



October 27, 2025

U.S. Office of Government Ethics  
250 E Street SW, Suite 750,  
Washington, DC 20024,  
Attention: McEvan Baum, Assistant Counsel

*RE: Agency Information Collection Activities; Submission for OMB Review; Proposed Collection; Comment Request for a Modified OGE Form 201 Request an Individual's Ethics Documents, 90 FR 43445*

Democracy Defenders Fund (DDF) respectfully submits this comment in response to OGE's request for input on the form renewal of the OGE Form 201, *Request an Individual's Ethics Documents*. DDF is a nonpartisan, nonprofit organization that works alongside national, state, and local allies across the country to uphold the rule of law, fight against autocracy, and defend the Constitution. DDF routinely uses the OGE Form 201, including the automated version of the OGE Form 201 located on OGE's website, to request documentation related to executive branch officials and employees.

### **Background**

The Ethics in Government Act of 1978, as amended, provides that certain high-level officials within all three branches of the Federal government must file public financial disclosure reports.<sup>1</sup> In the executive branch, these reports are used by agencies to help identify and resolve potential conflicts of interest. In addition, members of the public can request access to these reports, which serves several important interests. First, "Public disclosure promotes public confidence in the government, [and] no intragovernmental audit can be quite as successful in dispelling suspicion."<sup>2</sup> Second, "Public disclosure can help correct deficiencies in the government's own auditing and reviewing procedures."<sup>3</sup> Third, "[w]ide public availability [also] assure[s] compliance with the disclosure requirements"<sup>4</sup> themselves. And finally, "public financial disclosure makes officials' possible conflicts of interest a subject for debate and action by the public."<sup>5</sup>

To ensure public access to financial disclosure reports, "each agency" and "each supervising ethics office in the executive" "shall, within 30 days after any [public financial disclosure] report is received . . . by such agency or office . . . permit inspection of such report by

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<sup>1</sup> 5 U.S.C. § 13103.

<sup>2</sup> *Constitutionality of the Disclosure Provisions of the Ethics in Government Act as Applied to Official's Spouses*, 4B Op. O.L.C. 340, 342 (Jan. 9, 1980) (citing S. Rep. No. 170, 95th Cong., 1st Sess. 21 (1977)).

<sup>3</sup> *Id.* (citing S. Rep. No. 823, 94th Cong., 2d Sess. 22 (1976)).

<sup>4</sup> *Id.* (citing H.R. Rep. No. 574, 95th Cong., 1st Sess. 11 (1977)).

<sup>5</sup> *Id.*

or furnish a copy of such report to any person requesting such inspection or copy.”<sup>6</sup> Congress has also required that this process be used to access other ethics records, such as waivers of 18 U.S.C. § 208.<sup>7</sup>

The EIGA mandates that before a record can be “made available to any person” or “any copy of the report be provided . . . to any person” they must file a “written application” that states:

- (A) that person’s name, occupation, and address;
- (B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and
- (C) that such person is aware of the prohibitions on the obtaining or use of the report.<sup>8</sup>

As the supervising ethics office for the executive branch, OGE has established implementing regulations concerning access to public reports which are set out at 5 C.F.R. § 2634.603. The regulations provide that “[e]ach agency will, within 30 days after any public report is received by the agency, permit inspection of the report by, or furnish a copy of the report to, any person who makes written application as provided by agency procedures.” The regulation further provides that an “agency may utilize Office of Government Form 201 for such applications” and that an application must state:

- (1) The requesting person's name, occupation, and address;
- (2) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and
- (3) That the requesting person is aware of the prohibitions on obtaining or using the report set forth . . . [in the statute].

### **Comments on OGE Form 201 Form Renewal**

OGE’s current OGE Form 201 is generally intuitive and easy to use. However, several technical changes could be made to reduce administrative burden and confusion in filing the form and to accord better with the text of the EIGA. DDF also encourages OGE to take steps to enhance the utility of the automatic OGE Form 201.

Beyond technical corrections, DDF is also raising several substantive concerns with the form, including that (1) the form does not allow for requesting records other than by name, in

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<sup>6</sup> 5 U.S.C. § 13107(b)(1). An exception exists for certain reports filed by individuals in the intelligence community or who have been selected to be independent counsel if their selection has not been made public. 5 U.S.C. § 13107(a).

