主 管 機 關 ：法務部

發布(修正)日期：1995.12.08.

法規中文名稱：政風機構辦理公職人員財產申報資料審核作業要點

法規英譯名稱：Government Employee Ethics Units Directions for Examination of Materials of Property-Declaration by Public Servants

中 文 法 規 ：

第一條　法務部為辦理公職人員財產申報法第二條第一項第五款至第七款、第十款及第十一款所定人員財產申報資料之審核作業，特訂定本要點。

第二條　申報人逾規定期限申報時，政風機構應就其申報有無明知應依規定申報，無正當理由不為申報之情事進行審查。

第三條　政風機構對申報人之財產申報資料，於有左列情形之一者，應就其有無有申報不實進行審查。

一、陳情：

(一) 陳情人已敘明財產申報人之姓名，且指明財產申報不實之情事者。

(二) 陳情人已敘明財產申報人之姓名，且係檢舉貪瀆情事者。

(三) 其他陳情事由足認申報人有申報不實之嫌疑者。

二、其他情事：

(一) 財產申報人平日收支與所申報之財產顯不相當者。

(二) 其居住房屋、使用之財物與申報內容不同或有未經申報者。

(三) 經民意代表質詢或經媒體報導，並有具體事證者。

(四) 有事證足認其因職務關係與廠商交往密切、關係複雜者。

(五) 有事證足認其涉足賭場、酒家、舞廳等場所者。

(六) 與他人金錢往來頻繁或有拖欠之情事者。

(七) 因財產糾紛，現正涉訟中，或涉嫌犯罪，現由軍、司法機關偵查或審理中者。

(八) 其他有事證足認申報人有申報不實之嫌疑者。

第四條　陳情人以言詞陳情者，應由政風機構製作筆錄據以處理。

第五條　陳情人未指明具體內容或未具真實姓名者，得不予處理。

第六條　政風機構對於申報人之財產申報資料除依第二點、第三點之規定進行審查外，應依左列規定，以抽樣方式進行審查。

一、 於每年定期申報期間截止後一個月內，最低依百分之五比例，以公開抽籤方

式抽出應受審查之申報資料。政風機構受理申報財產人數不足十人者，應提高抽籤比例或陳報上級政風機構合併辦理抽籤。

二、 前款抽籤作業，應於工作會議或其他公開場合，由首長主持，並指派抽籤人，由政風人員擔任監察員。

第七條　機關首長財產申報資料之審查，由上級政風機構為之。

第八條　政風機構為進行審查需查閱資料時，得直接向本機關 (構) 相關單位或他機關、團體、個人查詢並調借有關卷證。受查詢者應據實說明，無正當理由不得拒絕或拖延。

第九條　政風機關為前述查詢、借調卷證或通知詢問時，應以書函為之。 (如附件一)
(編：附件一請參閱法務部公報 第 187 期 61 頁)

第十條　政風機構進行審查時，得通知財產申報人提出說明。其以口頭說明者，應製作紀錄，並由申報人簽名或捺指印。

第十一條　政風機構為前述查詢、借調卷證或進行詢問前，應先陳報機關 (構) 首長。首長不予同意時，則陳報上級政風機構處理。

第十二條　政風機構進行審查詢問時，態度應和靄，所得之資料及所知之事項應予保密。

第十三條　政風機構依本要點進行審查時，應於二個月內，檢具受審查之申報人名冊，填具審查財產申報資料統計表 (如附件二) ，將審查結果陳報一級政風機構。一級政風機構應擇其必要者進行複查，並將審查及複查結果，彙報法務部。
(編：附件二請參閱法務部公報 第 187 期 62 頁)

第十四條　法務部就彙報之案件認有必要時，得再發交該管一級政風機構複查。

第十五條　審查結果發現申報人並非故意申報不實，而其申報資料有待補正者，應通知申報人限於十日內補正。

第十六條　審查結果發現申報人有故意申報不實之情事者，應填具裁罰陳報單 (如附件三) ，連同審查結果送法務部處理。

前項審查結果報告，應檢附左列文件，按件編目裝訂成冊：

一、受理陳情或認定申報不實之資料。

二、受查詢機關 (構) 、團體、個人之說明資料。

三、申報資料影本。

四、申報不實財產之價額資料。

五、財產申報人之說明資料或紀錄。

六、其他相關資料。

(編：附件三請參閱法務部公報 第 187 期 63 頁)

第十七條　審查結果如發現受查詢之機關 (構) 、團體或個人無正當理由為虛偽說明或拒絕說明者，應填具裁罰陳報單 (如附件四) ，連同相關事證資料送法務部處理。
(編：附件四請參閱法務部公報 第 187 期 64 頁)

