



Fourth

Biennial Report

to Congress

March 1996



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

March 29, 1996

I am pleased to submit to Congress this fourth biennial report of the Office of Government Ethics (OGE). This report covers activities from January 1994 through December 1995.

During the early 1990's, the ethics program in the executive branch underwent the final major changes required by 1989 statutory and Executive order requirements. The new executive branch-wide standards of conduct went into effect, new regulations on public and confidential financial disclosure reporting requirements were finalized, interpretations of the criminal conflict of interest statutes reflecting their amendments were developed and OGE expanded its agency ethics program review capabilities as well as its day-to-day support services for agency ethics programs.

These past two years have provided OGE with an opportunity to step back from those substantial changes and reflect upon their effectiveness. In some instances we have begun the process of further adjusting those programs based upon that review. This has been particularly true with the confidential financial disclosure and agency training requirements. We have developed new training materials and methods of communicating with the ethics community and employees. We have issued regulations that will assist the Government in dealing with conflicts that may occur during privatization efforts. Our program reviews have become more efficient and, we believe, more helpful to the agencies. And, most importantly, we have provided more support services to the agencies and to the executive branch ethics program in general at a time when less resources have been the rule. Doing more with less will be the continuing challenge of the future. No matter what the size of Government, it must conduct its programs free from conflicts of interest.

We believe this period has been a very productive one in which OGE has been able to use a majority of its resources to guide and support the ethics program rather than to react to changing circumstances. This report describes OGE's range of activities during the period and I am very proud of our accomplishments.

Respectfully submitted,

A handwritten signature in cursive script, reading "Stephen D. Potts".

Stephen D. Potts
Director

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Introduction

The Office of Government Ethics (OGE), a small agency within the executive branch, was established by the Ethics in Government Act in 1978. Originally part of the Office of Personnel Management, OGE became a separate agency on October 1, 1989 (Pub. L. No. 100 - 598).

In 1988, as part of the legislation reauthorizing the Office, Congress required the Director, beginning in March 1990, to submit a biennial report summarizing action taken during the previous two years and providing any other information which the Director considers appropriate.

This is the fourth such biennial report. It covers the activities of the Office from January 1, 1994 through December 31, 1995.

This period is best characterized as one of evaluation and review. In 1989, as a result of the passage of the Ethics Reform Act and the issuance by President Bush of Executive Orders 12674 and 12731, every statute, regulation and form interpreted, written or developed by OGE required change. From early 1990 through 1993, OGE produced a new, comprehensive executive branch-wide regulation governing the standards of conduct for executive branch officials, supplanting a 26 year old regulation upon which each agency had modeled individual regulations. OGE issued new public and confidential financial disclosure regulations and forms (used by approximately 300,000 individuals each year) implementing the statutory changes to those systems. The

Office provided interpretive guidance on the newly-amended criminal post-employment statute and conferred with agencies with regard to waivers issued under another conflict of interest statute. It began developing educational training materials to support these changed programs and it helped agencies develop annual training plans. Each one of these initiatives was a major program change and required intense effort on the agency's part as well as those administering the ethics programs within each agency. In addition, OGE and agency ethics officials, through their roles in reviewing the financial disclosures of and providing counseling to new Presidential and political appointees, also devoted substantial resources to the transition from one administration to another.

During 1994 and 1995 OGE, with agency help, has attempted to step back from those new programs and use this time as a period of review and evaluation. Are the new programs, regulations and forms working as intended? Do they need to be modified? What services and educational materials can OGE provide to agencies that we had not been able to provide earlier because our resources were devoted elsewhere? What waiver authorities are appropriate to be used across the executive branch? What can OGE do to allow agencies to focus their resources on more substantive issues rather than more non-substantive ministerial concerns? These were the types of program concerns that dominated our new activities during 1994 and 1995.

Throughout the period, however, OGE continued to serve as the primary resource for advice and counsel on conduct and financial disclosure-related issues, continued to speak about ethics policy issues within the executive branch and to Congress, continued to evaluate individual agency ethics programs, and continued to provide a forum for agencies' concerns regarding all aspects of the program.

