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Description of document: All General Services Administration (GSA) Office of Government Ethics (OGE) model form Form 450 documents, including "sample cautionary emails," 2009

Requested date: 24-May-2012

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Title of document: Index of Model E-Mails: From an OGC 450 Counselor to an Affected GSA Associate...

Source of document: General Services Administration
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June 20, 2012

Re: Freedom of Information Act (FOIA) Request (FOIA # 217987)

This response is in regard to your FOIA request received by this office on May 24, 2012 which requested a "digital copy of 'sample cautionary emails which are stored on a shared drive' available to 450 Reviewers (Form 450 reviewers) in the GSA Headquarters Ethics Office."

Enclosed please find a CD that includes all model form Office of Government Ethics Form 450 documents, including "sample cautionary emails" which are electronically stored on a shared drive "in the GSA Headquarters Ethics Office."

Sincerely,

A handwritten signature in black ink, appearing to read "Kris E. Durmer", with a long horizontal line extending to the right.

Kris E. Durmer
General Counsel/
Designated Agency Ethics Official
U.S. General Services Administration

Index of Model E-Mails: From an OGC 450 Counselor to an Affected GSA Associate...

Prepared and Posted

1/13/2009

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- [Model #20](#): Sample cautionary email regarding covered relationship with spouse's employer Caveat - This gets sent only if spouse does not hold any stock interest with his employer either through a profit sharing plan or through a stock purchase plan and the spouse's job is not dependant upon the continuation of a contract relationship with the Federal Government. For example - the spouse's pension plan can not include stocks from the spouse's employer and the spouse cannot have any type of ownership interest in the


company that he works for - authored by Ms. Ruth Kowarski, J.D., LL.M. -

- [Model #21](#): Sample cautionary memo addressing teaching, speaking and writing and membership in outside organization - authored by Ms. Ruth Kowarski, J.D., LL.M. -

 - [Model #22](#): Procuring Real Estate License - Employee who is not personally and substantially involved in the acquisition and disposal of real estate - authored by Ms. Ruth Kowarski, J.D., LL.M.-

 - [Model #23](#): Inquiry of Supervisor -- Is Your Subordinate 450 Worthy #1?

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 **Model #1**: New entrant status, need for entrant date and no need to fill out part V of the certification - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual confidential financial disclosure report for 2007. You have been identified as a new entrant filer for this filing year. You are a new entrant filer if you did not file an OGE Form 450 last year. Consequently, your reporting status is new entrant rather than annual, as is currently marked on your report.

As a new entrant filer you are required to report a date of appointment to your current position. Your date of appointment is the date that you began working in the position that requires you to file the OGE Form 450.

Additionally this is to advise that you are not required to complete Part V of the report certification concerning reportable gifts of travel reimbursements for myself, my spouse, or my dependent child. It is noted that you have reported travel reimbursements in Part V of your report for this year. This is not required.

If it was your intention to not mark a box for part V of the report certification please state this in your reply email and state whether I am authorized to revise your report to reflect this fact. Also please state in your reply that your filing status is new filer, provide your date of appointment to your current position, and state whether I am authorized to revise your report to reflect this fact.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of __ and __.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- ____.

GSA Model #2: Failure to check proper block(s) at part I of the report - Specifically failure to mark yes for block 1 of the report when reporting assets or sources of income in part I of the report - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual confidential financial disclosure report for 2007.

In order to complete my review of your filing for this year I need some additional information from you regarding your certification at page 1 of the report and your assets that are supposed to be listed in part I.

Specifically, it appears that you may have inadvertently checked the "yes" box in the certification portion of the 450 report for Part I - assets or sources of income for myself or my spouse or my dependent children. Part I of your report does not state that you are reporting any interests for your spouse this year.

If it was your intention to mark the "no" box for part I of the report, please state this in your reply email and state whether I am authorized to revise your report to reflect this fact.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of ___ and ___.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- _ _ _ _.

GSA Model #3: Sample failure to check proper block(s) at certification section of the report - Specifically failure to mark yes for block 2 of the report when reporting a liability in part II of the report - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual confidential financial disclosure report for 2007.

In order to complete my review of your filing for this year, I need some additional information from you regarding your certification at page 1 of the report and liabilities that are supposed to be listed in part II of the report.

Specifically, it appears that you may have inadvertently checked the "no" box in the certification portion of the 450 report for Part II - I have liabilities (debts) for myself or my spouse or my dependent children. Part II of your report enumerates debts that you are reporting for this year.

If it was your intention to mark the "yes" box for block II of the certification, please state this in your reply email and state whether I am authorized to revise your report to reflect this fact.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of ___ and ___.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- _ _ _ _.

GSA Model #4: Sample failure to check proper block(s) at part I of the report - Specifically failure to mark "no" for block 1 of the report when not reporting assets or sources of income in part I of the report - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual confidential financial disclosure report for 2007.

In order to complete my review of your filing for this year I need some additional information from you regarding your certification at page 1 of the report and your assets that are supposed to be listed in part I.

Specifically, it appears that you may have inadvertently checked the "yes" box in the certification portion of the 450 report for Part I - assets or sources of income for myself or my spouse or my dependent children. Part I of your report does not state that you are reporting any financial interests for this year.

