

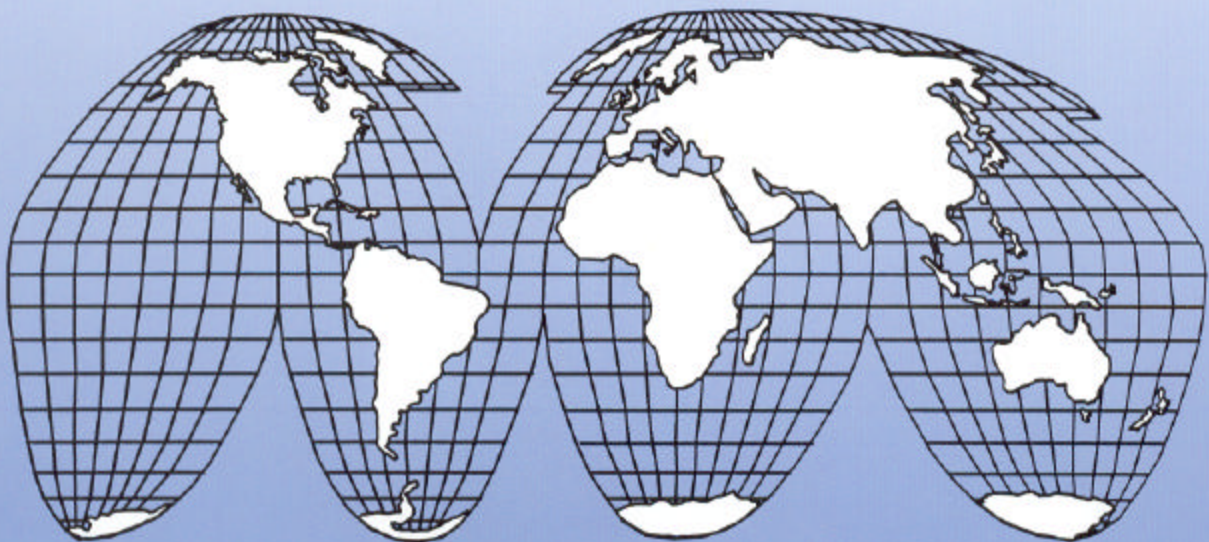
USAID

OFFICE OF INSPECTOR GENERAL

Audit of USAID's Compliance With Federal Requirements For Annual Ethics Training and Financial Disclosure Reports For Selected Employees

Audit Report Number 9-000-03-003-P

December 30, 2002



Washington, D.C.



December 30, 2002

MEMORANDUM

FOR: Designated Agency Ethics Official, Arnold J. Haiman

FROM: IG/A/PA Director, Dianne L. Rawl /s/

SUBJECT: Audit of USAID's Compliance with Federal Requirements for Annual Ethics Training and Financial Disclosure Reports for Selected Employees (Report No. 9-000-03-003-P)

This memorandum is our final report on the subject audit. In finalizing this report, we considered your comments on our draft report and have included this response as Appendix II.

This report includes ten procedural recommendations. Based on your written comments we consider all ten recommendations to have received a management decision. Information related to your final action on these recommendations should be provided to USAID's Office of Management Planning and Innovation.

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Summary of Results

The Office of Inspector General's Performance Audits Division conducted this audit to determine whether USAID had complied with federal requirements for financial disclosure reports and annual ethics training for selected employees. USAID has written policies regarding these requirements that reflect federal requirements for these activities and describe tracking systems in place that are intended to ensure USAID can fully meet these requirements. However, due to the limitations of its financial disclosure tracking system, ethics program managers were unable to determine whether every individual required to file a disclosure form had done so. Similarly, the ethics program managers did not have a reliable system to identify specific individuals who were required to attend training and ascertain that they had done so. (See pages 7 through 8).

Federal agencies must have systems in place for both financial disclosure reporting and ethics training requirements to ensure applicable employees are identified and file the reports and receive the training. USAID's Financial Disclosure Tracking System (FDTS) needs several improvements in order to serve as an effective tracking tool for financial disclosure reports. Using the FDTS, it is unclear exactly which USAID employees are required to file disclosure reports. Other needed improvements cited include enhanced use of periodic downloads from USAID's personnel system, identifying upfront which personal service contractors and foreign service nationals should file disclosure reports, using exception lists to track late filers, and preparing detailed written procedures describing all aspects of maintaining and operating the FDTS. (See pages 8 through 19).

In a small number of cases, employees—with contracting warrants—that should have filed disclosure reports were not required to file such reports because their positions had been misclassified as not meeting the criteria specified in federal regulations. Requiring all warranted contracting and executive officers—regardless of their specific duties—to file annual financial disclosure reports is a remedy that would be easy to implement. (See pages 19 through 21).

USAID's current system of tracking the annual ethics training requirements for many of its employees does not provide any assurance that the federal requirements for training are being met. The tracking list is incomplete and formatted to make it difficult to use as a tracking tool. With only limited testing we identified 18 public filers and 20 warranted officers either not listed or listed and not shown as having received ethics training. (See pages 21 through 24).

Each federal agency is required to file an annual report with the Office of Government Ethics that contains information about the agency's ethics program. USAID's 2001 Agency Ethics Program Questionnaire contains

inaccurate statistical information about the number of USAID's public and confidential financial disclosure filers and the number of persons receiving ethics training. Also, the USAID response in the questionnaire gives readers an unsubstantiated impression that all required financial disclosure reports had been filed by the date of the questionnaire and that all required ethics trainees actually received ethics training. Office of the General Counsel, Division of Ethics and Administration (GC/EA) should develop procedures for using its tracking systems when accumulating the data to be presented in future questionnaires. (See pages 24 through 26).

USAID's Designated Agency Ethics Official (DAEO) concurred with each of the report's ten recommendations. (See pages 26 through 27).

Background

The purpose of the "ethics in government" program is to ensure that executive branch decisions are neither tainted by nor appear to be tainted by any question of conflicts of interest on the part of the employees involved in the decisions.

The Office of Government Ethics (OGE) provides overall policy direction to federal agencies regarding their ethics programs. Because the integrity of decision-making is fundamental to every Government program, the head of each agency has primary responsibility for the day-to-day administration of the ethics program for the employees who carry out the substantive programs of that agency. The head of each agency selects an individual employee to serve as the agency's Designated Agency Ethics Official (DAEO) and the DAEOs and their staffs conduct the ethics program for their respective organizations. Among ethics program activities managed by DAEOs are:

- Their agency's public financial disclosure system.
- Their agency's confidential financial disclosure system.
- Educational programs for their agency's employees about the ethics statutes and standards.

USAID's DAEO is the Assistant General Counsel for Ethics/Administration, who is assisted by staff of the Office of the General Counsel, Division of Ethics and Administration (GC/EA).

Public Financial Disclosure: As a result of the 1978 Ethics in Government Act, certain high-level federal employees are required to disclose, in a public system, personal financial interests and affiliations for themselves, their spouses, and their dependent children. These public financial disclosures are made, in part, to

demonstrate that the officials are able to carry out their duties without either actual or apparent conflicts of interest. Disclosures also assist agencies in maintaining the integrity of their essential programs and counseling employees on conflict avoidance. Employees in the executive branch file public reports with their respective agencies on a standard form developed by OGE (SF 278). Prior to report certification, filers may be required to enter ethics agreements designed to eliminate conflicts through divestiture, waiver, recusal, or other similar remedies.

Confidential Financial Disclosure: Provisions of the Ethics Reform Act of 1989 authorized a uniform system of confidential financial disclosure in the executive branch. That confidential system had already been formally reestablished by Executive Order 12674 of April 12, 1989, and was subsequently implemented at subpart I of 5 C.F.R. part 2634. Just as high-level officials are required to report certain financial interests publicly to help ensure confidence in the integrity of the Federal Government, the confidential filing system requires other, less senior executive branch employees, whose Government duties involve significant discretion in matters affecting non-Government entities, to report certain financial holdings and outside affiliations to their employing agencies using OGE Form 450.

Annual ethics training: Since 1989, pursuant to Executive Order 12674, each agency is responsible for developing an annual ethics training program for its employees. The training includes mandatory one-hour briefings on the criminal conflict of interest statutes and the Standards of Ethical Conduct for certain designated employees. Ethics training seeks to ensure all federal employees are aware of their responsibilities in conducting themselves and the business of the Government in a manner that is consistent with the standards of conduct expected of public servants. This includes not only informing employees, but also helping them understand in practical terms how those statutes and regulations might impact their actions as individual employees.

Audit Objective

The Office of Inspector General's Performance Audits Division conducted this audit to answer the following audit objective:

Did USAID comply with federal requirements for financial disclosure reports and annual ethics training for selected employees?