Significant activities of this period included:

- issuing proposed regulations interpreting 18 U.S.C. § 208, the criminal statute governing certain conflicting financial interests, and providing for certain exemptions under that statute;
- issuing interim regulations exempting certain financial interests arising out of Federal employment from requiring disqualification in specific types of matters (many of which implicated the Government's privatization efforts);
- reviewing and concurring in agency requests for individual agency supplements to the uniform standards of conduct for the executive branch;
- conducting agency program reviews with an emphasis in the review results on positive suggestions for improvement;
- revising the program review procedures to increase productivity and to issue more clear and concise reports to agency ethics officials;
- conducting single issue audits to assist in evaluating programs already in place;
- developing new educational materials for use by agencies that focus on the requirements of the new statutes, regulations and forms;
- opening an Ethics Information Center as an agency resource for ethics education materials;
- hosting two annual conferences for agency ethics officials;
- issuing a comprehensive guide for those who must review the public financial disclosures and a revised public financial disclosure form (SF 278);
- developing software programs for use by filers of confidential financial disclosure reports;
- developing and enhancing electronic systems of providing ethics program information; and
- hosting in conjunction with the United States Information Agency an International Conference on Government Ethics.

Organization

The Office of the Director provides overall direction to the executive branch ethics program and is responsible for ensuring that OGE fulfills its Congressional and Presidential mandates. The Office also has an outreach program designed to inform the public about OGE's statutory and regulatory responsibilities and to promote the integrity of public employees. This activity encompasses professional and trade associations, local and state governments, as well as governments of foreign countries.

The Office of General Counsel and Legal Policy is responsible for establishing and maintaining a uniform legal framework of Government ethics for executive branch employees, for developing executive branch ethics program policies, for interpreting laws and regulations, for assisting agencies in legal and policy implementation, and for reviewing legislation and recommending changes in conflicts of interest and ethics statutes.

The Office of Education is responsible for ensuring that quality ethics education programs are provided by agencies to executive branch employees and that appropriate materials are made available to support and assist delivery of these programs. To further these goals, the

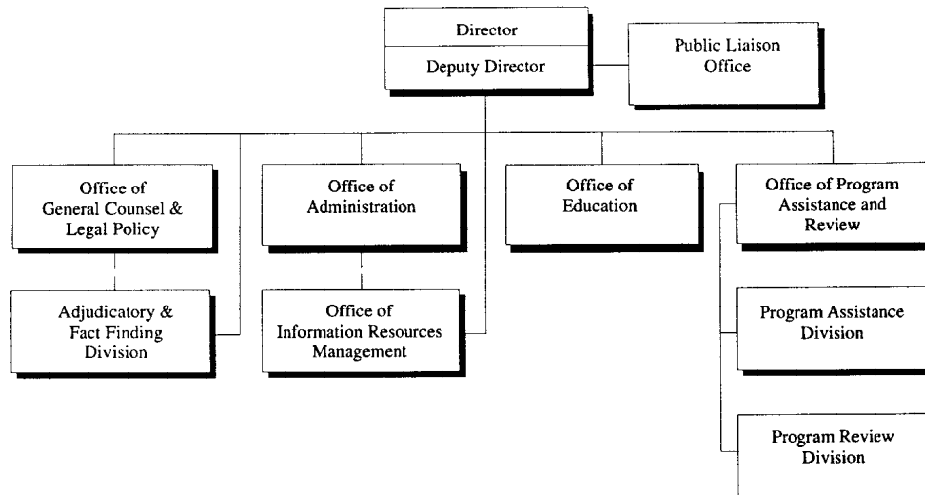
Office provides training directly to agency ethics officials responsible for employee education.

The Office of Program Assistance and Review has oversight responsibilities for executive branch agency ethics programs. Management analysts, who serve as desk officers in the Program Assistance Division, assist agencies in the development and improvement of their ethics programs by consulting with them on a regular basis. Management analysts in the Program Review Division monitor agency compliance with executive branch ethics laws and regulations through a series of ethics program reviews conducted according to an annual program plan.

The Office of Administration provides essential support to all OGE operating programs in the areas of personnel, payroll, fiscal resource management, facilities and property management, travel management, procurement, publishing and distribution, printing, information resource management, telecommunications, and office automation support.

A more complete description of each of the program offices is found in the References section.

