

Letter to Counsel to an Inspector General
dated June 14, 2006

This is in response to your letter dated May 10, 2006. You have requested advice about whether it is permissible under 5 C.F.R. part 2635 for a supervisor "to order a subordinate employee to complete the supervisor's SF 278." In responding, we note that we are only addressing the narrow ethics issue posed by your inquiry, not any personnel or other employment-related requirements or prohibitions. In addition, our response is limited to the ethics forms required for employment (OGE Form 450 (formerly SF 450) and SF 278) and does not speak to the completion of any other Government forms.

As you have pointed out in your letter, executive branch officials may not misuse official time. 5 C.F.R. § 2635.705(a). Likewise, such employees may not misuse the official time of their subordinates. 5 C.F.R. § 2635.705(b). The Standards of Ethical Conduct for Employees of the Executive Branch contain no prohibition on an employee's using official time to complete government forms required by his/her position. In a 1995 DAEOgram, the Office of Government Ethics expressly endorsed the use of official time to fill out disclosure statements. We stated that "[w]hile the regulation does not speak to this issue . . . because completion of the SF 450 or SF 278 is a requirement of their Government position, they should be allowed to use reasonable periods of official time, in amounts to be determined by their agency." DO-95-043, December 13, 1995.

While our prior DAEOgram did not address subordinates' time, we find that the regulations also do not prohibit an employee from directing a subordinate to complete OGE Form 450s and SF 278s if the completion of such forms is "required in the performance of official duties or authorized in accordance with law or regulation." 5 C.F.R. § 2635.705(b). A supervisor may find it more efficient for a subordinate to complete certain administrative tasks. However, as with an employee completing his or her own forms, the amount of official time used by subordinates to

complete a supervisor's forms should be reasonable, as determined by their agency.

We caution, however, that the employee whose position requires the filing of the OGE Form 450/SF 278 is wholly responsible for the content of the forms regardless of who completes them. If a superior requires a subordinate to complete his or her forms, the superior must ensure that the information is correct and complete prior to submission of the forms. This responsibility cannot be delegated to a subordinate.

Sincerely,

Marilyn L. Glynn
General Counsel