If it was your intention to mark the "no" box for part I of the report, please state this in your reply email and state whether I am authorized to revise your report to reflect this fact. Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of ___ and ___. If you have any questions concerning this request please feel free to call me at 202-501-____.

GSA Model #5: Sample failure to properly mark reporting status box as annual filer and failure to mark box for Part V of the Certification - Travel Reimbursements and complete part V of the report - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual confidential financial disclosure report for 2007.

You have been identified as an annual filer for this filing year. Consequently, your reporting status is annual filer rather than new entrant, as is currently marked on your report.

In order to complete my review of your filing for this year, I will need some additional information from you regarding your certification at page 1 of the report.

Specifically, it appears that you may have inadvertently not marked a box in the certification portion of the 450 report for Part V - I have reportable gifts of travel reimbursements for myself, my spouse, or my dependent child. It is noted that you have not reported any travel reimbursements in Part V of your report for this year.

If it was your intention to mark the "no" box for part I of the report please state this in your reply email and state whether I am authorized to revise your report to reflect this fact. Also please state in your reply that your filing status is that of an annual filer and state whether I am authorized to revise your report to reflect this fact.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of ___ and ___.

If you have any questions concerning this request please feel free to call me at 202-501-____

GSA Model #6: Sample reconciliation of assets - confirmation of assets no longer held that were reported last year - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your confidential financial disclosure report for the period of January 1, 2007 through December 31, 2007. In order to complete my review of your filing for this year I need some additional information from you regarding certain assets previously listed last year in part I of the form. Specifically, can you please confirm that you no longer hold and no longer wish to report the following financial interest previously reported in 2006:

Salary from outside activity as a consultant for Counseling Services Alternatives, Inc.

Also please state in your email whether I am authorized to amend your filing with this information. Upon receipt of your response and authorization the following changes will be made to your form:

Part I will be amended to add Counseling Services Alternatives, Inc. as a financial interest.

Upon receipt of your response, I will attach your response to your disclosure report.

If you wish to amend your report in person, please contact me so that we can arrange a time to meet for this purpose.

GSA Model #7: Sample - Failure to report asset in part I that is listed in part II (or other part) of the form - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your confidential financial disclosure report for the 2007 filing period. In order to complete my review of your filing for this year I need some additional information from you regarding certain interests listed in part II of the form. Specifically, you report a part II interest in a rental property. I am writing to inquire whether you wish to supplement your report to report the rental property as a financial holding in Part I of the form.

The instructions at Part I state that you need to report "assets such as ... investment real estate" if the asset has a value of "greater than \$1,000 at the end of the reporting period (December 31, 2006 for this year) or is held for investment which produced more than \$200 in income during the reporting period.

Please confirm by email whether you would like to report your rental property as an asset in part I of your report. If you would like to add this asset as an interest in Part I, please state the city and state where the property is located so that this information can be included as an amendment to your filing. Also please state in your email whether I am authorized to amend your filing with this information. Upon receipt of your response and authorization the following changes will be made to your form:

Part I will be amended to add the city and state where the rental property is located as a financial interest.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of __ and __.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- ____.

GSA Model #8: Sample request for underlying asset names - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual financial disclosure report for the 2007 filing period. In order to complete my review of your form I will need some additional information regarding some of the assets listed in Part I of the form.

Specifically, please provide a list of the exact names of all assets that underlie the Merrill Lynch retirement IRA and the Fidelity Roth IRAs and the Fidelity account listed at part I. If you can provide the stock ticker abbreviation for the assets listed - that would be very helpful to me. Please note that you are not required to report widely diversified mutual funds. Diversified mutual funds are mutual funds that do not have a stated policy of concentrating investments in one industry, business, or single country other than the United States. If your IRA or 401K plan consists solely of widely diversified mutual funds, please state this in your reply.

Thank you for your time and attention to this matter. Please feel free to call me if you have any questions or if I can be of further assistance.


GSA Model #9a: Sample exemption for interest in securities - \$15,000 Aggregate rule/cautionary email - authored by Ms. Kelly A. Gillin, J.D. -

Pursuant to 18 U.S.C. § 208, an employee or officer of the executive branch is prohibited from personally and substantially participating in matters involving any organization in which he, his spouse or his dependent child has a financial interest. If such participation does occur, the employer or officer may be subject to criminal penalties set forth in 18 U.S.C. § 216.

The Office of Governmentwide Ethics has created certain exemptions which allow Federal employees to work on matters in which they have a financial interest without violating 18 U.S.C. 208. One such exemption is the de minimis exemption for matters involving specific parties found at 5 C.F.R. § 2640.202(a). This regulation states that "[a]n employee may participate in any particular matter involving specific parties in which the disqualifying financial interest arises from the ownership by the employee, his spouse or minor children of securities issued by one or more entities affected by the matter, if: (1) The securities are publicly traded, or are long-term Federal Government, or are municipal securities; and (2) The aggregate market value of the holdings of the employee, his spouse, and his minor children in the securities of all entities does not exceed \$15,000."

According to your 2007 Confidential Financial Disclosure Report, you own the following assets that could pose a conflict of interest with your position and/or duties: Microsoft, Qualcomm, Intel, and Cisco. Please be advised that should these holdings cease to be publicly traded or should the aggregate value of these holdings exceed \$15,000.00, this particular exemption will no longer apply. If that is the case, you may be required to recuse yourself from the matter so as to avoid

violating 18 U.S.C. § 208. If this should occur at any time, please notify the Office of General Counsel and your supervisor immediately. Please be advised that the monitoring of these holdings is your continual affirmative duty; however, once brought to the attention of this Office, we will work with you to determine the correct course of action including but not limited to, recusal or divestiture.

