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Nominee Financial Disclosure During a Presidential Transition

Every four years, the United States conducts a presidential election. In instances where a transition from one presidential Administration to another occurs, one of the President-elect’s tasks is to fill approximately 1,000 Senate-confirmed civilian positions in the executive branch. The Ethics in Government Act (EIGA, 5 U.S.C. §§13101-13111) requires nominees to certain positions requiring Senate confirmation to complete financial disclosure forms. Federal agencies and the Senate may use the disclosed information to inform the confirmation process and to identify and remediate real or perceived conflicts of interest, as necessary.

Public financial disclosure by high-level Government employees was introduced into law to provide a tool for identifying and resolving potential conflicts of interest and to increase public confidence in the Government. It is fundamental to the executive branch ethics program.

—Office of Government Ethics,
Report on Improvements to the Financial Disclosure Process for Presidential Nominees, April 2001, p. 2

Nominee Financial Disclosure Process

Upon winning the presidential election, the President-elect begins the process to transition from campaigning to governing. As noted by the Government Services Administration (GSA), “in just over ten weeks between the election and inauguration, a president-elect must prepare to take control of an executive branch that comprises over 140 agencies, hundreds of sub-components, and millions of civilian and uniformed personnel.”

Part of this transition process is the identification of individuals to fill to-be-vacant roles within the government. The EIGA requires that individuals who are nominated to positions requiring Senate confirmation submit financial disclosure forms, which are then reviewed by their future agency, the Office of Government Ethics (OGE), and the Senate committee evaluating their nomination. Individuals may begin to file financial disclosure forms upon the President’s announcement of the intent to nominate.

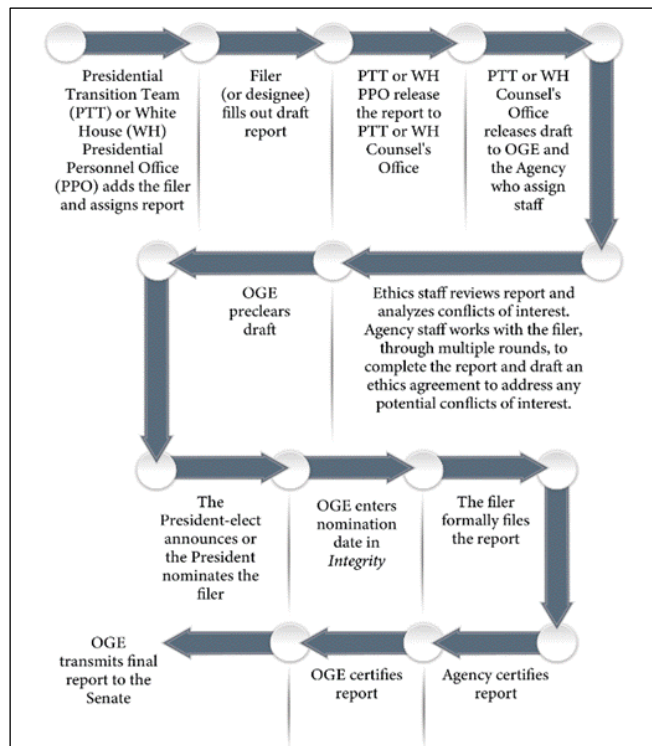
Nominee financial disclosure filers generally complete a public financial disclosure form (OGE Form 278). Unlike financial disclosure procedures for existing federal employees, OGE has outlined a process for nominees that may involve multiple rounds of questions about financial holdings. Broadly, a nominee should expect to engage with their future agency and OGE as part of the nomination and

potential confirmation process. As outlined by OGE, the steps involve action from the nominee, the agency, and OGE. These include the following:

- nominee completion of a draft public financial disclosure form;
- OGE and agency review of draft public financial disclosure form, with follow-up questions, and additional instructions provided as necessary;
- nominee revises, as needed, financial disclosure form and negotiates an ethics agreement with agency and OGE, if necessary; and
- OGE transmits completed and signed financial disclosure report to Senate once formal nomination is made by the President.

Figure 1 shows an OGE-created nominee process flowchart for the nominee financial filing and review process.