This audit was initiated as a result of preliminary findings in another audit that indicated discrepancies in the documentation of ethics training for required employees. The audit was limited in its scope to determining whether USAID had accurately identified which staff members were required to complete financial disclosure reports and attend annual ethics training and whether these requirements had been met. Qualitative aspects of the ethics program—such as

the content of the training courses or the adequacy of the review of the disclosure reports—were not addressed. Other aspects of the program such as counseling and disciplinary actions for violations were also not included in the audit scope. Appendix I contains a complete discussion of the scope and methodology for the audit.

Audit Findings

Did USAID comply with federal requirements for financial disclosure reports and annual ethics training for selected employees?

USAID has written policies regarding requirements for financial disclosure reporting and annual ethics training that reflect the federal requirements for these activities and describe tracking systems in place that are intended to ensure USAID can fully meet these requirements. USAID's ethics program managers believe that more individuals submitted public and confidential financial disclosure reports than were required to do so. However, due to the limitations of the financial disclosure tracking system, ethics program managers were unable to determine whether every individual who was required to file a disclosure form had done so. Similarly, although ethics program managers believed that more people received annual ethics training than were required to do so by law and regulation, the ethics program managers did not have a reliable system to identify specific individuals who were required to attend training and ascertain that they had done so.

USAID's Office of the General Counsel, Division of Ethics and Administration (GC/EA) system for tracking compliance with financial disclosure reporting requirements, which is partially based on information received from USAID's automated personnel system, did not identify several instances where required financial disclosure reports had not been submitted. Although reliance on data imported from USAID's personnel system can present an obstacle to accuracy of GC/EA's tracking system, there are several needed improvements that GC/EA can independently implement to ensure the identification of USAID employees required to submit disclosure reports and confirm whether the reports were received.

USAID's tracking system for ethics training —used in 2001—needs to be redesigned to provide assurance that USAID is meeting federal ethics training requirements. This system cannot be used to identify all employees required to have training.

Financial Disclosure Tracking System Needs Improvement

The Office of Government Ethics (OGE) describes a "well-run ethics program" as one that includes up-to-date listings of financial disclosure report filers and

has mechanisms in place to ensure required reports are promptly filed. In addition, procedures for administering the tracking system should be documented. GC/EA uses an automated database system—originally designed by the Office of Information Resources Management—to identify USAID's financial disclosure report filers. However, the database has not been an effective tool because:

- The database included erroneous data downloaded from USAID's automated personnel system, requiring GC/EA personnel to manually override USAID's system.
- Personnel data periodically downloaded from USAID's personnel system was not used to the fullest extent possible.
- GC/EA needs to develop uniform procedures to ensure it can identify all non-direct hire personnel who need to file financial disclosure reports and track their compliance.
- Exception or deficiency listings from the database were not produced or used to follow-up on employees who did not file required financial disclosure reports on time.
- GC/EA did not have updated and detailed written procedures that covered all technical aspects of maintaining its database.

Needed improvements include: better use of data extracted from USAID's personnel database, early identification of non-U.S. direct hire personnel¹ who need to submit disclosure reports, development and use of exception lists to track late filers, and detailed written procedures describing all aspects of maintaining and operating the financial disclosure database.

Because it does not have an effective management and tracking system, GC/EA collected and reviewed more reports than it believed needed to be submitted but still did not get all required reports and received some reports after mandated deadlines. Some employees serving in positions with significant decision-making responsibility did not submit financial disclosure reports that would allow independent determinations of potential conflicts of interest. With two exceptions, all reports have now been received as of the date of this report.

Applicable Laws and Regulations—As a result of the 1978 Ethics in Government Act, certain high-level federal employees are required to file annual public financial disclosure reports with their agencies. These requirements are

¹ This category includes U.S. and foreign personal service contractors and foreign USAID employees.

implemented in 5 C.F.R. part 2634. USAID employees in the following categories are required by regulation to file public financial disclosure reports:

- Employees in Executive Level positions
- Employees in Senior Foreign Service (SFS) and Senior Executive Service (SES) positions
- Employees with a personal rank of SFS
- Personal service contractors at a rank equivalent of SFS, SES, or AD-18
- Certain other senior officials²

Annual public financial disclosure reports cover a calendar year and must be filed by May 15 of the succeeding year. Public reports are also required from new entrants to covered positions within 30 days of assuming the position (with some exceptions) and a report is required within 30 days when a public filer terminates employment or no longer occupies a covered position. Late filers are subject to monetary penalties but the regulation also provides for deadline extensions and waivers of the monetary penalties.³

A system of confidential financial disclosure for federal employees dates back to 1989 and is implemented at subpart I of 5 C.F.R. part 2634. Confidential financial disclosure is required of less-senior employees and personal services contractors than the public disclosure system and the information required in the confidential reports is less intrusive than the public disclosure system. In general, employees required by 5 C.F.R. 2634.904 to file confidential financial disclosure reports are those in positions where it has been determined the duties involve the exercise of significant discretion in certain sensitive areas (e.g. contracting, administering and monitoring grants, and auditing). Confidential financial disclosure reports are for the twelve-month period ending September 30 and are required to be filed by October 31. New entrants to these positions are, in most cases, required to file a report within 30 days of entering the position.

USAID's Financial Disclosure Tracking System—GC/EA maintains an automated database of financial records and requirements for individual employees. The Financial Disclosure Tracking System (FDTS) is a database designed for GC/EA by the Office of Information Resources Management (M/IRM). The FDTS contains data downloaded from USAID's personnel database and also information manually input by GC/EA staff. A separate

² Others requiring public financial disclosure reports include those in SMG or Schedule C positions, AD employees above grade 15, and Special Government employees (e.g. expert consultants) who earn over \$366.66 per day.

³ Extensions on the deadlines may be granted (an initial 45 days by GC/EA and an additional 45 days by OGE) and OGE may also waive the monetary penalty.

record is established for each individual entered into the system. Each FDTS record contains the following data fields:

- The individual's name
- The filing year
- If an employee, the pay plan and grade
- If an employee, current position title and organization
- The position's number and location
- The position's ethics indicator, as shown in USAID's personnel database
- GC's ethics indicator for the position
- The due date for the required disclosure form
- The date on which the form was received by GC/EA
- The date of the most recent update of information from USAID's personnel system

There are separate records for each filing year, and the system was intended to provide a record for, at a minimum, every direct-hire USAID employee (regardless of whether the employee was required to file a report).

Filing Process for Financial Disclosure Reports—GC/EA has separate written procedures for the filing of public and confidential financial disclosure reports. Although the processes are similar, they have different timeframes. To initiate each year's program, GC/EA:

- Provides annual guidance (in March for public filers and August for confidential filers) on procedures and deadlines to all bureaus and missions.
- Downloads data from USAID's personnel system on the listed employees.
- Sends to each bureau and mission a list of employees/personal service contractors (PSCs) that GC/EA believes need to file a financial disclosure report and requests feedback if the lists contain errors.
- Sends out General Notices (in April for public filers and September for confidential filers) to all USAID employees providing information about the two financial disclosure processes.

Employees receive blank financial disclosure forms and related materials at their overseas posts or from their bureaus in Washington. Public reports filed overseas are reviewed by mission controllers before being sent to GC/EA by May 15. Public reports filed in Washington are submitted directly to GC/EA. Confidential reports filed overseas are reviewed by mission controllers and reviewed/certified by the appropriate regional legal advisor before being

submitted to GC/EA by December 1. Confidential reports filed in Washington are submitted to GC/EA for final review and certification by October 31.

Areas for FDTS Improvements—Detailed below are five areas where improvements in the FDTS would help GC/EA effectively track compliance with federal financial disclosure requirements.

GC/EA's database included erroneous data downloaded from USAID's personnel system: GC/EA periodically extracts information about USAID positions from USAID's personnel database. All USAID positions in this database are assigned an indicator that corresponds to the type of financial disclosure report that the occupant of the position is required to file. In addition, there is another indicator for positions where the incumbent is not required to file any financial disclosure report.

Periodically, GC/EA downloads data from USAID's automated personnel database into its own ethics program database. The data includes employee names, employee rank, position title, position location, and each position's ethics indicator. This process was designed to provide GC/EA much of the information it needed to identify all individuals who must file financial disclosure reports. However, the ethics indicator—the principal data element needed to build a proactive tracking system—was incorrect for many positions. Officials in the Management Bureau's Office of Human Resources (M/HR) admitted that, although all indicators were reviewed in September 2000 when USAID converted its personnel system to USDA's National Finance Center (NFC), the indicators for many positions may no longer be accurate and need to be revised. We noted several examples of the inconsistencies this incorrect data caused. For example, in several offices/missions, incumbents of supervisory positions had lesser disclosure requirements than their subordinates. Eight mission director positions, the most significant decision-making position in their respective locations and listed in the personnel database as senior foreign service positions, had ethics indicators requiring either no financial disclosure reporting or only a confidential report.