 Model #9b: Sample memo to alert employee of potential conflict of interest due to their owning an interest in a company that does business with GSA - authored by Ms. Ruth Kowarski, J.D., LL.M. -

February 7, 2008

MEMORANDUM FOR GSA JOE EMPLOYEE, PROJECT MANAGER, ABC DIVISION (PABC)

FROM: RUTH KOWARSKI
SENIOR ASSISTANT GENERAL COUNSEL (LR)
DEPUTY STANDARDS OF CONDUCT
COUNSELOR (LR)

SUBJECT: Review of Confidential Financial Disclosure Report
For period of January 1, 2007 to December 31, 2007


Your Annual Confidential Financial Disclosure Report (OGE Form -450) dated January 29, 2008, has been reviewed. My review of your report has not revealed any real or apparent conflicts of interest between your financial interests and official duties. I do note however that you currently have a financial interest in C.D. E. Systems Incorporated; an entity that could be affected by actions of this agency.

Under the provisions of 18 U.S.C. §208, you are precluded from participating personally and substantially in a particular matter in which, to your knowledge, you, your spouse, minor child, general partner, an organization in which you are serving as officer, director, trustee, general partner, or employee or person or organization with which you are negotiating for or has an arrangement concerning prospective employment, has a financial interest.

If, in the future, a matter comes before you personally that could affect this financial interest or any other company in which you have a financial interest, you must notify your supervisor promptly and recuse yourself from participation in the matter until a determination is made on how to proceed, after consultation with a Deputy Standards of Conduct Counselor or the Ethics Law Staff.

If you have any questions, please contact me at (202) 501-0277

RESTRICTED DISTRIBUTION -- FOR ADDRESSEE'S EYES ONLY

 Model #10: Sample exemption for sector funds- \$50,000 Aggregate rule/cautionary email- authored by Ms. Ruth Kowarski, J.D., LL.M. -

Pursuant to 18 U.S.C. § 208, an employee or officer of the executive branch is prohibited from personally and substantially participating in matters involving any organization in which he, his spouse or his dependent child has a financial interest. If such participation does occur, the employer or officer may be subject to criminal penalties set forth in 18 U.S.C. § 216.

The Office of Governmentwide Ethics has created certain exemptions which allow Federal employees to work on matters in which they have a financial interest without violating 18 U.S.C. 208. One such exemption is the de minimis exemption for matters involving specific parties found at 5 C.F.R. § 2640.201(b)(2)(i). This regulation states that "[a]n employee may participate in any particular matter affecting one or more holdings of a sector mutual fund where the disqualifying financial interest arises from the ownership by the employee, his spouse or minor children of an interest in the fund and the aggregate market value of the interests in any sector fund or funds does not exceed \$50,000.

According to your 2007 Confidential Financial Disclosure Report, you own the following assets that could pose a conflict of interest with your position and/or duties: Archstone Smith Trust and Third Avenue Real Estate Trust. Please be advised that should these holdings cease to be publicly traded or should the aggregate value of these holdings exceed \$50,000.00, this particular exemption will no longer apply. If that is the case, you may be required to recuse yourself from the matter so as to avoid violating 18 U.S.C. § 208. If this should occur at any time, please notify the Office of General Counsel and your supervisor immediately. Please be advised that the monitoring of these holdings is your continual affirmative duty; however, once brought to the attention of this Office, we will work with you to determine the correct course of action including but not limited to, recusal or divestiture.

GSA Model #11: Sample - Annuity Reporting - Failure to report at part I of the report - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual financial disclosure report for the 2007 filing period. In order to complete my review of your form I will need some additional information from you regarding the annuity that is listed in Part I of the form. Specifically, please identify the type of annuity (Fixed or Variable) that you hold and if required by the definitions below, the assets that comprise the annuity. The following definitions are provided for your use in providing this additional information.

Fixed Annuities: Income from an annuity at a specified rate of return guaranteed by the insurance company. The insured has no direct interest in how premiums are invested. Filer needs to disclose the name of the insurance company and specify that the asset is a fixed annuity on Part I.

Deferred Annuities: Postpones payments to investor until he/she reached a certain age, or retirement.

Immediate Annuities: Income from an annuity that pays out immediately. The income may be interest or dividends. The filer must disclose the annuity and the issuing insurance company on Part I. Also disclose whether this is a fixed annuity in Part I.

Variable Annuities: Annuities that offer investors options in which they can invest (usually mutual funds). Return is based on performance of the chosen investments. Filer must disclose on Part I the name of the company and the reportable underlying assets.

Please send a reply email that states whether you wish to amend your report to include information concerning your annuity account in part I of the report. Your email should also state whether I am authorized to amend your report on your behalf.

Also please state in your email whether I am authorized to amend your filing with this information.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of __ and __.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- _ _ _ _.