Office of Government Ethics



Overview – Executive Branch Ethics Program

Role of the Office of Government Ethics

The Ethics in Government Act states that the Office of Government Ethics is responsible for providing “overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency.” Over time, the responsibilities of the Office have expanded by statute and Executive order to include providing interpretive guidance on, and administrative support for a number of additional requirements related to employee conduct. These functions comprise the “ethics in government” program of the executive branch. Collectively, the responsibilities of OGE fall into six general areas:

■ Regulatory Authority

develop, recommend and review rules and regulations pertaining to conflicts of interest, post-employment restrictions, standards of conduct, and public and confidential financial disclosure in the executive branch;

■ Financial Disclosure

review executive branch public financial disclosure reports of certain Presidential nominees/appointees to assess potential violations of applicable laws or regulations, provide counseling on the avoidance of conflicts, and, if necessary, recommend appropriate corrective action; administer executive branch blind trust and certificate of divestiture programs;

■ Education and Training

implement statutory responsibility of “providing information on and promoting understanding of ethical standards in executive agencies,” primarily through assisting agencies with their internal education programs.

■ Guidance and Interpretation

prepare formal advisory opinions; provide informal advice letters and policy memoranda and give oral advice on how to interpret and comply with requirements on conflict of interest and post-employment statutes, standards of conduct and financial disclosure requirements applicable to the executive branch; consult with agency ethics officials in individual cases;

■ Enforcement

monitor agency ethics programs and review compliance, including financial disclosure systems; refer possible violations of conflict of interest laws to the Department of Justice and serve as an advisor on prosecutions and appeals, and, in limited circumstances, investigate possible ethics violations and order corrective action or recommend disciplinary action; and

■ Evaluation

evaluate the effectiveness of conflict of interest laws, other related statutes, standards of conduct, and Executive orders and recommend appropriate amendments.

Role of an Agency

At its heart, 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. 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 in government” program for the employees who carry out the substantive programs of that agency.

Each agency head, however, selects an individual employee of that agency to serve as that agency’s Designated Agency Ethics Official (DAEO). It is these individuals and the additional staff of each agency tasked with supporting an agency’s ethics program (collectively known as the executive branch “ethics community”) with whom OGE primarily deals and to whom we communicate policy and regulatory changes.

The DAEOs and their staffs conduct the executive branch ethics program on site.

They provide advice and guidance on matters of conflict of interest, financial disclosure, standards of ethical conduct and post-employment restrictions. They develop and provide educational programs for the employees of their agencies about the statutes and standards. They assist with individual employee disciplinary actions, when necessary, and they implement their agencies’ public and confidential financial disclosure systems. Investigations of individual employee misconduct are generally conducted by an agency’s Inspector General.

The services of OGE are primarily directed to these individuals and to agency heads who are ultimately responsible for the conduct of their employees. OGE’s outreach and education program, does, however, have the additional effect of helping those who interact with the executive branch understand what restrictions might be placed upon their dealings with executive branch employees and appreciate the Government’s efforts at earning the public’s confidence in the conduct of its programs.

OGE Accomplishments

Regulatory Projects

Executive Branch-wide Conflict of Interest Exemptions

On September 11, 1995 OGE published a proposed regulation that would provide for appropriate exemptions to the financial conflict of interest statute at 18 U.S.C. § 208. When final, this new regulation will, for the first time, describe the types of financial interests that are considered too de minimis or too remote to constitute a conflict of interest. Previously, individual agencies had the authority to issue exemptions for their own employees. However, many agencies did not do so, and those exemptions that were issued were not necessarily consistent across agencies.

The new regulation will automatically exempt employees from the prohibition on acting in an official capacity in matters affecting their own financial interests, or matters affecting the interests of certain other persons described in the statute. These exemptions are applicable only in cases where the financial interests involved are too remote or inconsequential to affect the integrity of employees' services. For example, the regulation will exempt

interests that arise from mutual funds, pensions, and de minimis amounts of stocks and bonds. When final, the regulation will allow employees and ethics officials who provide guidance to them to focus on interests that may raise real conflict concerns rather than all interests, regardless of consequence.

Another regulation published on August 28, 1995 establishes, as an interim rule, a single exemption from the prohibition at 18 U.S.C. § 208 for financial interests related to Federal employment. This regulatory exemption recognizes special conflict of interest concerns that have arisen as the Government reduces in size and as certain functions are taken over by private sector entities through various privatization schemes.

Overall, we believe these exemptions will promote the effective conduct of Government business by freeing employees to carry out their Government duties in situations where they may have an insignificant conflict. The automatic exemptions also will facilitate Government efficiency by reducing the need for individual waivers of the conflict of interest restrictions. The exemptions are expected to be published as a final rule in 1996.