Because of the erroneous information contained in the NFC personnel database, GC/EA found it necessary to "work around" USAID's personnel system's ethics indicators⁴ and it also relied on annual feedback from each bureau and mission correcting the lists of employees that GC/EA sent to them at the beginning of each reporting cycle. GC/EA kept some documentation supporting the bureau/mission feedback but, when the information was provided orally, there was often no written record of the conversations. While GC/EA did solicit the information, it did not enter the bureau/mission feedback into the FDTS in a consistent way. When it received notice of an error, GC/EA sometimes

⁴ A review of the ethics indicators for OIG positions disclosed similar problems. The tracking for OIG employees is accomplished by OIG personnel, independent of GC/EA.

corrected the ethics indicator in the FDTS. Sometimes, it did not. In addition, the identification and notification of erroneous ethics indicators did not typically prompt the bureaus, missions or GC/EA to initiate a formal request to M/HR to correct the ethics indicator in the USAID personnel database.

Because there were a number of erroneous ethics indicators in the FDTS, it could not be used as an effective tool for identifying all required filers. A review of FDTS data and the USAID personnel database⁵ in early 2002 identified 109 individuals that had not filed their required calendar year 2001 financial disclosure reports.⁶ After reviewing these names during the audit, GC/EA asserted that the ethics indicators for 22 of the 31 public positions and 39 of the 78 confidential positions were incorrect and the reports were not actually required. However, as of February 22, 2002, the correct ethics indicator had not been entered into the FDTS for 3 of the 22 public positions and 23 of these 39 confidential positions. Until GC/EA develops procedures to collect accurate data for the FDTS and keep it current, the FDTS cannot be used as the basis for an accurate count or listing of individuals who need to file either type of financial disclosure report.⁷

An additional FDTS problem in identifying individuals required to file financial disclosure reports is the large number of "extra" confidential reports submitted to GC/EA causing unnecessary work for both preparers and reviewers. In its 2001 response to an OGE annual questionnaire, GC/EA reported that, although only 1062 individuals⁸ were required to submit confidential financial disclosure reports, 1330 actually filed them. The "extra" filers included a significant number of foreign personal service contractors who were not actually required to submit disclosure forms. This occurred, in part, because GC/EA distributed a general notice indicating that all, rather than selected, personal service contractors must submit reports. Although GC/EA officials later advised missions to require disclosure forms from personal service contractors only if their duties warranted such reporting, some missions still collected reports from a large number of lower-level employees. However, the FDTS could not distinguish the "extra" reports from the reports that GC/EA believed were "required," and GC/EA reported the gross total to OGE.

⁵ Personnel listings from USAID's personnel database dated May 22, 2001; October 1, 2001, and October 31, 2001 were used in this review.

⁶ The 109 consisted of 31 incumbents of positions requiring public financial disclosure reports and 78 incumbents of positions requiring confidential financial disclosure reports.

⁷ Although the FDTS has a second data field that can be used to log a GC/EA ethics indicator (as opposed to the indicator appearing in the agency's personnel database), this data field was often not used.

⁸ Because this number was a calculation based on FDTS records, which were in turn based on erroneous ethics indicators extracted from the agency personnel database, it was not an accurate count of the actual number of required filers.

Although the FDTS was largely designed to both identify those individuals who are required to submit public or confidential financial disclosure reports and to track their compliance with this requirement, the FDTS—as it was being administered—could only be used to accurately track reports received. It could not be used to accurately identify all individuals required to file reports in any given calendar year. The following recommendations address areas where GC/EA can make improvements to improve the FDTS's ability to identify required filers.

Recommendation No. 1: We recommend that USAID's Designated Agency Ethics Official implement a consistent policy on identifying required filers in USAID's Financial Disclosure Tracking System.

Recommendation No. 2: We recommend that USAID's Designated Agency Ethics Official initiate a review of all USAID positions included in USAID's automated personnel database to verify the accuracy of each position's ethics indicator and ensure action is initiated to correct any errors.

The uses of periodic downloads of personnel data from USAID's personnel system into the FDTS can be expanded: GC/EA downloads information from USAID's personnel system at the beginning of each financial disclosure filing cycle to obtain data on personnel required to file reports. In addition, GC/EA's procedures call for monthly downloads to update information in the FDTS and identify new entrant filers—including new employees—who are required to file within 30 days of assuming covered positions.

The download process updated the FDTS by comparing data from the current download from the USAID personnel system with the prior download and entering changes into the FDTS. Accordingly, the summary count for the March 2002 download showed that it pulled down 2179 names that, when compared to the previous month's download, included 49 new names—employees hired and added to the system since the prior download—and FDTS records were created for these employees.

Although this procedure identified individuals recently added to the USAID automated personnel database (new USAID employees), it would not identify individuals who should have already been included in the FDTS but who were mistakenly not listed in it.⁹ Alternatively, the downloaded data should have been matched or compared with the FDTS itself instead of the prior download. If this

⁹ As of February 1, 2002, the names of 23 individuals that the agency automated personnel system indicated were occupying positions requiring the submission of an annual financial disclosure report were not included in the FDTS. To illustrate, during the audit period, a contracting officer posted overseas was reassigned to Washington, D.C. to serve in a senior

cross-check had been done, GC/EA would have been able to identify discrepancies between its system (FDTS) and the agency's automated database. GC/EA has now revised its procedures for conducting downloads of personnel data and comparing this data to information in the FDTS so that data regarding new employees and previously unlisted employees can be identified and loaded into the FDTS. GC/EA, with the assistance of a USAID contractor, is automating and revising its monthly processes to ensure consistency in how they are performed.

Additional tests, performed in conjunction with each monthly download, could improve the accuracy of the FDTS. These include:

- A comparison of the names of senior executive/foreign service employees included in USAID's personnel database with the FDTS would indicate whether all of these employees have been properly tagged as public filers in the FDTS. These individuals are required to file public disclosure reports on the basis of their personal rank, regardless of the ethics indicator assigned to the position they occupy. We found one senior foreign service officer who did not submit a public financial disclosure report even though one was required because of the individual's personal rank. This individual did not occupy a position that required a financial disclosure report.
- A comparison of periodic downloads could be used to determine whether the ethics indicator assigned to any position had changed since the prior download. Employees occupying positions that had just been designated as one requiring a public financial disclosure report may need to be reminded to file a new entrant public financial disclosure report. Conversely, employees occupying positions that are "downgraded" may need to be asked to file a termination disclosure report. Comparisons may also alert GC/EA to erroneous changes in a position's classification. For example, M/HR believes that inexperienced personnel specialists may have erroneously changed the ethics indicators for at least some of the eight mission director positions listed in the database as requiring no financial disclosure or only confidential financial disclosure.
- A comparison of periodic downloads would also allow GC/EA to identify newly created positions and assess whether the ethics

position requiring a public financial disclosure report. The individual was not asked to file a new entrant public disclosure report and did not submit one as there was inexplicably no calendar year 2001 record for the employee in the FDTS. GC/EA was unable to explain why these omissions occurred, although monthly downloads from the personnel system may not have been performed in the same way each month. The required disclosure reports for this individual have now been submitted and certified by GC/EA.

indicators assigned to such positions appears to be correct or require further inquiry.

Although GC/EA may have performed some or all of these comparisons manually, enhanced use of automated processes would be more efficient and accurate.

Recommendation No. 3: We recommend that USAID's Designated Agency Ethics Official identify the type and frequency of database comparison tests that should be used to identify and review the financial disclosure requirements for new hires, senior employees, positions with revised ethics indicators, and new positions.

GC/EA should develop procedures to identify non-direct hire personnel who need to file financial disclosure reports and track their compliance: USAID's automated personnel database does not contain information on U.S. and foreign personal service contractors (PSCs) or foreign service national (FSN) employees. GC/EA is largely dependent on input from the individual USAID bureaus and overseas missions to identify those PSCs and FSNs who must file a financial disclosure report. As described earlier in this report, GC/EA solicits this information at the onset of each financial disclosure filing cycle. An examination of a listing of confidential filers for 2001—downloaded from the FDTS on February 6, 2002—indicates that many PSCs and FSNs filed financial disclosure reports for 2001.

GC/EA, however, has not developed a system to track whether it receives this feedback from all bureaus and missions. Although GC/EA personnel maintained a system to track whether they sent out requests for data to each bureau and mission, they did not have a system to track whether they received the requested responses. Additionally, GC/EA did not input data on the PSCs and FSNs that bureaus and missions reported were required to file reports, until the financial disclosure report was actually received by GC/EA. The FDTS, therefore, could not be used as a tracking tool to identify missing and late reports.

