

Financial Disclosure Statements

Agency Designation Procedures

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
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AGENDA

- I. Updates and Changes
- II. Overview: Financial Disclosure Process
- III. Designating Employees
 - I. Public Filers
 - II. Confidential Filers
- IV. Timeline of Financial Disclosure Statement Filing Process
- V. BEGA Enforcement Process
- VI. Glossary of Terms

UPDATES AND CHANGES

- CFDS List Deadline Change
- New BEGA E-filing System
- Staff Changes

OVERVIEW

FINANCIAL DISCLOSURE PROCESS

- **Why are certain District employees required to file financial disclosure statements?**
 - “Disclosure deters corruption . . . and allows the public to identify potential conflicts”
 - “[C]onflicts of interest may arise in regard to government employees who **award contracts, make grants, or decide policy.**”
*See Committee Report on the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011
- **The Financial Disclosure Filing Requirement is one of the few mechanisms the District has in place to help ensure that improper relationships between government employees and private individuals and/or entities that stand to benefit from the employee’s work do not develop.**

OVERVIEW

FINANCIAL DISCLOSURE PROCESS

Two types of Financial Disclosure Statement Filers:

- Public Financial Disclosure Statement Filer
 - *(files their report online, through the BEGA e-filing site)*
- Confidential Financial Disclosure Statement Filer
 - *(files their report with their agency head)*

Key Difference between these filers:

- **Whether the employee makes over \$104,335.**

OVERVIEW

FINANCIAL DISCLOSURE PROCESS

Who is a Public Financial Disclosure Statement Filer:

District Employees (Current & Former) if they were:

- A subordinate Agency Head in an Excepted Service Position
- An employee
 1. **Paid over \$104,335 and**
 2. **Who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest.**
 - To be considered a “public filer,” the employee must have served in this capacity for at least 30 days in the prior calendar year (2017).
- Elected officials (Mayor, Councilmembers, Attorney General, Representative or Senator, Member of SBOE), *and* members of boards or commissions listed in §1-523.01(e)

OVERVIEW

FINANCIAL DISCLOSURE PROCESS

Who is a Confidential Financial Disclosure Statement Filer:

District Employees (Current & Former) if they:

1. **Were paid less than \$104,335 and**
 2. **Make decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest.**
- **To be considered a “confidential filer,” the employee must have served in this capacity for at least 30 days in the prior calendar year.**

DESIGNATING EMPLOYEES

Who determines whether an employee meets the criteria for a public or confidential financial disclosure statement filer?

- **The Ethics Act mandates that *each agency is responsible* for determining whether its employees qualify as public or confidential filers.**
- **Rationale: You are in the best position to know whether an employee meets the criteria for public or confidential filers.**

DESIGNATING EMPLOYEES

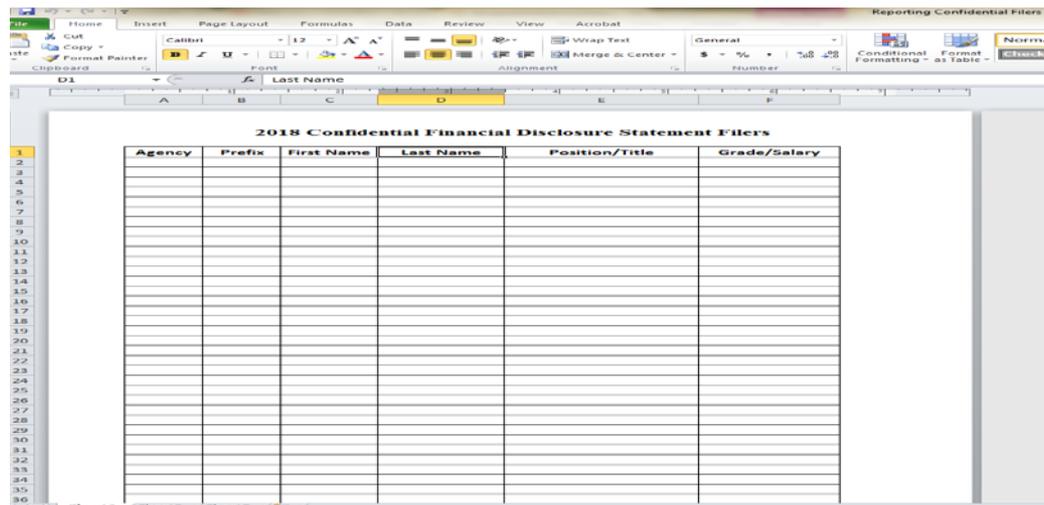
Identify Confidential Filers

I've determined which of my employees qualify as **Confidential Financial Disclosure Filers** (e.g., they make under \$104,335 and participate substantially in contracting, procurement, policy, etc.)...

Now what?

March 1st

- Agency Heads must *provide a list* of its employees who qualify as **Confidential** Financial Disclosure Filers to BEGA by March 1, 2018.



	Agency	Prefix	First Name	Last Name	Position/Title	Grade/Salary
1						
2						
3						
4						
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Please use the template BEGA provided, as we will need this information when we notify the filers of the process.

The list should be emailed to bega-fds@dc.gov

NOTIFYING EMPLOYEES

I've determined which of my employees qualify as Public Financial Disclosure Filers, which are Confidential Financial Disclosure Statement Filers, and submitted my lists to BEGA ...

What are the next steps?

Mid April

Once BEGA receives your list of filers, it creates individual employee log-in credentials for all designated employees so that they may e-file their forms on the BEGA website. After finishing this process, BEGA notifies (via email and U.S. mail) all public filers (3,000) of the fact that they have been designated and instructs the filers on how/where to file.

