



GUIDELINES TO THE RANDOM REVIEW PROGRAM
FOR
ANNUAL STATEMENTS OF FINANCIAL DISCLOSURE

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I. LEGAL AUTHORITY

Executive Law §94(9)(n) authorizes the Joint Commission on Public Ethics ("Commission") to conduct a program of random reviews of Financial Disclosure Statements ("FDSs") submitted to the Commission pursuant to Public Officers Law §73-a, and requires that this program be carried out in the following manner:

- (i)** FDSs shall be selected for review in a manner pursuant to which the identity of any particular person whose FDS is selected is unknown to the Commission and its staff prior to its selection;
- (ii)** such review shall include a preliminary examination of the selected FDS for internal consistency, a comparison with other records maintained by the Commission, including previously filed statements and requests for advisory opinions, and examination of relevant public information;
- (iii)** upon completion of the preliminary examination, the Commission shall determine whether further inquiry is warranted. If so, the filer shall be notified in writing that the FDS is under review noting the specific areas of inquiry. The filer will be given an opportunity to provide any relevant information related to the areas of inquiry, and the opportunity to file amendments to the selected FDS on forms provided by the Commission; and
- (iv)** if thereafter sufficient cause exists, the Commission shall take additional action, as appropriate and consistent with law.

II. REVIEW OBJECTIVE AND SCOPE

A. Review Objective

The primary objective of the random review program is to ascertain compliance with the disclosure requirements of Public Officers Law §73-a. Particular focus is devoted to validating compliance with the statute as to whether all entries are completed and done so in a manner directly related to each particular question and consistent with internal documents maintained by the Commission and relevant public information.

B. Review Scope

At the beginning of each calendar year, the Commission will determine the quantity of filers to be selected for random review. Filers shall be randomly selected from the set of all required filers from the previous calendar year.

Public Officers Law §73-a requires that statewide elected officials (Governor, Lieutenant Governor, Attorney General and Comptroller), members of the legislature, legislative employees, the state chairs of recognized political parties and certain county chairs of these parties, candidates for statewide elected office or for member of the legislature, and certain state officers or employees file FDSs. Pursuant to Public Officers Law §73-a only those state officers or employees who receive compensation in excess of the filing rate of an SG-24 (which was \$88,256 in 2012) or who hold a policy-making position as determined by their appointing authority must file FDSs. This requirement applies to heads of state departments, boards, bureaus, divisions, commissions, councils, state agencies, and members or directors of public authorities, as well as the State University of New York and City University of New York.

After completing its review, the Commission will take additional action as appropriate and consistent with law.

III. REVIEW METHODOLOGY

A. Selection of the Review Pool

FDSs shall be selected in a manner in which the identity of any particular required filer whose FDS is selected is unknown to the Commission and its staff prior to its selection and in which all required filers have an equal probability of being selected.

Each year, Commission staff shall compile a list of required filers from the prior calendar year. The list shall be sorted in alphabetical order (by last name, first name, and middle name) and then numbered, with "1" being assigned to the first name that appears on the list.

A third party or an electronic number generator shall generate a list of random numbers, with the quantity of these random numbers equal to the number of required random reviews. If an electronic number generator is used, an external accounting entity will be retained to validate that the identity of any particular person whose FDS is selected is unknown to the Commission and its staff prior to its selection. Each random number on the list is unique and chosen from a range between "1" and the total number of required filers, inclusively.

Staff will then use the selected random numbers to identify the corresponding required filers to determine which FDSs will be reviewed.

B. Review Process

1. Preliminary Examination

The preliminary examination involves a two-stage review. The first stage examines the FDS for completeness and whether responses are directly related to the questions. In particular, the examiner:

- confirms if the FDS was signed.
- confirms if the FDS was timely filed and dated.
- checks to ensure that each question was answered.
- assesses whether responses are directly related to particular questions.
- assesses whether a response to a particular question indicates potential missing or an incomplete response to another question (e.g., filer indicated outside employment under question 5(a) but no information on income generated through outside employment was provided under question 13).
- checks for unusual responses (e.g. filer with a policy-making position reported political activities under question 7).

The second stage examines the FDS for consistency with internal documents and relevant public information. In particular, the examiner:

- compares the current filing with any FDS that was previously submitted by the filer to the Commission.
- compares the filer's FDS(s) with filings made by spouse (if a filer) or an unemancipated child (if a filer).
- checks if the filer has requested extension, deletion, exemption or formal/informal advisory opinion.
- if the filer has requested an advisory opinion, check if information submitted is consistent with the advisory opinion issued.
- if the filer reported outside activity or employment, check if outside activity request has been approved.
- if the filer reported dual employment, request the filer to submit proof of approval to serve with more than one state agency.
- searches state active contract database to determine if any income or business association is related to active state contract(s).
- performs property record search to confirm accuracy of property disclosure.

Examiners will conduct the review and report to a supervisor in accordance with an internal protocol developed by the Director of Audit and Review.

2. Secondary Examination

Upon completion of the preliminary examination, if further inquiry is warranted, examiner will notify the reporting individual, in writing, that his or her FDS is under review, and advise the reporting individual of the specific areas of concern. At staff's discretion, this notice may also serve as a Notice of Deficiency pursuant to Executive Law §94(12). Such notice shall be confidential. The filer will be given a 15-day period to respond to the notice.

If the filer fails to respond to any notice from the Commission, staff will take appropriate action in accordance with Executive Law §94(12). If a filer fails to resolve a matter raised by an examiner during an examination, or an examiner identifies a possible violation of Public Officers Law §§73 or 74, the matter will be referred to the Investigations Division of the Commission for whatever action it deems appropriate.