To improve the efficiency and effectiveness of its compliance oversight, GC/EA officials should use the FDTS not only to track receipt of reports from PSCs and FSNs but also to alert them when the reports have not been filed and deadlines are approaching. GC/EA could notify responsible managers and contracting officers and ask for assistance in obtaining the required reports.

Recommendation No. 4: We recommend that USAID's Designated Agency Ethics Official establish procedures to track the receipt of data requested from overseas missions and Washington bureaus about personal services contractors and foreign service national employees that need to file financial disclosure reports, follow up when responses are not received, and promptly input the data received in the Financial Disclosure Tracking System.

GC/EA does not produce or use exception listings from its database to follow-up on employees who do not file required financial disclosure reports on time:

One of the biggest benefits or purposes of a database tracking system is the ability to identify certain attributes (or lack of an attribute) in the database population. In the case of GC/EA's FDTS, the effort invested in maintaining the database should be rewarded with easy identification of required disclosure reports that have not been submitted.

GC/EA does not produce "exception" reports from the FDTS that list the names of individuals who have not yet submitted required disclosure reports. Instead, GC/EA relies on its staff to remember which reports are late—in addition to using manual records—and on bureaus and missions to collect and submit the required reports. Using the database's capability to produce such exception reports would be much more effective.

At least 9 individuals (including 2 mission directors) occupying positions with accurate ethics indicators in the FDTS had not filed required calendar year (CY) 2001 public disclosure reports as of February 1, 2002. At least 39 individuals occupying positions with accurate ethics indicators in the FDTS had not filed required CY 2001 confidential reports as of February 1, 2002—three months after they were due.¹⁰

Collecting disclosure reports from all required employees can be a difficult task. For example, many employees are posted overseas and because of the postal anthrax scare in the fall of 2001 overseas pouch mail was often severely delayed or even lost. However, mail delays cannot explain late reports submitted by personnel working in USAID's Washington headquarters. Once erroneous information has been corrected, the FDTS could be better used to identify late filers—the first step to ensuring full compliance and collecting monetary penalties (or obtaining waivers from OGE when circumstances warrant).

¹⁰ Four of these employees actually occupy positions that were determined to require an even greater level of disclosure—the public disclosure report. These employees filed neither the confidential disclosure reports when due (as called for in the FDTS) nor new entrant public reports within thirty days of assuming these positions. In addition, 2 of the 78 confidential employees cited in the report should also have filed termination SF-278 public financial disclosure reports.

With two exceptions¹¹, all missing or late financial disclosure reports cited in this report have already been collected by GC/EA prior to report issuance and, in the case of the public financial disclosure reports, waivers of monetary penalties have been requested from OGE. Accordingly, no recommendation is presented to call for collection of these financial disclosure reports.

Recommendation No. 5: We recommend that USAID's Designated Agency Ethics Official establish procedures to produce financial disclosure report exception lists from its database at specific intervals during the year, particularly near the end of each reporting cycle. The reports should be used to remind late filers of their responsibilities and the consequences for non-compliance. The database should incorporate notations regarding communications with late filers and any reasons for unusual delays.

GC/EA needs updated and detailed written procedures that cover all technical aspects of maintaining its FDTS: The Ethics in Government Act of 1978 requires written procedures for collecting, reviewing, and evaluating the financial disclosure report filing systems and GC/EA's current procedures have been found by OGE to have met this requirement. However, GC/EA's written procedures have a shortcoming because they do not provide the information a new or temporary employee would need to adequately assume this function. A "user manual" is essential to ensure unexpected staffing changes or absences do not prevent GC/EA from properly maintaining, operating, and using the FDTS.

Until the recent hiring of a new staff member, only one GC/EA staff member could operate the FDTS—a vulnerable situation for any program and all elements of the FDTS must be well documented to ensure its uninterrupted operation in the event of staffing turnover. Mastering the nuances and details of the FDTS and USAID personnel databases requires on-the-job experience and practice. Although the FDTS database itself is based on an off-the-shelf application, learning the various tests and procedures that should be used to manipulate and record the data for this specific government program would be problematic without a reference manual. These detailed written procedures should include instructions on: (1) inputting data into the system, (2) downloading USAID's personnel records and how this information should be used in conjunction with the existing FDTS database, (3) obtaining deficiency or exception lists of late filers to ensure adequate followup action is taken to collect delinquent reports, (4) obtaining exception lists to use in conjunction with staffing patterns to identify staffing changes, and (5) the timing and frequency of all tests.

¹¹ The exceptions include one confidential filer who has reportedly been referred for disciplinary action and one individual who has not yet filed a required termination public disclosure report.

Recommendation No. 6: We recommend that USAID's Designated Agency Ethics Official prepare detailed written procedures or a user manual describing all aspects of maintaining and operating the Financial Disclosure Tracking System.

Employees With Contracting Warrants Not Always Required To File Financial Disclosure Reports

Contracting officers or employees with contracting warrants are among the USAID employees most vulnerable to questions of conflict of interest, and the duties and responsibilities of each contracting position must be carefully scrutinized to determine if its incumbent should be required to file an annual financial disclosure report. In a small number of cases, warranted employees that should have filed disclosure reports were not required to file because their positions had been misclassified as not meeting the criteria specified in Federal regulations. Requiring all warranted contracting and executive officers to file annual financial disclosure reports is a remedy that would be easy to implement. As discussed above in the preceding section of the report, employees in positions where it has been determined the duties involve the exercise of significant discretion in certain sensitive areas are required to file confidential financial disclosure reports.¹²

As explained by an Office of Government Ethics (OGE) official, Federal agencies have discretion in determining which of their employees meet these criteria. For example, an employee who holds a contracting warrant would not necessarily be classified as a "confidential filer," as this would be just one factor to be considered along with such things as the level of supervision the employee receives. An employee with a contracting warrant may occupy a position that does not involve procurement responsibilities or actual use of the warrant. Similarly, "auditing" is cited in the regulation but some auditors may hold

¹² These employees are described in 5 C.F.R. 2634.904 as those where:

- (1) The agency concludes that the duties and responsibilities of the employee's position require that employee to participate personally and substantially through decision or the exercise of significant judgment, in taking a Government action regarding:
 - (i) Contracting or procurement;
 - (ii) Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operational benefits;
 - (iii) Regulating or auditing any non-federal entity; or
 - (iv) Other activities in which the final decision or action will have a direct and substantial economic effect on the interests of any non-federal entity; or
- (2) The agency concludes that the duties and responsibilities of the employee's position require the employee to file such a report to avoid involvement in a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive order, rule or regulation applicable to or administered by that employee.

positions (e.g., policy positions) that do not entail performance of any audits or audits of non-federal entities.

Federal agencies have the difficult task of reviewing all of their positions and classifying each as to whether the employee needs to file a disclosure report. Some positions should be accorded special attention due to their specific mention in the regulations. New entrants to a "confidential filer" position—under 5 C.F.R. 2634.903 (b)—have only 30 days to file an interim financial disclosure report and it is difficult for organizations to quickly identify these cases and ensure the reports are timely submitted. Some organizations, however, have eliminated this problem and simplified the process of determining which positions (in career fields such as those cited in the regulations) require financial disclosure by imposing a blanket requirement that all incumbents in the career field file financial disclosure reports. An example of this would be USAID's Office of Inspector General where all auditors, regardless of specific duties or rank, are required to file a financial disclosure report.

We obtained a listing of contracting officials (96 individuals) and executive officers (54 individuals) in USAID that have a contracting warrant and tracked these individuals and their current positions to USAID's staffing pattern and also to GC/EA's listing of employees that had filed financial disclosure reports. The majority of these employees—134 of 150 individuals—had filed financial disclosure reports in 2001.¹³ An additional three employees were late in filing¹⁴ and five employees were either still in training status or their warrants were subsequently rescinded as no longer needed.

At issue are the remaining eight warranted employees in positions classified as not requiring financial disclosure reports and, accordingly, did not file them. Although some of these positions clearly meet the criteria of 5 C.F.R. 2634.904, it could be argued that some may not. The eight include:

- One Office of Procurement (M/OP) contracting officer actively engaged in procurement activity.
- One supervisory contracting officer posted overseas.
- Three executive officers based in Washington whose warrants are not valid in the U.S. but who may be assigned temporary duty overseas and use their warrants at those times.
- One M/OP supervisory contracting officer occupying an ombudsman position.
- Two M/OP contracting officers occupying policy positions and not actively engaged in procurement activities.