第十八條　政風機構發現申報人明知應依規定申報，無正理由不為申報者，應填具裁罰陳報單 (如附件五) ，連同審查結果送法務部處理。
前項審查結果報告，應檢附左列文件，按件編目裝訂成冊：
一、財產申報人之說明資料或紀錄。
二、有無通知申報人申報之相關資料。
三、是否初次申報之資料。
四、其他相關資料。
(編：附件五請參閱法務部公報 第 187 期 65 頁)

第十九條　公職人員財產申報法第十二條第二款之罰鍰案件，由法務部召開公職人員財產申報案件審議委員會處理。

第二十條　法務部公職人員財產申報案件審議委員會審議公職人員財產申報法第十一條第一項之罰鍰案件，應依法務部公職人員財產申報案件裁處罰鍰額度表(如附件六) 辦理。
(編：附件六請參閱法務部公報 第 187 期 66 頁)

第二十一條　受處分人應自處分書送達後十日內繳納罰鍰。如無力繳納者，得於繳納期限內申請分期繳納，其期限最多分六期，以一個月為期。逾期未繳或經准許分期繳納，而遲延一期不繳納者，移送法院強制執行。
前項移送強制執行之案件，其執行事務得委由執行標的所在地之地方法院檢察署政風人員辦理。

英 文 法 規 ：

Article 1

The Ministry of Justice enacts the Directions in order to conduct examination of materials of property-declaration by public servants specified in Subparagraph 5 to 7, 10 and 11 of Paragraph 1 of Article 2 of the Act on Property-Declaration by Public Servants (the public servants making property-declaration herein after referred to as the “Declaring Person”).

Article 2

Where the Declaring Person makes declaration exceeding prescribed time period, the Government Employee Ethics Unit shall conduct examinations as to whether was fully aware of

the obligation to make declarations, and failed to make declarations without justifiable reasons.

Article 3

In case any of the following circumstances, the Government Employee Ethics Unit shall conduct examinations as to whether he has made any declarations not inconsistent with facts.

1. Pleadings

(1) Where the pleader has indicated name of the Declaring Person and where he has pointed out the inconsistency with facts in the property-declaration.

(2) Where the pleader has indicated name of the Declaring Person and where he is reporting cases of corruption and malfeasance.

(3) Where there are any other circumstances in the pleading that is enough to conclude that the Declaring Person is suspected of making declarations not inconsistent with facts.

2. Other circumstances

(1) Where the weekday income and expenditure condition of the Declaring Person does not match the property he declared obviously.

(2) Where there is any difference between the house in which the Declaring Person lives or properties he uses with those declared or where there is any property undeclared.

(3) Where inquiries were made by legislators/councilors or reported by media and where there are enough concrete evidences.

(4) Where there is enough evidence to conclude that he has close contacts and complicated relationship with businessmen due to his official duty.

(5) Where there is enough evidence to conclude that he sets foot in places such as gambling house, dram shop, dancing halls or other improper places.

(6) Where he engages in frequent money transactions or he is in default of payment to others.

(7) Where he is involved in litigation due to property disputes, or where he is being investigated or on trial by military or judicial organs for suspected crimes.

(8) Where there is other enough evidence to conclude that he is suspected of making declarations not inconsistent with facts.

Article 4

Where the pleader makes the pleading orally, the Government Employee Ethics Unit shall make written records of the same, based on which relevant measures shall be taken.

Article 5

Where the pleader fails to give concrete facts or give his real name, the pleading may be not accepted.

Article 6

Besides examining materials of property-declaration of the Declaring Person pursuant to Article 2 and 3 hereof, the Government Employee Ethics Unit shall conduct examinations on sampling

basis in accordance with the following provisions:

Within one month after expiry of declaration period in each year, to determine materials that should be examined by way of publicly casting lots at minimum of 5% of the total. Where Declaring Persons is less than 10 people, the Government Employee Ethics Unit shall increase the percentage of the lots or submit to the Government Employee Ethics Unit in its superior organ to conduct casting of lots in combination.

The casting of lots as provided in above paragraph shall be carried out at work meeting or other open place, which shall be presided over by chief of the organ who shall designate special person to cast lots. The Government Employee Ethics Unit Officer shall be the supervisor during the course.

Article 7

Examination of materials of property-declaration of the chief of the organ shall be conducted by the Government Employee Ethics Unit in its superior organ.

Article 8

Where it is necessary to check information during the course of conducting examinations, the Government Employee Ethics Unit may make inquiries directly to relevant units of the organ or other organs, groups or individuals and borrow relevant files there from. Those being inquired shall give statements based on the facts and they shall not refuse or delay to do so unless they have justifiable reasons.