 Model #12: Sample - TIAA CREF Annuity Reporting - Failure to report at part I of the report - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual financial disclosure report for the 2007 filing period. In order to complete my review of your form I will need some additional information from you regarding the TIAA CREF asset that is listed in Part I of the form. The Office of Government Ethics has provided the following guidance concerning what needs to be reported when reporting your TIAA CREF Annuity:

"TIAA-CREF offers many investment options, such as annuities and mutual funds. First you must review your statements pertaining to your TIAA-CREF investments to determine exactly which investments you selected for your account. Then refer to the instructions in Part I and determine if any of the assets which you own fall into one of the categories of reportable information. For example, if your TIAA-CREF plan contains the TIAA Traditional Annuity, the CREF Stock Account, and the TIAA Real Estate Account, you are required to report the TIAA Traditional Annuity and the TIAA Real Estate Account in Part I, but you are not required to report the CREF Stock Account because it is a diversified mutual fund."

"Do I have to report my TIAA-CREF plan in Part IV? TIAA-CREF offers retirement plans for employees of educational institutions and research organizations, and they offer retail mutual funds to the general public. If you invested in TIAA-CREF through your former employer such as a university, then you must report the TIAA-CREF plan in Part IV because it is an agreement or arrangement with your former employer. Even if your TIAA-CREF plan contains diversified mutual funds only, you still must report the plan in Part IV when you invested in the plan through your former employer.

How do you report the plan in Part IV? In the first column, you will list the name of your former employer and the city and state in which it is located. In the second column, you will describe what will happen to the plan while you are a government employee. If, for example, the University of Maryland is your former employer and you will keep your TIAA-CREF plan with them, you will make the following entry in the second column: "I will keep my TIAA-CREF plan with the University of Maryland ."

Please send a reply email that states whether you wish to amend your report to include information concerning your TIAA CREF account in part I of the report. Your email should also state whether I am authorized to amend your report on your behalf.

Also please state in your email whether I am authorized to amend your filing with this information.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of ___ and ___.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- _____.

GSA Model #13: Sample inquiry into the type of 529 plan that is being reported - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual financial disclosure report for the 2007 filing period. In order to complete my review of your form I will need some additional information regarding some of the assets listed in Part I of the form.

Specifically, please send a reply email stating the type of 529 plans that you are reporting this year. Please state in your email whether the 529 plans are prepaid savings or prepaid tuition plans. As explained in the descriptions below, if you are reporting a prepaid savings 529 plan then you will need to supplement your report by including the identify of the reportable underlying assets. You can supplement your report by providing this information in your reply email.

Please see the descriptions below.

A Prepaid Savings Plan is a 529 plan where the plan's growth is based on the performance of investments chosen by the filer. Filer must disclose the name of the plan, e.g, GIFT College Investing Plan(Arkansas) and the reportable underlying assets, e.g., Vanguard Aggressive Growth Portfolio.

A Prepaid Tuition Plan is a 529 plan is a 529 plan that allows a contributor to lock in today's tuition rates. The plan represents a contract between the state and the contributor. Filer reports the name of the plan and the sponsor of the plan, e.g., Maryland Prepaid College trust.

Also please state whether I am authorized to amend your filing with this information.

Alternatively, if you wish to revise the form yourself, please feel free to stop by my office between the hours of ___ and ___.

Please feel free to contact me if you have any questions, or if I can be of further assistance. I can be reached at 501- _____.

GSA Model #14: Sample retirement plan reporting - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your confidential financial disclosure report for the period of January 1, 2007 through December 31, 2007. In order to complete my review of your filing for this year I need some additional information from you regarding certain assets listed in part I of the form.

Specifically, can you please advise whether the New York City Employee Retirement Interest is your personal retirement plan. If it is your retirement plan then you will need to report this in Part IV of the report as an agreement or arrangement. You will also need to amend Part I of the report to state the type of pension plan that you hold. What you need to report will be affected by the type of pension Plan that you hold. Please see the information below in bold typeface.


A Defined Benefit Plan is one where an employer makes contribution to a pool which it holds and invests for all participating employees-employees may know in advance the amounts of their future benefits or at a minimum know the formula that determines the amount. If your retirement plan is a defined benefit plan then please disclose the name of employer providing plan and identify type of pension plan in Part I and also disclose the plan in Part IV. Specifically, you will need to report the city and state where the retirement plan is located and a brief description of the terms of your agreement.

A Defined Contribution Plan is one where employees make contributions to the employer who maintains a separate account for each employee- either the employees or an independent manager chooses how the contributions will be invested- the benefits upon retirement depend on the performance of the plan's assets. If your retirement plan is a defined contribution plan then please disclose the name of the employer and the underlying assets in Part I of the form. Also report at Part IV of the report you will need to disclose the city and state where the retirement plan is located and a brief description of the terms of your agreement.

Also please state in your email that you wish to amend the certification at page 1 of the report to reflect the fact that you now wish to report an agreement or arrangement in part IV of the report.

Upon receipt of your response, I will attach your response to your disclosure report.

If you wish to amend your report in person, please contact me so that we can arrange a time to meet for this purpose.

 Model #15: Sample insurance identification email - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your confidential financial disclosure report for the period of January 1, 2007 through December 31, 2007. In order to complete my review of your filing for this year I need some additional information from you regarding insurance interests listed in part I of the form.

Specifically, please state whether these policies are whole life, universal or variable life insurance policies.

