



United States
Office of Government Ethics
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May 7, 1998
DO-98-019

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Stephen D. Potts
Director

SUBJECT: Update -- Nominee Public Financial Disclosure Reports and
Certificates of Divestiture

The U.S. Office of Government Ethics (OGE) issued a DAEOgram on April 8, 1998 (DO-98-013), concerning the timeliness of Nominee Public Financial Disclosure Reports. The DAEOgram requested agency reviewers to add a statement to nominee reports noting that the information on the report had been updated in accordance with required time periods. However, in light of agency concerns with respect to the administrative burden in processing disclosure reports containing this type of notation, we are withdrawing our request. We will instead explore the possibility of a legislative solution to facilitate the disclosure process for agencies processing nominee reports.

In the meantime, we will continue to process and review nominee reports under the same procedures we have been following in past years. This means, as explained in our above-mentioned DAEOgram, that in recognizing that the review process often begins several months before an individual is nominated, this Office will accept a report that may have been signed and dated by the nominee up to six months prior to its transmittal to the Senate. Agency ethics officials should counsel nominees early in this process and encourage them to provide updated information where appropriate. This will protect the nominees from possible conflicts and appearance issues that may have arisen during the period between the date they signed the report and submission of the report to the Senate.

Finally, the earlier DAEOgram discussed the effect of these updates on Certificate of Divestiture (CD) applications. We would like to reiterate that we do not consider assets to be divested by a nominee eligible for CD certification (except under unusual and extraordinary circumstances) unless they are prohibited or otherwise problematic assets which --

- (i) were disclosed in the financial disclosure report transmitted to the Senate, and
- (ii) were held by the filer on the date the employee was counseled by his ethics official.

As mentioned in the earlier DAEOgram, unusual and extraordinary circumstances do not include inadvertent omissions, mistakes of fact, the acceptance of gifts, or the lack of actual knowledge due to acquisitions of assets through the use of agents or fiduciaries acting under discretionary powers. Such circumstances do include inheritances of attributable property in which a beneficial interest was not previously held.