Article 9

The above inquires, borrowing of files or notification of inquiries shall be made by the Government Employee Ethics Unit in simplified dispatch. (As per Appendix One)

(Editors note: Please refer to page 61, Vol. 187 of Gazette of the Ministry of Justice for Appendix One)

Article 10

In conducting the examination, the Government Employee Ethics Unit may notify the Declaring Person to state. If he states orally, the Government Employee Ethics Unit shall make written records and have the records signed by him or have his fingerprint made thereon.

Article 11

Prior to conducting the above inquires or borrowing of files, the Government Employee Ethics Unit shall submit to chief of the organ. If the chief does not agree, then it shall submit to the Government Employee Ethics Unit in its superior organ for decision.

Article 12

During the course of conducting inquiries, the Government Employee Ethics Unit shall be kind

in attitude and shall keep confidential of any data or information obtained there from.

Article 13

When conducting examinations pursuant to this Directions, the Government Employee Ethics Unit shall fill in the Examination of Materials of property-declaration Statistics Form (as in the form of Appendix Two) within two months, together with the name list of Declaring Persons being examined, and report results of the examination to the Government Employee Ethics Units of the respective first level organs. The Government Employee Ethics Units of the respective first level organs shall make re-examinations upon choosing necessaries ones there from, and submit the result of examination and that of re-examination to the Ministry of Justice.

(Editors note: Please refer to page 62, Vol. 187 of Gazette of the Ministry of Justice for Appendix Two)

Article 14

Whenever the Ministry of Justice deems necessary, it may remand the cases reported back to the respective Government Employee Ethics Unit of the respective first level organs for re-examination.

Article 15

Where it is found that the inconsistency with facts in the declarations was not made deliberately by the Declaring Person and where his materials of property-declaration requires corrections, the Government Employee Ethics Unit shall notify the Declaring Person to make corrections within ten days.

Article 16

Where it is found that the Declaring Person made declarations not inconsistent with facts deliberately, the Government Employee Ethics Unit shall fill in the Form of Penalty Suggestion (as in the form of Appendix Three) and submit it together with results of the examination to the Ministry of Justice for decision.

Results of the above examination shall be compiled into books together with the following documents according to their categories:

1. Materials for acceptance of pleadings or materials that conclude the declarations not inconsistent with facts were made.
2. Statements made by organs/units, groups or individuals to which inquiries were made.
3. Photocopy of the materials of property-declaration.
4. Data about the property price that was declared not inconsistent with facts.
5. Statements made by the Declaring Person or record of the same.
6. Other relevant information.

(Editors note: Please refer to page 63, Vol. 187 of Gazette of the Ministry of Justice for Appendix Three)

Article 17

Where result of the examination shows that organs/units, groups or individuals to whom inquiries were made gave false statement or refused to give statement without justifiable reasons, the Government Employee Ethics Unit shall fill in a Form of Penalty Suggestion (as in the form of Appendix Four) and submit it to the Ministry of Justice together with relevant supporting materials for decision.

(Editors note: Please refer to page 64, Vol. 187 of Gazette of the Ministry of Justice for Appendix Four)

Article 18

Where it is found out that the Declaring Person failed to make declarations without justifiable reasons despite he was fully aware of the obligation to make declarations, the Government Employee Ethics Unit shall fill in a Form of Penalty Suggestion (as in the form of Appendix Five) and submit it to the Ministry of Justice for decision together with results of the examination.

The above examination report shall be compiled into books together with the following documents according to their categories:

1. Statements made by the Declaring Person or record of the same.
2. Any relevant information as to whether the Declaring Person had been notified to make declarations.
3. Information as to whether the Declaring Person declared for the first time.
4. Other relevant materials.

(Editors note: Please refer to page 65, Vol. 187 of Gazette of the Ministry of Justice for Appendix Four)

Article 19

Penalty cases under Subparagraph 2 of Article 12 of the Act on Property-Declaration by Public Servants shall be handled by the Cases of Property-Declaration by Public Servants Examination Committee convened by the Ministry of Justice.

Article 20

In examination of penalty cases pursuant to Paragraph 1 of Article 11 of the Act on Property-Declaration by Public Servants, the Cases of Property-Declaration by Public Servants Examination Committee under the Ministry of Justice shall act in compliance with the Cases of Property-Declaration by Public Servants Imposing Penalties Limits Scales (as in the form of Appendix Six) promulgated by the Ministry of Justice.

(Editors note: Please refer to page 66, Vol. 187 of Gazette of the Ministry of Justice for Appendix Six)

Article 21

The persons (organs/units, groups and individuals) imposed penalties shall pay the penalties within ten days after receiving the Penalty Decision. If he is unable to pay, he may make an application within the payment period to make payments in maximum six installments in months. Where he fails to pay exceeding the prescribed period or where he fails to pay any one installment if he was approved to pay in installments, the case shall be evoked to the court for compulsory enforcement.

The government employee ethics officers of the District Procurator Office at where the object of enforcement locates may handle the above case evoked for compulsory enforcement.