The following information concerning insurance policy reporting is provided for your use:

Under a whole life insurance policy , the insured person pays fixed premiums and has no control over investments. The filer must report the name of the insurance company and indicate it is whole life insurance. The income earned is usually interest. The financial interest represents an obligation by a sponsoring company and not an interest in an investment fund.

Under a Universal life insurance policy, the insured person can vary premiums by paying them with some of the accumulated cash value of the policy (normally at money market rates). the

investor has no control over the investments. The filer must report the name of the insurance company and indicate it is universal life insurance.

Under a variable life insurance policy, the insured person chooses investments from among several company options - performance of the chosen investment vehicles dictates its value - filer must disclose on Part I the name of the company, the type of insurance and the underlying assets.

Upon receipt of your response, I will attach your response to your disclosure report.

If you wish to amend your report in person, please contact me so that we can arrange a time to meet for this purpose.

GSA Model #16: Sample inquiry regarding trust reporting - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your confidential financial disclosure report for the period of January 1, 2007 through December 31, 2007. In order to complete my review of your filing for this year I need some additional information from you regarding your outside positions listed in part iii of the report. Specifically, I note that you list two living trusts for yourself and for your spouse. If these trusts contain assets within them then you will need to list those assets in part I of your report

If you wish to amend your report by email you can do that by sending me a reply email that discloses the identities of the assets that comprise the two living trusts that you are a trustee of.

To the extent that the assets consist of non diversified mutual funds or sector funds please provide the full name of the specific fund (rather than the family name) of the funds.

To the extent that the assets consists of stocks please provide the name of the stocks. If possible please also provide the symbol look up for these assets as well .

Upon receipt of your response, I will attach your response to your disclosure report.


If you wish to amend your report in person, please contact me so that we can arrange a time to meet for this purpose.

GSA Model #17: Sample inquiry regarding outside employment or personal involvement with outside organization - authored by Ms. Ruth Kowarski, J.D., LL.M. -

I am the attorney responsible for reviewing your annual financial disclosure report for the 2007 filing period. In order to complete my review of your form, I will need some additional information regarding some of the assets listed in Part I and outside positions listed in Part III of the form, so that I can determine whether certain of your financial interests present a potential conflict of interest relative to your duties in PBS.

Although, I do not anticipate that you will have any conflicts of interest, I am requesting that you provide me with the following information. 1) A brief summary of your present duties and responsibilities for PBS; 2) Your current job description; 3) A brief description of the business of GSA EMPLOYEE FILER Consulting, ABC International Inc., DEF interest committee, GHI organization. In particular are these companies or organizations that would ever have any business dealings with GSA? 4) A brief description of your duties and responsibilities for GSA EMPLOYEE FILER Consulting, ABC International Inc., DEF interest committee, and GHI organization.

Thank you for your time and attention to this matter. Please do not hesitate to contact me if you have any questions or I can be of assistance. I can be reached at 501- _ _ _ _ .

 Model #18: Sample inquiry regarding outside real estate work - should such a matter arise please contact me because there is waiver guidance that exists for use by PBS employees who fall within the category of being personally and substantially involved in the acquisition or disposal of real property - authored by Ms. Ruth Kowarski, J.D., LL.M. -

In order to complete my review i need to obtain some additional information from you regarding a financial interest reported in parts I and IV of your report.

Specifically, I note that you report a company called ABC Properties in parts i and III of your report.

This year I am required to assess whether your job as a real property ___ for PBS requires you to participate personally and substantially in the acquisition or disposal of real estate. I ask because this will have a bearing on my conflicts review and on the application of an internal GSA regulation located at 5 C.F.R. Part 6701.104 that is cited below for your reference.

Accordingly, I am asking for a reply email that describes what you do for PBS and what your responsibilities are for this company. Please note that a waiver process exists for those PBS employees that are personally and substantially participate in or have official responsibility for the acquisition or disposal of real estate or interests therein. If you are interested in this waiver process please contact this office for further assistance.

The regulation states in pertinent part as follows:


5 CFR 6701.104 Prohibited purchases of real estate by certain GSA employees involved in the acquisition or disposal of real estate.

(a) General Prohibition. Except as provided in paragraphs (b) and (c) of this section, employees who personally and substantially participate in or have official responsibility for the acquisition or disposal of real estate or interests therein, shall not directly or indirectly purchase or participate as an agent or otherwise in the purchase of real estate or interest therein.

(b) Exception. The prohibition in paragraph (a) of this section does not apply to an employee's purchase of real estate for use as his personal or other residential property, such as a vacation home.

(c) Waiver. An employee may make a purchase otherwise prohibited by this section where a written waiver of the prohibition has been given to the employee by the employee's immediate

supervisor, with the advice of a Deputy Standards of Conduct Counselor or the Designated Agency Ethics Official. Such a waiver may be granted only if a determination is made that the waiver is not otherwise prohibited by law or regulation, and that in the mind of a reasonable person with knowledge of the particular circumstances, the purchase of such real estate or interest therein will not raise a question as to whether the employee will use his official position or nonpublic information to obtain an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties.

 Model #19: Sample cautionary email regarding board membership in an outside organization and covered relationship with former employer - authored by Ms. Ruth Kowarski, J.D., LL.M. -

The following cautionary advice is provided as a result of my conflict of interest review of the your Confidential Financial Disclosure Report (OGE Form 450) for the time period of January 1, 2007 to December 31, 2007.

