



# PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

March 29, 2022

TO: The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
1331 F Street NW  
Washington, D.C. 20005

Emory A. Rounds  
Director  
U.S. Office of Government Ethics  
1201 New York Ave NW #500  
Washington, D.C. 20005

CC: Bobak Talebian  
Director  
Office of Information Policy  
U.S. Department of Justice  
1331 F Street NW  
Washington, D.C. 20005

## **Re: Fixing the broken financial disclosure process**

Dear General Garland and Director Rounds,

The financial disclosure process is broken. We are calling on the Department of Justice (DOJ) and the Office of Government Ethics (OGE) to take urgent action to fix it.

Protect the Public's Trust (PPT) is a non-partisan organization dedicated to promoting integrity in government and restoring the public's trust in government officials. Like many advocates of a free and open government, Protect the Public's Trust applauds the Attorney General's recent memorandum issued on March 15, 2022, pertaining to "Freedom of Information Act Guidelines," and addressed to the heads of Executive Departments and Agencies.<sup>1</sup> The message is clear – federal agencies must comply with their obligations under the FOIA and do so in a way that favors disclosure over concealment.

In pursuit of our mission, we are writing today to request that DOJ and OGE build on the recent momentum toward transparency contained in Attorney General Garland's memorandum on agency obligations under the Freedom of Information Act (FOIA) by allowing the American public to view the many potential ethics and financial conflicts of interests of senior appointees and federal officials.

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<sup>1</sup> <https://www.justice.gov/ag/page/file/1483516/download>



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Financial holdings or relationships are a major source of conflicts of interest. While regular financial disclosure reports are required to be filed and made public, access to these documents can be cloaked behind walls of government forms and agency-specific procedures outside of the FOIA process.

As described on the OGE [website](#),<sup>2</sup> only the financial disclosure reports for those political appointees who are nominees to and incumbents in presidentially appointed Senate-confirmed (PAS) are currently available to the public through the OGE website. Thus, the financial disclosures of only a small number of appointees can be readily accessed by the American public. For instance, while the Department of Education reports [126 political appointees](#),<sup>3</sup> our analysis of the OGE website reveals the financial disclosure reports of just nine of them are available. This story is not unique across the government. Compared to the Plum Book, former Administration positions filled, or simply the press releases of agencies announcing new leadership, it is clear that the public has access to only a fraction of the appointees and disclosure forms needed to conduct proper oversight. This is not what transparency looks like.

It is not as if potential conflicts of interest are only an issue of concern among PAS appointees. As evidence that this is an issue, of the 21 officials in the current administration who have received a waiver to the Biden Ethics Pledge, two-thirds of them are non-PAS appointees.<sup>45</sup> Especially at a time when this many senior federal officials are operating outside of the traditional boundaries for ethics compliance, the American public must have ready access to and oversight of the potential conflicts that are being permitted to exist and flourish.

For any investigator versed in this arena, it's clear that the system for members of the American public to discover the information contained in financial disclosure forms is broken and in dire need of repair. The relevant forms cannot be obtained via the FOIA process. Even among the highest-ranking officials whose forms are posted on the OGE website it is fraught with repeated extensions granted to officials with complicated personal finances and potential conflicts of interest requiring divestiture. The result is major gaps among even senior officials, leaving the public to wonder whether influential decision-makers in the government are complying with the law, financially benefiting from their actions, or relying on endless authorized delays to complete their legal reporting obligations.

Those senior officials who are required to file financial disclosure forms but do not rise to the level of being placed on OGE's website are often hidden at the agency level. In order to obtain these individuals' disclosures, a member of the public must possess specific knowledge of a given official's name to even know which information to request. While the Department of

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<sup>2</sup> [https://www.oge.gov/Web/OGEnsf/accessdocs\\_disclosure-quickstart?OpenForm](https://www.oge.gov/Web/OGEnsf/accessdocs_disclosure-quickstart?OpenForm)

<sup>3</sup> <https://www2.ed.gov/news/staff/appointees.html>

<sup>4</sup> [https://www.oge.gov/web/oge.nsf/Agency+Ethics+Pledge+Waivers+\(EO+13989\)](https://www.oge.gov/web/oge.nsf/Agency+Ethics+Pledge+Waivers+(EO+13989))

<sup>5</sup> Martha Williams at the Department of the Interior was granted a waiver to the Biden Ethics Pledge while Principal Deputy Director of the U.S. Fish & Wildlife Service (FWS), a non-PAS position. She was also granted a similar waiver after confirmation as FWS Director, a PAS post. Williams was included among the count of PAS officials receiving waivers.



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Education (ED) has published a website listing current political appointees, ED is one of just a handful who do so. Even among those who have posted this information, it is unknown how frequently those agencies will update these lists. Once an appointee or official's name is known a requester must then submit a unique and inconsistently designed form to the agency's ethics official in charge of maintaining financial disclosure forms. In the best-case scenario, the search ends here after the agency ethics official agrees to provide the requested form within 30 days.

After many years of public concern over the financial entanglements of senior federal officials, in both the prior and current Administrations, action on this issue would serve a long-standing interest of the government. It would constitute a step toward improving the confidence of the public that those charged with making consequential decisions are doing so in the public's interest, not their own. We request that in the spirit of Attorney General Garland's recent memo – to “strengthen the federal government's commitment to the fair and effective administration of FOIA” and ensure “that openness prevail in the face of doubt” – agencies take several concrete steps to remove the most onerous obstacles currently impeding necessary transparency.

These steps could include requiring agencies to forward all financial disclosure forms (Form 278s) within 30 days of their completion to OGE and, in turn, OGE providing these documents to each requestor who affirms compliance with the applicable statutes and regulations for obtaining a Form 278. It should not be a Sisyphean task to identify which individuals have filled the government's most influential positions in order to verify compliance with financial disclosure requirements. Posting a list of appointees across the agencies – not just those who are Senate-confirmed and not just among a handful of agencies – would be a great start as well. If agencies retain the financial disclosure forms for certain appointees, requiring that agency request forms be uniform and easily accessible across all agencies would also improve the process.

These are just a few ideas that could greatly improve the transparency into and confidence in those officials impacting virtually every aspect of Americans lives on a daily basis. Protect the Public's Trust appreciates your dutiful attention to this important issue, and looks forward to your efforts to improve a broken financial disclosure system.

Sincerely,

Michael Chamberlain  
Director  
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[Michael@protectpublictrust.org](mailto:Michael@protectpublictrust.org)