NOTIFYING EMPLOYEES

Next Steps (continued...)

I've determined which of my employees qualify as Public Financial Disclosure Filers, which are Confidential Financial Disclosure Statement Filers, and submitted my lists to BEGA ...

What are the next steps?

Mid April (Tuesday, April 17, 2018)

- Agency Heads must first notify their employees that they have been designated as CFDS filers and inform the employees that they can request a review of the designation by the agency head within 5 days.
 - If employee appeals, the agency head must then make a redetermination of the employee's status as a filer, in writing, within 5 days of receiving the request from the employee.
 - If the agency head denies the employee's request, the employee can appeal the decision to the Director of Government Ethics. The decision of the OGE Director must be issued within 5 days of receipt of the appeal and is final.

FILING DEADLINE

I've determined which of my employees qualify as Public Financial Disclosure Filers, which are Confidential Financial Disclosure Statement Filers, submitted my lists to BEGA, and the filers have been notified of their designation ...

What are the next steps?

May 15

Deadline for Public Filers to submit their PFDS forms using the BEGA e-filing site.

POST-FILING DEADLINES

I've determined which of my employees qualify as Public Financial Disclosure Filers, which are Confidential Financial Disclosure Statement Filers, and submitted my list to BEGA, and the filers have been notified of their designation, and the filing deadline has passed ...

Now what?

May 15-June 1

- *Ethics Counselors review all Confidential Financial Disclosure Statements.*

June 1

- *Submit a Confidential Filers Review Report to BEGA (please use the template provided)*

REVIEWING KEY DATES

March 1

- 
- Agency Heads must *provide list* of Public AND Confidential Financial Disclosure Filers to BEGA

April 17

- 
- Agency heads must *notify* CFDS filers of their designation by this date. (follow appeal procedures if applicable)

May 15

- 
- Deadline for designated employees to submit forms (PFDS and CFDS)

June 1

- 
- CFRR - Agency head or their designee must review all CFDSs on or before this date, and must report to BEGA a list of Filers, Non-Filers, and any information about successful or pending appeals of designation as a Confidential Filer, and reports of actual or potential ethics violations.

BEGA ENFORCEMENT PROCESS

- Agencies that submit their lists on time
 - Receive a Certificate of Excellence
 - Recognition on the BEGA website (?)
- Agencies that don't submit lists at all
 - Will also be listed on the BEGA website
- Employees who late-file their forms, fail to complete their forms, or do not file at all:
 - Financial penalties (up to \$300 for late-filing [automatic paycheck deduction], and up to \$5,000 for including false information in the report)
 - BEGA must publish the names of all compliant, non-compliant employees in the D.C. register by June 15th

GLOSSARY OF TERMS

“Participate Personally and Substantially”

- Personal and substantial participation occurs when an employee participates in a particular matter through: direct involvement; direct and active supervision of subordinates’ involvement; decision; approval; disapproval; recommendation; investigation; or giving advice.
- Consider whether the employee’s decision is independent or accepted with little or no review by the supervisor.
- Participation is substantial even if does not determine the outcome; it is substantial if it is significant to the outcome of the matter.

GLOSSARY OF TERMS

“Contracting & Procurement”

- All contracting officers and specialists, procurement analysts and agents, and all employees with authority to obligate District funds
- Program Managers, Contract Administrators, or other employees who are responsible for the technical monitoring of a contract or who are personally and substantially involved in the initiation and development of a contract (i.e. providing input into statement of work, negotiation of contract, or selection of vendor)
- NOT A FILER: If an employee is a “Procurement Assistant, but is only responsible for typing and processing procurement documents, answering status inquiries from the public, performing office support duties such as filing and copying, and maintaining an online contract database, that employee does NOT have any actual contracting or procurement responsibilities.

GLOSSARY OF TERMS

“Administration of Grants”

- Administering, awarding, monitoring, or making determinations regarding grants, subsidies, licenses, or other benefits
- Grants Management Officers, Specialists, and other employees with authority to commit District funds
 - Ex: An employee assists in the review of grant applications, determining their relevance to agency programs, and making funding recommendations. Employee’s supervisor typically accepts these recommendations without further clarification. This ability to affect the financial interest of outside organizations as well as the employee’s authority to commit District funds would make them a Financial Disclosure Filer.

GLOSSARY OF TERMS

“Regulating”

- All employees who substantially participate in the *drafting of regulations*
 - Ex: Attorneys
- All employees who *enforce compliance* with regulations
 - Ex: Employees who collect assessments from outside vendors or companies.
- Both groups of employees have the ability to affect the finances of outside vendors or groups and the potential for favoritism or a loss of impartiality, or at the very least the appearance of favoritism, to occur is high in these positions.

GLOSSARY OF TERMS

“Auditing, Inspecting, Licensing”

- Auditors, inspectors, and employees engaged in licensing have the ability to affect the finances of outside vendors or groups by their decisions and the potential for favoritism or a loss of impartiality, or at the very least the appearance of favoritism, to occur is high in these positions.
 - Ex: Health inspectors, Construction inspectors, employees issuing Certified Business Entity status

GLOSSARY OF TERMS

“Beneficial interest”

- The right to receive benefits on assets held by another party.
- Most **beneficial interest** arrangements are in the form of trusts, whereby one has a vested **interest** in the trust's assets.

GLOSSARY OF TERMS

“Real Property”

- Any land and/or immovable property on land such as buildings.
- Examples of items that are not considered real property:
 - Boats
 - Vehicles
 - Equipment