You stated on your Confidential Financial Disclosure Report (OGE Form 450) that you were a member of the following outside organizations.....

ABC Specifications Institute (ABCSI)

Due to the fact that you are on the board of the ABCSI, you are considered to have a financial interest in ABCSI. If a matter comes before you which may affect ABCSI, you must notify your supervisor immediately of your inability to work on the matter and refrain from any participation in the matter until a determination is made on how to proceed , after consultation with the Office of General Counsel.

Additionally, you stated in your Confidential Financial Disclosure Report (OGE Form 450) that you have provided specification consulting services for the following three architectural firms located in Florida: ACAB Associates; DEF and GHI Architecture.

While these three architectural firms do not appear to be prohibited sources, you should be aware that as a consultant for these companies, you would be considered to have a 'covered relationship' with these three firms for a period of one year starting on the last day of your employment with each firm. Subpart E of the Standards of Ethical Conduct for Employees of the Executive Branch states that an employee should not participate in a particular matter involving specific parties which she knows is likely to affect the financial interests of a member of her household, or in which she knows a person with whom she has a covered relationship is or represents a party, if she determines that a reasonable person with knowledge of the relevant facts would question her impartiality in the matter. 5 C.F.R. 2635.501.

Under 5 CFR Part 2635.502, an employee has a covered relationship with anyone for whom the employee has, within the last year, served as a consultant, contractor, or employee. Accordingly You should not participate in any matter affecting those outside organizations. If a matter comes before you which may affect one of those organizations, please contact me immediately. There is an authorization process which your supervisor will need to engage in before you can participate in those matters.

The following information is provided for your consideration with respect to any future consulting activities that you may choose to conduct.

5 C.F.R. Section 6701.106 states in pertinent part that a GSA employee is required to obtain written approval from his immediate supervisor prior to engaging in outside employment with a prohibited source, with or without compensation. A prohibited source is any person (or corporation) that : (i) is seeking official action by GSA; (ii) Does business or seeks to do business with GSA; (iii) conducts activities regulated by GSA; (iv) has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or (v) Is an organization a majority of whose members are described in paragraphs (d)(2)(i) through (iv) of this section.

Under the provisions of 18 U.S.C. §208, you are precluded from participating personally and substantially in a particular matter in which, to your knowledge, you, your spouse, minor child, general partner, an organization in which you are serving as officer, director, trustee, general partner, or employee or person or organization with which you are negotiating for or has an arrangement concerning prospective employment, has a financial interest.

Along with the provisions of 18 U.S.C. § 208, you are reminded of the limitations under 18 U.S.C. §§ 203 and 205. Section 203 precludes you from receiving compensation for representing another person (including an outside activity) before a federal agency or court in any matter in which the United States is a party or has an interest. Section 205 prohibits you from personally representing another person (including an outside activity), with or without compensation, to the Government on matters in which the United States is a party or has an interest. Should an official matter involving this financial interest come before you, you must notify your supervisor promptly and refrain from any participation in the matter until a determination is made on how to proceed, after consultation with a Designated Agency Ethics Official within the Office of General Counsel.

Also, you must comply with all relevant provisions of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635), including the limitation on misuse of position, on outside activities and impartiality in performing your duties. You must avoid actions creating an appearance of violating any of the ethical standards and the prohibition against use of official position for an employee's private gain or for the gain of any person with whom you have employment or business relations or are otherwise affiliated in a nongovernmental capacity.

You are reminded that while engaging outside activities you must not use or permit the use of your official title and position to identify you in connection with the activity, except that you may include or permit the inclusion of your title or position as one of several biographical details when such information is given to identify you in connection with teaching, speaking or writing, provided that title is given no more prominence than other significant biographical details (5 CFR 2635.807(b)).

Finally, you are reminded that you must use your own equipment and time for outside activities. An employee has an obligation to use Government equipment and use official time in an honest effort to perform "official duties".

GSA Model #20: Sample cautionary email regarding covered relationship with spouse's employer
Caveat - This gets sent only if spouse does not hold any stock interest with his employer either through a profit sharing plan or through a stock purchase plan and the spouse's job is not dependant upon the continuation of a contract relationship with the Federal Government. For example - the spouse's pension plan can not include stocks from the spouse's employer and the spouse cannot have any type of ownership interest in the company that he works for - authored by Ms. Ruth Kowarski, J.D., LL.M. -

The following cautionary advice is provided as a result of my conflict of interest review of the your Confidential Financial Disclosure Report (OGE Form 450) for the time period of October 1, 2005 to December 31, 2006.


You stated on your Confidential Financial Disclosure Report (OGE Form 450) that your husband is an employee of American Chemicals Federation (ACF) and further informed me that your husband does not have an equity interest in ACF.

Subpart E of the Standards of Ethical Conduct for Employees of the Executive Branch states that an employee should not participate in a particular matter involving specific parties which she knows is likely to affect the financial interests of a member of her household, or in which she knows a person with whom she has a covered relationship is or represents a party, if she determines that a reasonable person with knowledge of the relevant facts would question her impartiality in the matter. 5 C.F.R. 2635.501. An employee has a covered relationship with any organization, other than a political party, in which the employee is an active participant or any organization for which the employee's spouse serves as an employee.

