the Ethics Reform Act of 1989, these reports are specifically characterized as "confidential," and are required to be withheld from the public. Section 107(a) leaves no discretion on this issue with agencies. These reports and the information they contain are exempt from being released to the public under the Freedom of Information Act, 5 U.S.C. § 552(b)(3)(A) and (B)(b)(4), and (b)(6).

Agency personnel may not publicly release the reports or the information which these reports contain, except pursuant to an order issued by a Federal court, or as otherwise provided under applicable provisions of the Privacy Act (5 U.S.C. § 552a).

Access to the information contained on these reports is limited to staff persons who require that information to complete official duties.

11. PENALTIES. Penalties and remedial action may be taken in the event that a reporting individual fails to file a confidential financial disclosure report, falsifies information, or files late. An individual may be prosecuted under criminal statutes.

The Attorney General may bring a civil action, and civil penalties may be assessed up to \$10,000. Additionally, personnel or other remedial action in accordance with applicable law or regulation may be brought against the individual.

Refer to the Program Statement on the Standards of Employee Conduct for further information.

12. ASSISTANCE. Questions regarding the completion or review of these reports should be made to the Bureau's Ethics Officer, at (202) 514-6165.

\s\
Kathleen M. Hawk
Director