¹³ Twenty of these 134 individuals had filed financial disclosure reports though USAID's staffing pattern indicated the position did not require any disclosure. This problem is discussed in the preceding section of the report.

¹⁴ These are included in the problems discussed in the preceding section of the report.

Requiring all warranted employees to file annual financial disclosure reports would help ensure USAID's compliance with ethics regulations and involve only minimal additional effort by GC/EA. M/OP already has lists of warranted USAID officials and cross-checking those lists to GC/EA's financial disclosure tracking system database would be a relatively simple task. Any inaccuracies in the USAID staffing pattern's ethics indicators for these positions would be identified, and the need to review the specific duties of these positions to determine whether some may not need to file would be eliminated. Also, the number of additional financial disclosure reports that might be filed would be modest. GC/EA issued an agency general notice on September 5, 2001 that requires annual financial disclosure reports from warranted officers and employees. Accordingly, no recommendation is being made.

Compliance With Ethics Training Requirements Cannot Be Tracked

The Office of Government Ethics (OGE) describes a "well-run ethics program" as one that includes tracking to ensure that all employees who are required to receive annual ethics training actually receive the training. USAID's current system for tracking compliance with the annual ethics training requirement for many of its employees does not provide any assurance that the Federal requirements for ethics training are being met. Although USAID has made an aggressive effort to provide the training to as many USAID employees as possible—more than just those required to have the training—its ethics training tracking system cannot be used to identify all employees required to receive training. The database does, however, indicate that some employees who needed training in 2001 did not receive it.

Since 1989, pursuant to Executive Order 12674, federal agencies have been responsible for providing mandatory one-hour ethics training briefings each year for their employees. The following groups of employees are required by 5 C.F.R. 2638.704 and 2638.705 to have annual ethics training:

- Presidential appointees
- Employees in the Executive Office of the President
- Employees required to file public or confidential financial disclosure reports
- Warranted contracting officers
- Other employees designated by the head of the agency based on their official duties

GC/EA has required personal services contractors (PSCs) to take annual training and has encouraged all other USAID staff to also attend.

To enable federal agencies to allocate their training resources in a more flexible and efficient manner, OGE issued an interim rule in March 1997 that reduced the burden of providing annual verbal (face-to-face) briefings. Instead of receiving annual verbal briefings, agencies were allowed to meet the annual briefing requirement by providing most covered employees a written briefing in no more than two years in any three-year period. Employees filing public financial disclosure reports are still required to receive annual verbal briefings.

Prior to 2001, USAID's Learning Support Division (M/HR/LS) tracked the ethics training taken by USAID employees using a list of required trainees provided by GC/EA. In 2001, GC/EA took over the ethics training recordkeeping function and established a spreadsheet to track ethics training compliance. GC/EA developed a list of employees requiring ethics training and, when it received verification that the training took place, added the date of training to the spreadsheet. GC/EA also added the names of other employees who attended or received training if it received verification of their training. Acceptable documentation included a written certification form, an e-mail from the trainer or administrative officer, or a training course sign-in sheet. GC/EA maintained the list and supporting documentation.

GC/EA staff stated they initiated the annual ethics training tracking process in early summer by providing bureaus and missions with the names of employees or contractors assigned to their offices who appear to need training. This information is obtained from the USAID Financial Disclosure Tracking System (FDTS) and includes individuals that filed public disclosure reports earlier in the year and individuals that filed confidential disclosure reports in the fall of the preceding year. Bureaus and missions are asked to update the lists after reviewing the criteria for required training. GC/EA is responsible for resolving any training discrepancies before yearend by obtaining missing verifications, providing additional training, or determining that the training requirement for specific individuals is no longer valid.

A review—in early 2002—of GC/EA's spreadsheet for tracking calendar year 2001 training disclosed several problems and matters which must be remedied in order to have an effective tracking system:

- The employees at two overseas missions were listed twice
- Employees posted at the Regional Service Center in Budapest and several small overseas locations were excluded and overlooked (e.g. Podgorica, Geneva, Bratislava, Abidjan)
- No tests or checks were used to ensure all names from the FDTS were initially entered in the ethics trainee listing
- Employee names were entered inconsistently (e.g. William Doe might also be entered as Doe, William or Bill Doe) making it difficult to compare the spreadsheet with other databases

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- There was no system to ensure that all bureaus and missions had reviewed GC/EA's list and provided updated data
 - Training verifications were not submitted on time. Although training must be completed by December 31, the February 6, 2002 listing for overseas locations included 1166 entries but only 890 were annotated to show that training verification had been received. As of April 5, 2002, the training status of 81 overseas employees was still unknown
 - The April 5 list showed that 45 employees received their 2001 training in calendar year 2002 because of, according to GC/EA, travel restrictions imposed late in calendar year 2001. However, more than half this number could have taken training through a written briefing without the need of travel for the trainer or trainee
 - The spreadsheet does not indicate whether listed employees were public or confidential filers. Near the end of each training cycle, GC/EA will need to know each employee's status so it can determine what type of training the employee needs if the training requirement has not yet been met

A limited comparison of GC/EA's April 5, 2002 spreadsheet with lists of three types of employees required to have ethics training identified 18 public filers, 16 contracting officers, and 4 executive officers that did not receive calendar year 2001 training according to the April 5 listing¹⁵. In some cases the employees were not on GC/EA's list, in other cases the spreadsheet did not contain any record of training received.

To be effective, an ethics training tracking system should be designed, maintained, and used to ensure that all employees required to receive annual ethics training actually receive it. USAID's current tracking system needs to be redesigned to provide GC/EA assurance that USAID is meeting federal requirements. The following recommendations focus on the establishment of a tracking system that can provide this assurance.

Recommendation No. 7: We recommend that USAID's Designated Agency Ethics Official establish an ethics training tracking system that is clearly tied to the financial disclosure tracking system to ensure all financial disclosure filers are included, and identifies which trainees/employees are (a) public filers who must have annual verbal training, (b) other required trainees who must have verbal training at least once every three years, and (c) additional trainees not required to have training.

¹⁵ The comparison was limited to employees listed in USAID's phone directory as of May 1, 2002.

Recommendation No. 8: We recommend that USAID's Designated Agency Ethics Official prepare detailed procedures for administering the ethics training tracking system to include specified timeframes for (a) automated downloads from the financial disclosure tracking system, (b) inquiries on current staffing to missions and bureaus, and (c) production of discrepancy or exception reports to identify required training not yet completed. Procedures should also include detailed instructions for entry of data and technical aspects of the automated system to minimize problems associated with possible staff turnover or shortages.

Recommendation No. 9: We recommend that USAID's Designated Agency Ethics Official establish procedures to track whether all bureaus and missions have responded to the annual inquiry for updated staffing information and follow-up as necessary when responses are not received by deadlines.

Annual Ethics Program Questionnaire Contained Errors

USAID's 2001 Agency Ethics Program Questionnaire—submitted to the Office of Government Ethics—contained inaccurate statistical information about USAID's compliance with financial disclosure reporting and ethics training requirements. This occurred because GC/EA prepared its responses using the erroneous and incomplete data extracted from its financial disclosure tracking system (FDTS) and ethics training listing for the year as detailed above. In our opinion, GC/EA should ensure its tracking systems can accumulate the data requested in the OGE questionnaire to provide a clear portrayal of USAID's performance regarding federal ethics program requirements.

Section 402(e)(1) of the Ethics in Government Act of 1978, as amended, requires each Federal agency to file an annual report with the Office of Government Ethics (OGE) that contains information about the agency's ethics program. Under 5 C.F.R. 2638.602, this report is due by February 1 each year and covers activities in the prior calendar year (CY). OGE has provided an Agency Ethics Program Questionnaire to be used for this purpose. The questionnaire requests information on all aspects of the ethics program including statistical information regarding public and confidential financial disclosure report filings required by 5 C.F.R. 2638.602 and information on the numbers of employees receiving ethics training.

Statistical tables on financial disclosure filers and employees receiving ethics training as shown in USAID's 2001 Agency Ethics Program Questionnaire submitted to OGE on February 4, 2002, had the following problems.

Financial Disclosure: The questionnaire asks agencies to report the number of public and confidential financial disclosure reports required to be filed and the number of required reports actually filed or received. Follow-on questions ask for the reason(s) for any discrepancies between the two numbers. USAID's response stated that: (1) 346 public reports were both required and filed, and (2) 1062 confidential reports were required and 1330 confidential reports were filed. USAID did not answer the follow-on questions explaining the discrepancies but the 1330 figure was annotated to explain that overseas missions submitted reports that were not actually required.