<sup>7</sup> 18 U.S.C. § 208(d)(1).

<sup>8</sup> These prohibitions are currently set out at 5 U.S.C. § 13107(c) but were redesignated as 5 U.S.C. § 13107(d) per the Courthouse Ethics and Transparency Act. Pub. L. 117–286, §§ 3(c), 7, 136 Stat. 4289, 4361 (Dec. 27, 2022). The restrictions include using a report for “any unlawful purpose” “for any commercial purpose, other than by news and communications media for dissemination to the public” “for determining or establishing the credit rating of any individual” or “for use . . . in the solicitation of money for any political, charitable, or other purpose.” 5 U.S.C. § 13107(c).

contravention of the plain text of the EIGA and (2) the form does not list all documents that are, or should be, available at OGE.

### ***a. Technical Comments***

#### ***Portable Document Format OGE Form 201***

DDF encourages OGE to review the PDF form and consider ways to make it easier to use by members of the public. OGE should consider whether sections create confusion or ask for unnecessary information and amend the document to streamline those sections. Specific changes DDF encourages OGE to consider include removing sub-section numbering (e.g., 1, 1a., 1b.) and removing questions concerning the type of requestor organization (e.g., Public Interest, News Media, Private Organization). The former creates unnecessary confusion, as it isn't clear whether these sections are required or not and why they are grouped together. The latter is neither required by the EIGA nor does it appear to be used by OGE for any purpose related to the statute. Like the identity of a FOIA requestor, the identity of the individual or their organization "has no bearing on the merits of his or her [EIGA] request."<sup>9</sup> DDF therefore encourages OGE to remove that information request from the form. Doing so will both streamline the application and reduce confusion for requestors. Finally, DDF encourages OGE to remove question 6, which relates to whether someone wants a copy of the report sent to their mailing or email address. It would seem more intuitive to ask a requestor to provide either their email address or a mailing address in question 1 and to note that if someone provides both that the document will be sent to their email address unless they specify otherwise.

#### ***OGE's Automated OGE Form 201***

OGE's "Individual Disclosures Search Collection" is an immensely important database for locating records related to individual employees in the executive branch. Records maintained by OGE<sup>10</sup> can be requested through the "online submission" version of the OGE Form 201. There are numerous benefits to using the online version of the form. However, the form only permits you to request the records of a single person at a time and you may only access up to five records related to that person. While DDF respects that there may be technical limitations on the number of records that can be requested, the current limit of five records and the limit to the records of only one person is (1) inconsistent with the paper version of the form (2) greatly increases the overall paperwork burden on requesters. Artificially limiting the number of records that can be requested creates structural barriers to the ability of requestors to timely request documents that are necessary to ensure appropriate public oversight of officers and employees. For this reason, DDF requests that the online version of the OGE Form 201 be updated to permit the request of multiple individuals and multiple records at the same time.

### ***b. Substantive Comments***

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<sup>9</sup> See *Dept. of Justice v. Reps. Comm. for Freedom of the Press*, 489 U.S. 749, 771 (1989).

<sup>10</sup> Not every record listed in OGE's database is available through OGE. DDF has previously encouraged OGE to ensure that additional records, including waivers of the conflict-of-interest law 18 U.S.C. § 208(a), are available through OGE's online database. Letter from Democracy Defenders Fund to Shelley Finlayson, Chief of Staff and Program Counsel, *RE: U.S. Office of Government Ethics 2026-2030 Strategic Plan (Plan)*, 90 Fed. Reg. 30937 (July 25, 2025).

DDF has two substantive suggestions for the form. First, DDF urges OGE to modify the form to permit requesters to seek reports even if they are not aware of the name of the filer. Second, DDF encourages OGE to modify the supplemental information section to more accurately describe the records OGE currently makes available.

