

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



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PA-16-10

PROGRAM ADVISORY

TO: Designated Agency Ethics Officials

FROM: David J. Apol
General Counsel

SUBJECT: STOCK Act Notification Requirement Reminder

As we approach the end of the current Administration, we encourage agency ethics officials to remind political appointees and other public financial disclosure report filers (public filers) about the notification requirements under the Stop Trading on Congressional Knowledge Act (STOCK Act). Section 17 of the STOCK Act requires a public filer who is negotiating for or has an agreement of future employment or compensation to file a statement notifying an agency ethics official of such negotiation or agreement within three business days after commencement of the negotiation or agreement. Pub. L. No. 112–105, 126 Stat. 303, 5 U.S.C. app. § 101 note. A public filer who files such a notification statement also must file a recusal statement whenever there is a conflict of interest or appearance of a conflict of interest with respect to the entity identified in the notification statement. *Id.*

Previously, OGE issued interpretive guidance for implementing section 17 of the STOCK Act on April 6, 2012, and April 25, 2013. *See* OGE Legal Advisories 12-01 (negotiations and agreements of future employment) and 13-06 (negotiations and agreements of future compensation). Recently, OGE implemented the statutory notification requirements under section 17 by adding a new section 2635.607 to 5 C.F.R part 2635 that codifies and further develops this guidance.

With regard to the notification and recusal statements, OGE encourages ethics officials to highlight the following points with public filers:

- Public filers are encouraged to file the notification and recusal statement before negotiations have commenced and before an agreement of future employment or compensation is reached to facilitate receiving advice from their agency ethics officials. Public filers who elect to file the notification and recusal statement with

all required information¹ before negotiations begin do not need to refile after commencing negotiations or reaching an agreement.

- The notification and recusal requirements are not applicable only to employment situations but also to compensation for services to be rendered following termination from federal government employment. For example, a public filer must file a notification of a future compensated speaking engagement or, if the writing will commence after terminating, a book deal.
- As a practical matter, public filers are encouraged to include their recusal statements in their initial notifications, whether or not actual conflicts of interest exist.
- Ethics officials are not required to disclose the information in the notification or recusal statement to a filer's supervisor unless the information is necessary to effectuate the recusal.

The attached template can be used for notifications statements, but ethics officials are not required to use this template. Agency ethics officials should contact their OGE Desk Officers if they have any questions about the revisions to 5 C.F.R. part 2635, subpart F.

Attachment

¹ The statements must name the private entity or entities involved in the negotiations or agreement and provide an estimated date of the commencement of the negotiations or agreement. *See* Pub. L. No. 112-105, 126 Stat. 303, 5 U.S.C. app. § 101 note.

NOTIFICATION OF FUTURE EMPLOYMENT DISCUSSIONS OR AGREEMENT AND RECUSAL STATEMENT

Section 17 of the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) requires certain employees to file a statement notifying their agency ethics official of any negotiation for, or agreement of, future employment or compensation with a non-federal entity no later than three business days after commencement of the negotiation or agreement. Public filers also must file a recusal statement whenever there is a conflict of interest or appearance of a conflict of interest with the entity, unless the employee obtains a written waiver. An employee may elect to file a notification and recusal statement before negotiations have commenced and before an agreement of future employment or compensation is reached.

NOTIFICATION OF POST-EMPLOYMENT DISCUSSIONS OR AGREEMENT

Name of Employee	
Agency/Office	
Date of Discussion, Negotiation, or Agreement	
Name(s) of Non-Federal Entity or Entities Disclose each non-federal entity with which you anticipate negotiating for, are negotiating for, or have an agreement of future employment or compensation.	

RECUSAL STATEMENT

For as long as I am seeking, negotiating for, or have an agreement of, employment or compensation with any entity listed above, I will comply with all applicable recusal obligations under 5 C.F.R. part 2635 and, where applicable, 18 U.S.C. § 208. I understand that it is my responsibility to consult an agency ethics official if I have questions regarding these recusal obligations.

Employee Signature	Date Submitted
Agency Ethics Official Signature	Date Received