As previously discussed in this report, the FDTS cannot be relied upon to generate lists of employees required to file disclosure reports, although it can be used to count the number of reports that have been filed. USAID's response, however, gives readers an unsubstantiated impression that all required financial disclosure reports for CY 2001 had been filed by February 1, 2002. However, because it did not have a complete or accurate database and did not perform any exception testing, GC/EA was actually not aware of how many employees required to file reports might not have filed them. The fact that GC/EA collected and reviewed more financial disclosure reports than the number it believed were required did not eliminate the need to determine and report whether all reports required by law had been filed, and reviews of FDTS data conducted during this audit identified individuals who had either not filed a report or filed after February 1.

Ethics Training: The tables at item number 3 in the Education and Training section of the questionnaire reported that: (1) 295 public filers needed and received ethics training¹⁶, and (2) 1062 confidential filers required ethics training and 1788 received verbal training. The 1788 figure was annotated to explain that it included 726 non-filers who also received training because many overseas missions routinely trained their entire staff.

As previously discussed in this report (see pages 21 to 23), GC/EA's ethics training system was not cross-checked against the Financial Disclosure Tracking System and the names of several required trainees—public and confidential filers—were not among those listed as having been trained. In addition, its listing did not differentiate between those employees required to have training

¹⁶ USAID's February 4 response noted that 2 public filers received an annual written briefing in accordance with provisions that allow such briefings when it is impractical for a qualified instructor to be physically present. An addendum to USAID's response dated February 15, 2002, reported that training verification for 29 of the public filers—previously reported as delayed in the mail due to the anthrax situation—had since been located.

and the "extra" trainees. As a result, the ethics training listing cannot be relied upon to generate lists of employees required to receive training, although it can be used to count the total number of trainees. GC/EA was not able to determine whether USAID fully complied with ethics training requirements. Providing training to more USAID employees than the number required does not eliminate the need to determine and report whether all required trainees actually received ethics training.

USAID's tracking systems for financial disclosure reports and ethics training should be designed and operated to provide the statistical data required by OGE in its annual questionnaire. Prior sections of this report address deficiencies in these systems and contain recommendations for improvements that should result in systems that can generate the needed data for future questionnaires. GC/EA should develop procedures for using the tracking systems when accumulating the data to be presented in future questionnaires.

Recommendation No. 10: We recommend that USAID's Designated Agency Ethics Official develop detailed written procedures for identifying and extracting accurate data from its tracking systems for presentation in the annual USAID response to the Office of Government Ethics Annual Program Questionnaire.

**Management
Comments
and Our
Evaluation**

In responding to the draft report, USAID's Designated Agency Ethics Official (DAEO) concurred with the ten procedural recommendations and provided a plan of action with anticipated dates of completion for each recommendation. The recommendations in the audit report generally relate to weaknesses and problems in USAID's systems for tracking the annual ethics training and financial disclosure requirements. The DAEO and the staff in the Office of General Counsel, Ethics and Administration (GC/EA) have addressed these areas and the recommendations by working with a software designer to "fundamentally rewrite" GC/EA's existing tracking system and tie ethics training records to GC/EA's database. This new system—expected to be completed, tested, and delivered by February 1, 2003—should greatly enhance GC/EA's ability to identify individuals required to file financial disclosure reports and receive ethics training as well as timely determine whether the requirements were actually met. Other needed written policies and procedures are scheduled for completion by March 1, 2003. The DAEO's response—presented at Appendix II—also contained four appendices that have not been incorporated into this report. They are adequately described in the DAEO response without being presented in their entirety.

The DAEO's plan of action in response to the audit report adequately addresses each of the recommendations. Accordingly, all of the recommendations have been classified as having reached a management decision.

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**Scope and
Methodology****Scope**

We audited selected aspects of USAID's ethics program in accordance with generally accepted government auditing standards. We conducted the audit fieldwork in USAID/Washington from October 2001 to June 2002. The audit scope was limited to a review of USAID's compliance with Federal requirements that selected employees receive ethics training and file annual financial disclosure reports. A critical component of the audit was an evaluation of USAID's management controls and automated database that are intended to (1) identify USAID personnel subject to these ethics program requirements, and (2) maintain documentation that the requirements were met.

The audit did not attempt to evaluate the quality and content of the ethics training and did not assess the process for reviewing the information contained in the financial disclosure reports for possible financial conflicts of interest. Other aspects of USAID's ethics program including written opinions and counseling, disciplinary actions for violations, and the approval system for outside activities were also not a part of the audit scope.

The audit focused on USAID's success in meeting these requirements for the ethics training provided in calendar year (CY) 2001 and on the financial disclosure reports filed in the same year. In its CY 2001 Ethics Program Questionnaire submitted to the Office of Government Ethics (OGE), USAID reported receiving 346 public financial disclosure reports (SF 278)—generally from senior or higher ranking employees—and 1330 confidential financial disclosure reports (OGE 450) from other employees. The Questionnaire also disclosed that 2083 employees received ethics training in CY 2001.¹ These statistics encompass all USAID personnel including: (1) staff stationed at overseas missions as well as in Washington, D.C., (2) direct-hire employees and personal service contractors, and (3) American citizens and foreign service nationals. Although these statistics are inclusive of Office of Inspector General staff, we did not include these employees in our audit tests due to lack of independence.

Methodology

In order to gain an understanding of the ethics program as it relates to the audit objective, we held numerous discussions with USAID officials at GC/EA, the Office of Procurement, and the Office of Human Resources. A discussion was also held with officials of a USAID contractor—Computer

¹ This includes 29 employees reported in an addendum to the Questionnaire.

Sciences Corporation (CSC)—concerning upgrades and revisions to the Financial Disclosure Tracking System (FDTS).

In addition, we also performed the following steps:

- Reviewed relevant laws, regulations, guidance, and directives to gain a better understanding of ethics requirements within the Federal Government and specifically USAID.
- Obtained and reviewed a listing of USAID's personnel roster as of October 1, 2001 and used this as the basis for creating a database to compare with and assess GC/EA's database in its FDTS.
- Reviewed "staffing patterns"—periodic downloads from USAID's automated personnel system—and identified which U.S. direct-hire positions have been designated as requiring the individual to file a financial disclosure report and loaded this information into our own database.
- Obtained and reviewed multiple listings generated from GC/EA's FDTS database identifying individuals that had filed financial disclosure reports for CY 2001.
- Obtained and reviewed multiple listings from GC/EA identifying USAID staff that had completed ethics training in CY 2001.
- Reviewed specific FDTS database files for selected individuals and submitted questions regarding these cases to GC/EA for further clarification.
- Reviewed physical copies of a selected number of financial disclosure reports to confirm they had been submitted and retained.
- Assessed design and maintenance of GC/EA's FDTS including observation of the process of downloading updated personnel information from USAID's automated personnel system into the FDTS database.
- Reviewed proposed and requested changes to the FDTS being implemented by CSC.
- Obtained and reviewed USAID's CY 2000 and 2001 Ethics Program Questionnaires submitted to OGE.

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- Reviewed the OGE's report of November 22, 2000 that details its review of USAID's ethics program.

The audit results placed some reliance on computer-generated data obtained from USAID's automated personnel records system without specific audit verification of the adequacy of general and application controls for that system. Any concerns with the accuracy of the data in that system that were noted in the audit are disclosed in the audit findings as applicable.

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Management Comments

December 9, 2002

MEMORANDUM

FOR: IG/A/PA Director, Dianne L. Rawl
FROM: Designated Agency Ethics Official, Arnold J. Haiman
SUBJECT: Response to Draft Report No. 9-000-03-00X-P

I. INTRODUCTION

This is the response to your draft report titled “Audit of USAID’s Compliance with Federal Requirements for Annual Ethics Training and Financial Disclosure Reports for Selected Employees.”

The USAID Designated Agency Ethics Official (DAEO) is responsible for the agency’s ethics program. The DAEO is supported by the staff of the Office of General Counsel, Ethics and Administration (GC/EA). In addition to the DAEO, the staff consists of four attorneys (each with significant duties unrelated to the ethics program), a GS-13 ethics program specialist, a GS-11 program specialist, and a GS-8 legal technician.¹ There are three distinct parts to the USAID ethics program: training, individual advice and counseling, and financial disclosure. The Office of Inspector General (OIG) audit addressed the following: the tracking systems in place for training and financial disclosure.²

USAID’s overall ethics program has a well-founded reputation for excellence. It has received numerous awards over the past several years. The Office of Inspector General (OIG) presented GC/EA with the OIG achievement award in 1997 for its “outstanding leadership of the ethics and financial disclosure programs.”³ Prior to that, GC/EA received an agency meritorious unit

¹ The three latter positions will be referred to in this report collectively as “ethics specialists.”