Agency Supplemental Standards of Conduct

In February 1993, comprehensive, executive branch-wide regulatory standards of conduct for all officers and employees of the executive branch became effective. The Executive Order that required OGE to promulgate those regulations (E.O. 12674 as modified by E.O. 12731) also provided that individual agencies could, when necessary and appropriate in view of their programs and operations, supplement those regulations with OGE concurrence. Agency supplemental regulations are published in title 5, C.F.R. following the branch-wide regulations. Initially, agencies were given a grace period in which their former regulatory provisions on prohibited financial interests and activities and any prior approval mechanisms would continue to be in effect so that they could propose new regulations for OGE concurrence. Agencies were

also required to notify OGE if they intended to propose a supplemental regulation. OGE received notification from more than 50 agencies that they wished to develop supplemental regulations. OGE began receiving drafts of supplemental regulations in 1993, and approved seven for publication as final, interim, or proposed rules that year. The bulk of the work in developing supplemental regulations occurred during 1994 and 1995. During those years, supplemental regulations were published as final or interim rules for 13 agencies. In addition, more than 30 other agencies are expected to publish supplemental regulations during 1996, largely due to OGE's work with those agencies during 1994 and 1995. The primary topics covered by agency supplemental regulations are prohibited outside employment and activities, prohibited financial interests, and prior approval requirements for outside employment and activities.

Assessment of Agency Ethics Programs

Reviews of Agency Ethics Programs

One of the major ongoing programs of OGE involves the review of individual agency ethics programs. For the first decade of its existence, as a result of lack of resources and personnel, OGE was unable to conduct what it considered to be an appropriate review program—the review of an agency’s program every three years. However, with the support of the Administration and Congress, OGE began developing these necessary personnel resources in 1991. *Chart I* depicts the reviews conducted during the last five years and graphically shows the results of the increased resources.

During 1994 and 1995, OGE issued 78 reports to Designated Agency Ethics Officials, many of which made recommendations to strengthen ethics programs. These reports covered ethics programs in over 100 departments,

agencies, offices or components and approximately 30 regional offices and military bases.

OGE’s agency ethics reviews analyzed specific ethics program elements including: the structure and staffing of the program, the public and confidential financial disclosure systems, the ethics education and training program, and the counseling and advice system.

The continuity of staff in the Program Review Division permitted OGE to conduct a similar number of program reviews in 1994 and 1995 as were conducted during the 1992-1993 period. Not only were 78 reports issued during the 1994-1995 period, but during the same time period 54 six-month follow-up reviews were conducted to verify agencies’ progress on implementing recommendations resulting from previous ethics program reviews.

Reports Issued and Reviews Conducted 1990 - 1995

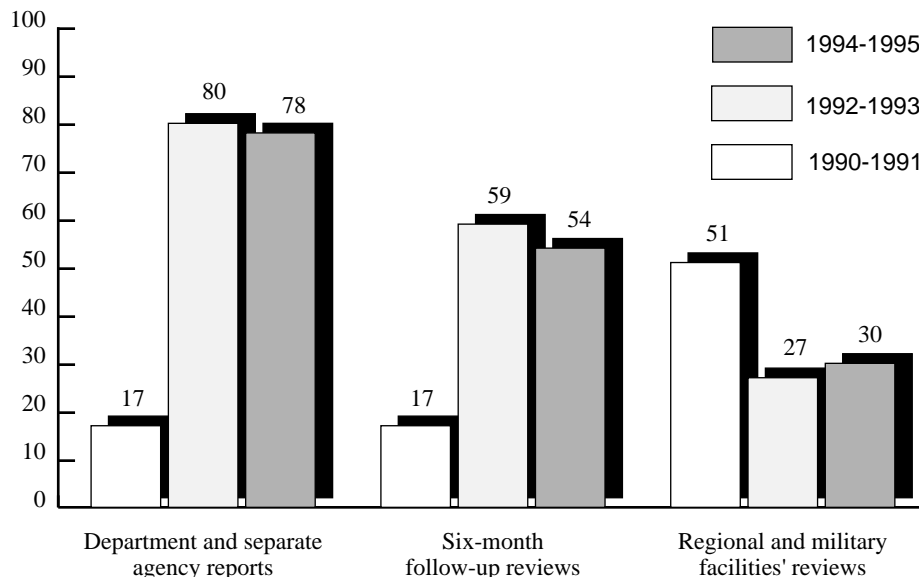


Chart I

During 1994 and 1995, OGE conducted first-time reviews of several agencies, including certain Department of Defense components (the U.S. Army Rock Island Arsenal, the On-Site Inspection Agency, and the National Defense University), the Federal Bureau of Investigation, and the Foreign Claims Settlement Commission.

