



United States
Office of Government Ethics
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DO-08-002

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Robert I. Cusick
Director

SUBJECT: Seeking Additional Information from Nominee Filers

On several recent occasions, questions have been raised about the extent to which the Office of Government Ethics (OGE) and agency reviewers should seek additional information to clarify inconsistencies, ambiguities, or possible omissions on a financial disclosure report (SF 278) submitted by a Presidential appointee whose position requires Senate confirmation (PAS filer). The purpose of this memorandum is to confirm that reviewers should seek additional information from a PAS filer in any case where there may be a question about the adequacy of the report.

The OGE regulations state that reviewers "need not audit the report to ascertain whether the disclosures are correct. Disclosures shall be taken at 'face value' as correct, unless there is a patent omission or ambiguity" 5 C.F.R. § 2634.605(b)(2). In addition, section 4.3 of the Public Financial Disclosure Reviewer's Guide discusses when to obtain additional information from a public filer. The Guide describes several "review assumptions" that a reviewer may make, principally when a reviewer is comparing a previously filed form with an annual or termination filing.

Some agency reviewers have relied on these provisions as the bases for not seeking additional information from a PAS filer to explain individual entries or possible omissions on an SF 278. These provisions, however, merely denote that a reviewer need not verify entries on an otherwise complete SF 278. For example, if a filer lists certain stocks held in a brokerage account, a reviewer need not affirmatively question

whether the values of all stocks listed are correct. On the other hand, if a filer discloses that he is an officer or director of a large company and does not disclose any stock ownership in that company, a reviewer should ask whether all equity interests in the company have been listed. Because officers and directors typically have stock or stock options in their employers, it is reasonable to surmise that the omission of such information may be an oversight.

Moreover, when reviewing a PAS report, the highest level of scrutiny should apply. Many nominees to PAS positions have extensive and complex financial holdings, and may be unsure how the holdings should be reported. Often, PAS filers will rely on the agency reviewer for guidance through the filing process. Asking a few questions can help a PAS filer avoid embarrassment due to inadvertent filing errors.

Accordingly, please err on the side of seeking clarification or additional information from a PAS filer if you have any doubts about the adequacy of a form submitted for review. Thank you for your assistance.