² In early summer 2001, GC/EA became aware that OIG was conducting an audit of the agency’s overall training program. The agency’s training program is the responsibility of M/HR/LRS. At that time, M/HR/LRS also maintained the documentation of annual ethics training, although the training itself was the responsibility of GC/EA. In September 2001, OIG formally notified GC/EA that it planned to audit annual ethics training as well as financial disclosure reports. Although the notification did not indicate the filing years that would be audited, in November 2001 OIG informed GC/EA that it would be auditing the 2001 filing and training requirements. Therefore, with respect to confidential filings and training tracking, the audit was underway while reports were still being received and compiled.

³ OIG’s recognition of the quality of the content of GC/EA’s training continues. In March 2001 the Inspector General invited GC/EA to present its values-based training, called “Ethical Decision Making,” to his senior staff at the annual management conference. This was followed by a similar invitation and presentation at an overseas OIG investigator’s conference in Budapest.

award and the Office of Government Ethics' (OGE) outstanding agency ethics award. OGE once again awarded GC/EA with its "outstanding agency ethics program award" in 2001.⁴ GC/EA's approach to training is unique in the U.S. Government,⁵ and GC/EA has been at the forefront in USAID's anti-corruption efforts.⁶

This response consists of a general overview of the tracking system and corrections that GC/EA has initiated, consistent with the audit's recommendations. Throughout this audit, GC/EA has informed OIG that we wish to make any needed corrections to enhance our tracking processes. Therefore, this memorandum focuses on our plan of action to address the recommendations, rather than a point-by-point response to the narrative sections preceding each recommendation.

The specific responses to each of the recommendations made in the draft report are set forth in Section III below. **We concur with the recommendations and have set forth in detail the plan of action and the anticipated dates of completion.** We have made significant progress in completing changes to the ethics tracking process. These changes will allow GC/EA to more efficiently carry out its vital functions and to further enhance its reputation for excellence.

II. DISCUSSION

A. GC/EA Has Substantially Completed the Overhaul of its Ethics Database.

As indicated above, the OIG audit concerned the systems used for tracking the annual training and financial disclosure requirements. OGE does not prescribe a particular method for tracking. There is no standard database that is provided within the U.S. Government or that is available commercially. USAID has developed its own system, the Financial Disclosure Tracking System (FDTS), over the course of the last several years. Like all software and database programs, FDTS is in a state of continued correction and refinement.

At USAID all software and databases fall under the responsibility of the Office of Information Management (M/IRM). GC/EA personnel are not experts in software or database design. This expertise is provided by M/IRM. M/IRM first began working with GC/EA several

⁴ The Director of OGE, the Honorable Amy Comstock, personally presented this award to USAID Administrator Andrew Natsios in February 2001. The award was based on OGE's findings in its statutorily-required review of the program in 2001. OGE's report concluded that USAID's ethics program "not only complies with the applicable laws and regulations but often exceeds them." (Attachment 1.) OGE's detailed review included positive findings and conclusions in several areas, including program administration, financial disclosure systems (both public and confidential), and education and training program. OGE found that GC/EA's advice and counseling services were "timely, comprehensive, and in compliance with the ethics laws and regulations." With respect to the financial disclosure function, OGE found that GC/EA had in place comprehensive written procedures and that the financial disclosure reports were reviewed effectively. OGE found that the forms they randomly examined had been appropriately reviewed.

⁵ Director Comstock specifically cited GC/EA's Ethical Decision Making in her comments to the Administrator at the presentation of the OGE award

⁶ GC/EA represented USAID at the 10th International Anti-Corruption Conference in Prague in October 2001 and at the International Institute for Public Ethics in Brisbane in October 2002. GC/EA presented Ethical Decision Making at an international seminar in London in September 2002. The participants in this seminar, including cabinet ministers and other senior officials from developing countries, ranked GC/EA's presentation as first in content.

years ago to develop the FDTS. A direct hire employee of M/IRM was initially assigned to develop the project and to oversee its continuing effective operation. In February 2001 M/IRM assigned this task to a contractor. Working with the GC/EA ethics program specialists, the contractor's software designer addressed certain flaws in the existing FDTS.⁷ The software designer began a two-part response. First, he began to immediately correct easily-cured flaws in the existing system. This became known informally as "FDTS 2.0." Second, the software designer began a process to fundamentally rewrite the FDTS, with the goal of the development of "FDTS 3.0."

The OIG audit's findings and conclusions are based on the previous versions of the FDTS. As set forth specifically in Section III, below, OIG's recommendations have been integrated into the design of FDTS 3.0. As of the date of this memorandum the software designer has completed FDTS 3.0. The contractor's testers are beginning to test the design. Following this testing, the complete FDTS 3.0 will be delivered to USAID and the new tracking system will be put into use. We anticipate this to be not later than February 1, 2003.

B. GC/EA is Enhancing its Means of Reconciling Errors in Information Received From External Sources.

GC/EA must necessarily rely on external information in several respects to track financial disclosure and training requirements. First, the information on the makeup of the USAID workforce must come from the agency's personnel database. Second, information on the exact nature of a particular position must come from persons familiar with the duties of each position. The OIG audit noted several problems associated with each of these external sources. As noted in the OIG report, these problems resulted in errors in OIG's tracking of its own employees' ethics requirements. Through the use of enhanced procedures GC/EA is remedying the problems for agency employees.

The first remedy relates to the use of the agency's personnel database. There is an essential need for the tracking system to be based on personnel data received from the agency. The National Finance Center (NFC) maintains this database, and the Office of Human Resources (M/HR) is responsible for transmitting accurate data to the NFC.

The OIG audit described two general problems associated with GC/EA's use of the NFC database. The first is the failure of GC/EA's downloads of information from the NFC database to the FDTS to recognize updates in the employment status of current employees.⁸ In the past, the downloads from NFC only provided information regarding new employees. This required extensive efforts by the GC/EA ethics specialists in identifying changes in the employment status of current employees and manually making updates to the FDTS, even when the NFC database is not similarly updated.

This problem will be resolved with FDTS 3.0. The downloads will identify any changes to an employee's status, including their geographical/organizational location and position number.

⁷ OIG's auditor provided valuable input during the development of FDTS 3.0, based on his informal findings as the audit progressed. This allowed GC/EA to begin to develop its responses to the audit's recommendations well in advance of the final audit report.

⁸ A change in employment status, such as a promotion to a higher position, could result in a filing requirement where none previously existed.

FDTS 3.0 will also extract data from the NFC which shows when an employee has retired, transferred, or otherwise left the agency.

The other problem associated with the use of the NFC database is the frequent inaccuracy of that database's "ethics indicator code." The code identifies the filing status of each employee, whether public filer, confidential filer, or non-filer. It is key to the entire ethics tracking process. As GC/EA does not control the NFC database, GC/EA has not been able to make changes in these codes, even when errors are found. The official changes may only be made by staff of M/HR. As the ethics information is not generally used by M/HR, personnel from that office have not made the accuracy of the information a priority. As with the problem of receiving only limited information from downloads, the inaccuracy of ethics indicators has resulted in the requirement for ethics specialists to manually override the NFC data. The OIG audit noted the extensive efforts that were necessary. The herculean efforts by the ethics specialists are all the more notable when one considers that GC/EA manning was in flux throughout the audit. The previous program analyst, who was primarily responsible for the FDTS, retired shortly before the audit; her successor was new to the position – and to the FDTS – when the audit began. The ethics program specialist retired while the audit was underway. The legal technician position has been vacant intermittently during the entire period, as have several attorney positions.

Changes to the FDTS will eliminate much of the need for extraordinary efforts on the part of the ethics specialists. The FDTS 3.0 database will reflect the official NFC indicator, but it will also have the capability for a separate, actual ethics indicator entered and updated by GC/EA.

The entry of accurate ethics indicator codes is related to another of the external sources upon which GC/EA relies for data. GC/EA must get its information regarding the nature of a position – and therefore its filing/training requirements – from the bureau AMS officers (for staff in Washington) and mission EXOs (for staff assigned overseas). This information determines what a position's ethics indicator code will be. GC/EA recognizes that the accuracy of the information from these sources is dependent upon regular reviews by persons with first-hand knowledge of the positions, along with expert guidance concerning the criteria. Therefore, GC/EA will develop guidelines for the regular review of positions and establish deadlines (and tracking thereof) for receipt of updated information. Additionally, GC/EA will consult regularly with AMSs and EXOs to assure they are aware of the importance of this information, the need for its accuracy, and the proper interpretation of the rules and criteria for filing and training. GC/EA will have the capability for the extra efforts required for these tasks as the staff returns to full manning and as FDTS 3.0 leads to increased efficiency.