Through these reviews, OGE found that, as a general rule, agencies are effectively administering their ethics programs. The most effective programs result primarily from the experience and continuity of an agency's ethics program staff. OGE also found through the reviews that many agencies have developed and are implementing active and comprehensive ethics education and training programs tailored to their agencies' needs. In addition, OGE noted significant improvements to agencies' public and confidential disclosure systems.

While OGE was able to identify many significant improvements in agency ethics programs, some programs needed further improvement. For reports of reviews issued during 1994 and 1995, OGE made 281 recommendations for improving agencies' ethics programs. Similar to the findings made in 1992-1993, the most frequent recommendations were those for improving agencies' public or confidential financial disclosure systems. Our recommendations included improving the timeliness of collecting and reviewing the financial disclosure reports, ensuring that the reports are thoroughly reviewed to

eliminate technical deficiencies, ensuring that employees who meet the criteria for filing reports are notified of the reporting requirements, and developing written procedures for administering the financial disclosure systems.

To determine whether agencies had taken action to implement previous report recommendations, OGE conducted 54 six-month follow-up reviews on reports issued in 1993 through 1995. By December 31, 1995, follow-up review results showed that agencies had taken action and OGE closed 275 recommendations. In the follow-up reviews conducted in the past two years, only 12 recommendations remained open. While in some cases the recommendation could not be closed at the time of the six-month follow-up review, OGE staff observed that, in many instances, preliminary improvements had begun. Subsequent reviews are conducted until all recommendations are closed.

Finally, during these two years, OGE also conducted special reviews in selected agencies which focused on two single issues. One review assessed the implementation of the new confidential financial disclosure system and the other review assessed agencies' systems for notifying OGE when conflict of interest allegations are referred to the Department of Justice.

For a detailed listing of reports issued during 1994 and 1995, see Appendix I.

OGE Assistance to Agency Ethics Programs

OGE's desk officer system began in January 1990, with the goal of providing agency ethics officials with a stronger, more personalized link with the Office. Desk officers acquire an in-depth understanding of the individual agencies they serve, as well as knowledge of the needs and ethics issues of concern to particular ethics programs.

Desk officers are assigned to serve as primary contact points for agency ethics officials in more than 125 departments and agencies. The desk officers provide information and assistance concerning ethics program matters to the agencies. The desk officers, in turn, develop knowledge, insight, and understanding of each agency's unique ethics program. This increased access has enabled closer, more immediate, and more effective communication between OGE and the agencies it serves.

In their roles as liaisons, desk officers handle not only technical matters for their agencies but also various substantive ethics issues. Desk officers provide advice and assistance to agency ethics officials, both in establishing effective programs and in resolving specific ethics issues. This type of liaison role necessitates frequent contact between OGE's desk officers and other offices and divisions within OGE.

In addition to consulting with agency ethics officials on a daily basis on a variety of issues, desk officers:

- assist agencies by offering ideas and suggestions on implementing recommendations made by OGE following the Program Review Division's reviews of their ethics programs;

- assist with agency-specific training needs, including identifying sources of training materials, providing ethics training to individual agencies and participating in agency training courses and conferences;

- collect, track, and review the annual and termination public financial disclosure reports of approximately 1,000 Presidential appointees confirmed by the Senate and approximately 125 Designated Agency Ethics Officials to ensure that public reports are complete and do not raise any unaddressed questions of potential financial conflicts of interest;

- review, along with the Office of General Counsel, public financial disclosure reports submitted during the confirmation process by Presidential nominees who require the advice and consent of the Senate prior to appointment;

- track and ensure compliance with ethics agreements made by Presidential appointees during their confirmation processes;

- provide public financial disclosure reports requested by the general public and the news media; and

- respond to agency requests for extensions and exemptions for filing public financial disclosure reports, requests for waivers of the \$200 late filing fee, and requests for consultation on conflict of interest waivers under statutory requirements.

In providing advice and assistance, personal contact with the ethics staff of agencies and their various components is of primary importance. This is an ongoing process involving meetings, phone calls, and site visits between the desk officers of OGE and individual agencies.