Figure 1. OGE Nominee Process Flowchart



Source: OGE, *The Presidential Transition Guide*, p. 25, at [https://www.oge.gov/web/oge.nsf/0/29BDCA10DAA7FFC6852585BA006B6ACC/\\$FILE/Transition%20Guide_2020.pdf](https://www.oge.gov/web/oge.nsf/0/29BDCA10DAA7FFC6852585BA006B6ACC/$FILE/Transition%20Guide_2020.pdf).

Senate Committees and Nominees

The President and the Senate share the power to appoint the principal officers of the United States. Article II, Section 2 of the Constitution requires that the President “by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States.” Subsequently, most Senate committees consider presidential nominees to covered positions.

Table I. Senate Committee Nomination Websites

Committee	Nomination Website
Agriculture, Nutrition, and Forestry	https://www.agriculture.senate.gov/library/nominations
Armed Services	https://www.armed-services.senate.gov/committee-actions/nominations
Banking, Housing, and Urban Development	https://www.banking.senate.gov/legislative-calendar/nominations
Budget	No identified website
Commerce, Science, and Transportation	https://www.commerce.senate.gov/nominations
Energy and Natural Resources	https://www.energy.senate.gov/nominations
Environment and Public Works	https://www.epw.senate.gov/public/index.cfm/nominations_1
Finance	https://www.finance.senate.gov/nominations
Foreign Relations	https://www.foreign.senate.gov/activities-and-reports/nominations
Health, Education, Labor, and Pensions	https://www.help.senate.gov/committee-actions/nominations
Homeland Security and Governmental Affairs	https://www.hsgac.senate.gov/legislation/nominations
Indian Affairs	No identified website
Intelligence	No identified website
Judiciary	https://www.judiciary.senate.gov/nominations
Rules and Administration	https://www.rules.senate.gov/hearings/nominations
Small Business and Entrepreneurship	No identified website
Veterans' Affairs	https://www.veterans.senate.gov/nominations-positions

Source: CRS analysis of U.S. Senate Committee websites.

Note: Committees not listed in **Table I** do not appear to regularly review nominations.

Most Senate committees have web pages that provide information on the committee’s nomination process. The information on committee nomination web pages varies, but it can include a list of individuals referred to (and

potentially considered by) the committee, the status of the nominee, and links to the nomination hearing, if applicable.

Table 1 lists the Senate committees’ nominee websites.

Each committee evaluates presidential nominees under the committee’s rules and past practices and collects financial disclosure information as part of its evaluation. In at least some cases, Senate committees’ rules contain provisions related to the committees’ handling of nominations. For example, the Senate Small Business & Entrepreneurship Committee’s rule on nominations states

In considering a nomination, the Committee shall conduct an investigation or review of the nominee’s experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. In any hearings on the nomination, the nominee shall be called to testify under oath on all matters relating to his or her nomination for office. To aid in such investigation or review, each nominee may be required to submit a sworn detailed statement including biographical, financial, policy, and other information which the Committee may request. The Committee may specify which items in such statement are to be received on a confidential basis.

-Senate Small Business & Entrepreneurship Committee

Access to Nominee Financial Disclosures

After confirmation by the Senate and appointment by the President, the nominee’s public financial disclosure is available for public inspection (5 U.S.C. §13107). The point of access to the nominee’s financial disclosure depends on the filer. For the top approximately 60 filers in the executive branch (President, Vice President, presidential candidates, and filers in Level I and Level II of the Executive Schedule), forms can be downloaded directly from the OGE website. For certain other presidentially appointed, Senate-confirmed (PAS) positions, the disclosure forms are listed on the OGE website, but access to their disclosure reports requires that the requester file an OGE Form 201 with OGE. For access to the filings, see OGE’s Officials’ Individual Disclosures Search Collection.

For more information on financial disclosure, see CRS Report R47320, *Financial Disclosure in the U.S. Government: Frequently Asked Questions*. For more information about the OGE and its role in the financial disclosure process see CRS In Focus IF10634, *Office of Government Ethics: A Primer*; and CRS In Focus IF12019, *Executive Branch Ethics and Financial Disclosure Administration: The Role of Designated Agency Ethics Officials (DAEOs)*. For more information on nominations and Senate Committees, see CRS Report RL30959, *Presidential Appointee Positions Requiring Senate Confirmation and Committees Handling Nominations*.

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