*Clarify that Reports Do Not Need to be Requested by Name*

DDF also asks OGE to update the OGE Form 201 to make it clear that requesting a report by name is not required by the EIGA. There is no statutory requirement that reports be requested by name only. The only requirement is that an agency shall “permit inspection of [a] report by or furnish a copy of such report to any person requesting such inspection or copy.”<sup>11</sup> While using a person’s name might be the most obvious method of retrieving a report, there are several other methods that clearly identify reports being requested. For example, a request may be made by position (e.g., Undersecretary of Navy) or a request may be made by type of report across a period of time (e.g., Periodic Transaction Reports filed after January 1, 2025). So long as an individual has provided enough information for an ethics official to determine that a report meets the criteria of their request, there is no reason why the individual must also know the name of the person to be able to gain access to the report. DDF requests that OGE update the form to allow a requestor to seek reports by (1) name (2) position (3) time period (4) or type of report.

*Clarify the Full Range of Reports Available at OGE including Reports of Acting Officials*

Second, DDF urges OGE to update the supplemental information to better clarify which records are available from OGE. Several categories of documents that are required to be filed at OGE are not expressly contained in the list. These include the reports for OGE staff, including the Director of OGE, the Postmaster General, the Deputy Postmaster General, and the Governors of the Board of Governors of the United States Postal Service, as well as any person serving as independent counsel or appointed by an independent counsel.<sup>12</sup>

In addition, OGE should provide access to reports filed by individuals who are occupying one of these positions on an acting basis. OGE has long held that “[e]mployees assigned in an acting capacity to fill a position are subject to any financial disclosure reporting requirements of that position.”<sup>13</sup> OGE’s current position, however, is that acting officials’ reports are not required to be sent to OGE.<sup>14</sup> There appears to be no statutory basis for this determination. If an individual is only filing a financial disclosure report by virtue of acting in a position whose reports would otherwise go to OGE, there is no reason to treat that person differently than a person who holds the same position on a full-time basis. The plain text of the EIGA makes it clear that OGE should receive copies of those reports.<sup>15</sup> For example, the EIGA states that “officers and employees *in* . .

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<sup>11</sup> 5 U.S.C. § 13107(b)(1).

<sup>12</sup> 5 U.S.C. § 13105(b), (c).

<sup>13</sup> Memorandum for Designated Agency Ethics Officials from Stephen D. Potts, Director, U.S. Office of Government Ethics, RE: Additional Guidance on Confidential Disclosure 3 (Oct. 19 1992), [https://www.oge.gov/Web/OGES.nsf/0/79FD0B700196C187852585BA005BEEA3/\\$FILE/DA-10-20-92..pdf](https://www.oge.gov/Web/OGES.nsf/0/79FD0B700196C187852585BA005BEEA3/$FILE/DA-10-20-92..pdf).

<sup>14</sup> U.S. OFFICE OF GOVERNMENT ETHICS, PUBLIC FINANCIAL DISCLOSURE GUIDE § 4.09 (last visited Sept. 15, 2025), [https://www.oge.gov/web/278eGuide.nsf/For\\_Ethics\\_Officials#\\_1.03:Forms\\_Methods](https://www.oge.gov/web/278eGuide.nsf/For_Ethics_Officials#_1.03:Forms_Methods).

<sup>15</sup> 5 U.S.C. § 13105(b), (c).

. offices or positions which require confirmation by the Senate” must have their reports sent to OGE.<sup>16</sup> Beyond the plain text, it is also important that the reports of acting officials be reviewed independently by OGE for the same policy reason that full-time appointees’ reports are reviewed by OGE: individuals in these positions generally having hiring and firing authority over the agency’s Designated Agency Ethics Official, making it hard to confirm that the DAEO is reviewing reports independently and without cutting corners to prevent retaliation.

### **Conclusion**

The OGE Form 201 is the primary way that members of the public are able to access financial disclosure reports for high-level officials in the executive branch. While the form is largely intuitive and easy to use, additional technical and substantive corrections can increase its utility and alignment with the text of the EIGA. DDF thanks OGE for its consideration of these comments. We look forward to further engagement with your office on ways to make the OGE Form 201 as useful as possible to requestors.

\_\_\_\_\_/s/\_\_\_\_\_  
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<sup>16</sup> *Id.* at § 13105(c).