Due to the fact that your husband is employed with AMF, you have a covered relationship with this organization. Consequently, you should not participate in any matter affecting this outside organization. If a matter comes before you which may affect this organization, please contact me immediately. There is an authorization process which your supervisor will need to engage in before you can participate in those matters.

In addition, as to your outside activity, you are reminded of the limitations under 18 U.S.C. §§ 203 and 205. Section 203 precludes you from receiving compensation for representing another person (including an outside activity) before a federal agency or court in any matter in which the United States is a party or has an interest. Section 205 prohibits you from personally representing another person (including an outside activity), with or without compensation, to the Government on matters in which the United States is a party or has an interest.

Also you must comply with all relevant provisions of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2645), including the limitation on misuse of position and use of nonpublic information (5 CFR Part 2635.701). You must avoid actions creating an appearance of violating any ethical standards and the prohibition against use of official position for an employee's private gain or for the gain of any person with whom you have employment or business relations or are otherwise affiliated in a nongovernmental capacity.

 Model #21: Sample cautionary memo addressing teaching, speaking and writing and membership in outside organization - authored by Ms. Ruth Kowarski, J.D., LL.M. -

Your Annual Confidential Financial Disclosure Report (OGE Form -450) dated February 14, 2007, has been reviewed. My review of your report has not revealed any real or apparent conflicts of interest between your financial interests and official duties. I do note however that you currently are a member of the following outside organization:

Design Management Institute (Boston, MA)

Subpart E of the Standards of Ethical Conduct for Employees of the Executive Branch states that an employee should not participate in a particular matter involving specific parties which she knows is likely to affect the financial interests of a member of her household, or in which she

knows a person with whom she has a covered relationship is or represents a party, if she determines that a reasonable person with knowledge of the relevant facts would question her impartiality in the matter. 5 C.F.R. 2635.501. An employee has a covered relationship with any organization, other than a political party, in which the employee is an active participant.

Due to the fact that you are a member of an editorial advisor for a journal issued by the Design Management Institute, you are considered an active participant in this organization and therefore have a covered relationship with this organization. You should not participate in any matter affecting this outside organization. If a matter comes before you which may affect this organization, please contact me immediately. There is an authorization process which your supervisor will need to engage in before you can participate in such matters.


In addition, as to your outside activity, you are reminded of the limitations under 18 U.S.C. §§ 203 and 205. Section 203 precludes you from receiving compensation for representing another person (including an outside activity) before a federal agency or court in any matter in which the United States is a party or has an interest. Section 205 prohibits you from personally representing another person (including an outside activity), with or without compensation, to the Government on matters in which the United States is a party or has an interest.

Also you must comply with all relevant provisions of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2645), including the limitation on misuse of position and use of nonpublic information (5 CFR Part 2635.701). You must avoid actions creating an appearance of violating any ethical standards and the prohibition against use of official position for an employee's private gain or for the gain of any person with whom you have employment or business relations or are otherwise affiliated in a nongovernmental capacity.

You are also reminded that to the extent that you engage in writing as an outside activity, you must not use or permit the use of your official title and position to identify you in connection with the writing or publishing activity, except that you may include or permit the inclusion of your title or position as one of several biographical details when such information is given to identify you in connection with your teaching, provided that title is given no more prominence than other significant biographical details (5 CFR 2635.807(b)).

Finally you are reminded that you must use your own time for outside activities. An employee has an obligation to use official time in an honest effort to perform "official duties".

If you have any questions, please call me at (202) 501-_____.

 Model #22: Procuring Real Estate License - Employee who is not personally and substantially involved in the acquisition and disposal of real estate - authored by Ms. Ruth Kowarski, J.D., LL.M. -

You stated that you are pursuing your real estate license and are interested in selling residential properties. There is no prohibition against your obtaining a real estate license during non GSA work hours. You are cautioned however that you must confine your real estate training activities to non duty work hours. Regarding any future plans that you may have to engage in residential real estate sales following receipt of your real estate license, please be advised that as we discussed on the phone, only employees that are personally and substantially involved in the acquisition or disposal of real property for GSA are restricted from directly or indirectly purchasing or acting as an agent in the purchase of real estate. 5 C.F.R. 6701.104. There are, however,

various other restrictions which may apply to your proposed activity. Those restrictions are discussed below.

1. 18 U.S.C. 208 - This criminal statute states you can not work on any matters which will affect one of your financial interests. You will have a financial interest in any outside employment activities. Therefore, you may not work on any matters, for GSA, which can affect your outside employment activities.

2. 5 C.F.R. 6701.106 Prior Approval for Outside Employment - This is a GSA supplemental regulation which requires an employee to get written approval from their supervisor before they begin outside employment with a prohibited source. A prohibited source is defined as anyone doing or seeking to do business with GSA, or any organization a majority of whose members are doing or seeking to do business with GSA. Thus, if you would like to work for a firm who does, or is trying to do business with GSA, you must obtain your supervisor's permission in advance. A request for approval must contain certain information, so if you are interested in going to work for a prohibited source, please contact me so we can discuss what the approval request should contain.