C. GC/EA is Also Enhancing Other Aspects of the Ethics Tracking Process.

In addition to the ethics indicator codes, FDTS 3.0 will contain an entry for training. The year for which GC/EA's training tracking system was audited was the first year in which GC/EA maintained the tracking information for training. Previously, M/HR was responsible for tracking ethics training, even though the training was actually done by GC/EA. As noted by the OIG, the tracking system was not tied to a database. With the changes to the FDTS, training will not only be tracked, but the need for training for individual employees will be easily identifiable from the ethics indicator code.

Finally, the changes to the FDTS will permit GC/EA to generate discrepancy reports. In other words, while financial disclosure filings or training are in progress we will be able to query the database to determine which employees must still file or be trained. These reports will be used to provide timely notifications to both the individual employees and their responsible administrative staffs.

D. GC/EA Uses the Best-Available Data in Responding to its Reporting Requirements.

The OIG audit addresses data contained within GC/EA’s annual report to OGE. This report is based on the best information available to GC/EA under its existing database. This is no different from any other office within the agency with a reporting requirement. With the changes to the FDTS, the information available to GC/EA will be greatly enhanced, and all reports to OGE will contain the best-available information.

III. RESPONSE TO RECOMMENDATIONS

We concur with the recommendations in the draft audit report. As stated in Section II.A., above, M/IRM and its contractor have been responsible for implementing changes in the system that are requested by GC/EA. The plan of action with respect to many of the recommendations has required the redesign of the FDTS, which has been accomplished by the contractor.

GC/EA communicated its needs for database redesign to the contractor. These include many of the audit’s recommendations. Based on these needs, the contractor established a “Legacy Action Request” (LAR) for each individual item. (A detailed summary of each of the LARs established by the contractor is attached as Attachment 2.) As of the date of this report, the contractor’s software designer has completed his work on all of the LARs. (The software designer’s list of completed LARs is attached as Attachment 3.) The changes have been incorporated into FDTS 3.0. The contractor’s testers must still test the design, and any defects will be corrected. The contractor will make a final delivery of FDTS 3.0 after the testing and any corrections are completed. Therefore, these recommendations have been addressed, subject only to the technical matter of testing and final delivery. Based on discussions with the contractor, we anticipate the delivery not later than February 1, 2003.

There are other recommendations that concern internal GC/EA processes for compiling and reporting data. GC/EA has begun drafting standardized procedures. In some cases, these procedures depend on information obtained through the FDTS, and therefore GC/EA will not finalize the procedures until FDTS 3.0 is available for use.

Recommendation	Plan of Action	Date of Completion
1: That USAID’s Designated Ethics Official (“the DAEO”) implement a consistent policy on identifying required filers in USAID’s Financial Disclosure Tracking System.	GC/EA will develop a written procedure for identifying required filers and entering that information into the FDTS. The procedure will require receipt of mission and bureau information by a certain	The written procedures, along with the form notices to missions and bureaus, will

	period prior to the filing due dates, and will require the input of that information into the FDTS by GC/EA staff.	be developed by March 1, 2003 (after the delivery of FDTS 3.0 and prior to the public filing period in May 2003).
2: That the DAEO initiate a review of all USAID positions included in USAID's automated personnel database to verify the accuracy of each position's ethics indicator and ensure action is initiated to correct any errors.	GC/EA will issue a letter to all mission EXOs and bureau AMS officers which will provide the criteria for financial filing and requests a comprehensive review of positions and personnel in the mission/bureau. GC/EA will also establish guidelines to assure that EXOs and AMS officers understand the rules and criteria for filing, so that there is uniform application of the criteria throughout the agency. GC/EA staff will review the information and enter appropriate ethics indicators (including correcting any incorrect indicators).	The process will commence by March 1, 2003, and will be complete in advance of the public filing period in May 2003.
3: That the DAEO identify the type and frequency of database comparison tests that should be used to identify and review the financial disclosure requirements for new hires, senior employees, positions with revised ethics indicators, and new positions.	GC/EA will establish written procedures for database comparison tests consistent with FDTS 3.0.	The written procedures will be developed and in operation by March 1, 2003.
4: That the DAEO establish procedures to track the receipt of data requested from overseas missions and Washington bureaus about personal services contractors and foreign service national employees that need to file financial disclosure reports, follow up when responses are not received, and promptly input the data received in the Financial Disclosure Tracking System.	GC/EA will establish procedures consistent with the recommendation, and the information will be incorporated into the FDTS. Although information regarding PSCs and FSNs is not included in downloads from the NFC, GC/EA will nevertheless include this information in the FDTS. These employees will be entered into the FDTS based on information received from AMS officers and EXOs (<i>see</i> response to Recommendation 2). This information will be updated prior to filing periods in the same fashion.	The written procedures will be developed and in operation by March 1, 2003.
5: That the DAEO establish procedures to produce financial disclosure report exception lists from its database at specific intervals during the year, particularly near the end of each reporting cycle. The reports should be used to remind late filers of their responsibilities and the consequences for non-compliance. The database should incorporate notations regarding communications with late filers and any reasons for unusual delays.	The contractor incorporated the ability to produce financial disclosure report exception lists into FDTS 3.0. <i>See</i> Attachment 3, LAR 960 and 961. GC/EA will develop procedures and standard notices for reminding late filers.	Complete, subject only to contractor testing and final delivery of FDTS 3.0. Delivery is anticipated not later than February 1, 2003. Standard procedures and form notices will be in place by March 1, 2003.

<p>6: That the DAEO prepare detailed written procedures or a user manual describing all aspects of maintaining and operating the Financial Disclosure Tracking System.</p>	<p>A draft copy of the draft FDTS user's manual is complete. (Attachment 4.) This will be put in final form once testing is complete on FDTS 3.0 and final delivery is made.</p>	<p>Complete, subject only to contractor testing and final delivery of FDTS 3.0. Delivery is anticipated not later than February 1, 2003.</p>
<p>7: That the DAEO establish an ethics training tracking system that is clearly tied to the financial disclosure tracking system to ensure all financial disclosure filers are included, and identifies which trainees/employees are (a) public filers, who must have annual verbal training, (b) other required trainees who must have verbal training at least once every three years, and (c) additional trainees not required to have training.</p>	<p>FDTS 3.0 includes database information related to the ethics training program, and that information is clearly tied to financial disclosure information. <i>See</i> Attachment 3, LAR 931, 932, and 933. The financial disclosure information includes public and confidential filers. <i>See</i> Attachment 3, LAR 934. FDTS 3.0 also includes reporting for employees not required to be trained but who were nevertheless trained. <i>See</i> Attachment 3, LAR 936.</p>	<p>Complete, subject only to contractor testing and final delivery of FDTS 3.0. Delivery is anticipated not later than February 1, 2003.</p>
<p>8: That the DAEO prepare detailed procedures for administering the ethics training tracking system to include specified timeframes for (a) automated downloads from the financial disclosure tracking system, (b) inquiries on current staffing the missions and bureaus, and (c) production of discrepancy or exception reports to identify required training not yet completed. Procedures should also include detailed instructions for entry of data and technical aspects of the automated system to minimize problems associated with possible GC/EA staff turnover or shortages.</p>	<p>GC/EA will prepare written procedures in accordance with the recommendation, including detailed instructions for entry of data and technical aspects of FDTS 3.0. FDTS 3.0 has the capability to produce exception reports regarding training not yet completed. <i>See</i> Attachment 3, LAR 932.</p>	<p>The written procedures will be developed and in operation by March 1, 2003.</p>
<p>9: That the DAEO establish procedures to track whether all bureaus and missions have responded to GC/EA's annual inquiry for updated staffing information and follow up as necessary when responses are not received by deadlines.</p>	<p>GC/EA will develop a written procedure for identifying required filers and entering that information into the FDTS. The procedure will require receipt of mission and bureau information by a certain period prior to the filing due dates, and will require the input of that information into the FDTS by GC/EA staff. These are the same procedures identified in response to Recommendation 1.</p>	<p>The written procedures, along with the form notices to missions and bureaus, will be developed by March 1, 2003 (after the delivery of FDTS 3.0 and prior to the public filing period in May 2003).</p>

<p>10: That the DAEO develop detailed written procedures for identifying and extracting accurate data from its tracking systems for presentation in the annual USAID response to the Office of Government Ethics Annual Program Questionnaire.</p>	<p>GC/EA will develop written procedures consistent with the recommendation. GC/EA will assure that reports to OGE reflect the best data available.</p>	<p>The written procedures for use of FDTS 3.0 in preparing such reports will be developed and in operation by March 1, 2003. We will develop interim procedures for the use of FDTS 2.0 for any reports that are due prior to the delivery of FDTS 3.0.</p>
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