3. 5 C.F.R. 2635.703 Use of Nonpublic Information. - This regulation prohibits an employee from engaging in financial transactions using nonpublic information, and allowing such nonpublic information to further a private interest of the employee or another. It also prohibits an employee from making a knowing disclosure of nonpublic information. In your real estate practice, you will have to make sure that you do not use nonpublic information to further your interest or to allow the use of nonpublic information to further the interest of your firm or client. For example, if you know that GSA is thinking of putting a federal building in a certain location, you can not tell a potential client that fact to encourage them to buy near the development until that information has been made public.

4. ADM 7800.11 Personal Use of Agency Office Equipment - A GSA employee may use their office equipment for their own personal benefit during non-working hours, however, it can not be used to earn outside income or for the private gain of the employee or others. You, therefore, may not use your office equipment, including your computer and telephone, to conduct any outside business.

Additionally, I wanted to quickly point out that you will be prohibited from using your official title or position to further any outside activity. Thus, you may not use the fact that you work for PBS to try to attract clients. Finally, you are prohibited by 18 U.S.C. 203 and 18 U.S.C. 205 from receiving compensation from representations made before the government and from representing a third party before the Government. Therefore, you may not represent a buyer in the purchase of a home from HUD.

 Model #23: Inquiry #1: Asking a Supervisor of Subordinate needs to Fill Out a Form 450

Supervisor --

You probably don't recall this, but last year OGC split up the Form 450 review obligation among the various attorneys in lieu of saddling one lawyer with overseeing the entire system. In that move, I became the guy reviewing the 450 filers in your area. The program is starting to gin up again, and I was asked to look at the list of folks who are and aren't 450 filers, to figure out if some folks who aren't 450-ers, should be. I saw _____ name and when I looked at the

description of what makes a person "450 worthy" (which, as it turns out, is my status!), I wondered if _____ might meet one or more of these parameters:


"Generally speaking confidential financial disclosure report filers are employees whose duties require the exercise of important judgment in the taking of a government action without substantial supervision or review regarding the following matters:

(a) Contracting or procurement; (b) Monitoring or administering grants, subsidies, licenses or other federally conferred financial or operational benefits; (c) Regulating or auditing any nonfederal entity; (d) Other activities in which the final decision or action will have a direct and significant economic effect on the interests of a non federal entity; or (e) Any employee position whose duties necessitate such a filing in order to avoid involvement in a real or apparent conflict of interest.

Please keep in mind that while most filers are employees holding positions with grades 13 through 15, this does not mean that all employees at grades 13 or higher should automatically be identified as confidential filers, nor does it mean that someone in a grade lower than 13 should not be filing. Managers are supposed to consider both an employee's job duties and grade when determining whether an employee should file a Confidential Financial Disclosure Report. "

Having said this, though, I know you obviously know the extent of _____ duties far, far better than I, so if you opine that he's not a "450er" then that's good enough for me. What do you think?

Attorney

 Model #24: Inquiry #2: Asking a Supervisor of Subordinate needs to Fill Out a Form 450

Greetings.

The annual Confidential Financial Disclosure Report (OGE Form 450) season is now upon us. As a result, it's time for supervisors to review and update the PBS master list of those PBS employees required to submit the forms. The task of identifying an employee as a confidential filer is a managerial task that only a supervisor can do, based on their familiarity with the job responsibilities and the formal duties of the employees that they supervise.

Generally speaking confidential financial disclosure report filers are employees whose duties require the exercise of important judgment in the taking of a government action without substantial supervision or review regarding the following matters:

(a) Contracting or procurement; (b) Monitoring or administering grants, subsidies, licenses or other federally conferred financial or operational benefits; (c) Regulating or auditing any nonfederal entity; (d) Other activities in which the final decision or action will have a direct and significant economic effect on the interests of a non federal entity; or (e) Any employee position whose duties necessitate such a filing in order to avoid involvement in a real or apparent conflict of interest.

In addition, the following attachment provides guidance concerning the identification of employees that are required to file an annual Confidential Financial Disclosure Report. Please keep in mind that while most filers are employees holding positions with grades 13 through 15, this does not mean that all employees at grades 13 or higher should automatically be identified as

confidential filers, nor does it mean that someone in a grade lower than 13 should not be filing. Managers should consider both an employee's job duties and grade when determining whether an employee should file a Confidential Financial Disclosure Report.

The Office of General Counsel is available to assist supervisors in determining whether a particular employee's job responsibilities require that employee to file a Confidential Disclosure Report (OGE Form 450).

Listed below are the divisional coordinators who will be working with Joyce Flowers to compile the PBS master list, which is required to be provided to the OGC Ethics Law Staff by November 20, 2008.

Organizational Resources - Joyce Flowers - PG (PBS MASTER LIST COORDINATOR)

Budget and Financial Mgmt - LaNita Thornton - PF

Chief Architect - Charlotte Simpson Hopkins - PM

Nat'l Customer Service Mgmt - Loaela Hammons - PQ

Real Estate Acquisition - Loaela Hammons - PQ

Applied Science - Joyce Flowers - PL (back up Sue Dixon)

Real Prop Asset Mgmt - Judith Larsen - PV (back up Terry Sands)

Please share this message with the other supervisors in your divisions and work with Joyce and the listed divisional coordinators so we can have the most accurate master list possible by the due date. Thanks for your help. Please feel free to contact Ruth Kowarski at 501-0277 if you have any further questions regarding this matter.

Barry D. Segal
Acting Associate General Counsel
Real Property Division
Phone: (202) 501-0973
Fax: (202) 501-1944