Services to Agencies

With the issuance of Executive Order 12674 and the passage of the Ethics Reform Act, OGE was given clear direction to strive for uniform conduct regulations applicable throughout the executive branch and to provide more detailed guidance on, and interpretation of, ethics statutes and regulations. Consequently, OGE has placed a high priority on providing three important services to agencies. One, providing expert interpretations of individual statutory and regulatory provisions that are independent and objective. Two, providing leadership and support to the branch-wide educational efforts required. And, three, in support of the first two, making all OGE assistance easily accessible through various media.

Advice and Counseling

Providing oral opinions and written advisory materials continues to be OGE's primary service to agencies. More than one-fourth of the time of the staff of the Office of General Counsel was devoted to advice and interpretation of the criminal conflict statutes and the administrative standards of ethical conduct. The topics range from financial conflicts, representational activity before the Government, post-Government employment, privatization of Government functions, receipt of gifts, loss of impartiality, appearances of conflict of interest, use of Government position and assets, receipt of honoraria, outside activities and income and travel reimbursements. Most of the advice is given promptly and efficiently through informal telephone contacts.

In 1994, as the result of unique circumstances involving a DAEO and at the

specific request of the Secretary of the Treasury, OGE, although it would not normally do so, agreed to provide directly to the Secretary our advice with regard to activities of employees of the Department of the Treasury in their contacts with the White House regarding the resolution of Madison Guaranty Savings and Loan. A factual investigation was conducted by the Inspectors General of the Department of the Treasury and the Resolution Trust Corporation. On July 30, 1994, OGE provided in a letter to the Secretary an analysis of the application of the Standards of Conduct to the facts developed by the Inspectors General. As the head of the agency, the Secretary was responsible for making any findings and conclusions and taking any necessary actions with regard to Treasury employees. The Department of the Treasury publicly released the OGE analysis letter on July 31, 1994 along with the investigative report of the Inspectors General.

With regard to the typical written advice provided by OGE, each year the Office reviews the letters and memoranda it has issued, selects those that are of general interest, redacts any identifying information, indexes and publishes them through the Government Printing Office. Over 34 such informal advisory letters and memoranda have been or are selected for publication for 1994 and 1995. A 1979-88 compilation of all such published advisory letters and memoranda and 1989 through 1993 supplements have been available for purchase through Government bookstores. The letters and memoranda that have been published and those that have been selected for publication are or will be accessible from OGE's electronic bulletin board (TEBBS). Those from 1979 through 1994 are also available on OGE's Ethics CD-ROM.

Videotapes for Employee Training

During 1994 and 1995 OGE produced and released two new ethics training videotapes which cover topics of critical importance to agency ethics officials in managing their ethics programs. Those videotapes are:

- *The Ethical Choice: Ethics for Special Government Employees*, focuses on the Standards of Conduct and how they affect special Government employees.
- *Public Financial Disclosure: A Closer Look*, examines the need for high-level employees to accurately and honestly complete the Executive Branch Public Financial Disclosure Report. (SF 278 form)

These tapes are additions to the videotapes OGE previously produced and released which are also available to agencies:

- *Guide to the Standards of Ethical Conduct*, is a detailed review of the Standards of Conduct primarily intended for those who must counsel and teach others on the Standards.
- *Integrity in Public Service: Earning the Public's Trust*, is more general and is intended for use by OGE and executive branch agencies in training Government employees at all levels.

All OGE videotapes are distributed through the Department of Commerce's National Technical Information Service (NTIS). On the market since late 1992, the "Integrity" tape and the "Guide to the Standards of Ethical Conduct" have sold thousands of copies and are among the best selling tapes at NTIS. The two tapes released in 1994 -1995 have been

received well by the ethics community and we also expect a high degree of interest in each of these tapes.

Pamphlets for Agencies' Use

In 1995, OGE published the third pamphlet in a series for executive branch agencies to use in their ethics training programs. This new pamphlet, *A Brief Wrap on Ethics*, provides an easy-to-read, anecdotal treatment of some of the basic ethics laws and regulations. The pamphlet is proving to be a useful training tool especially for individuals just entering public service. The two previously published pamphlets described below were each written at different levels of detail. The three pamphlets together provide agencies access to education materials designed to meet the needs of a full range of employees. Thus, agencies have a wider variety of resources with which to tailor their materials to the needs of different groups of employees. Because the pamphlets are summary in nature, they are not substitutes for the text of the conflict of interest statutes and the Standards of Conduct. They should, however, help executive branch agencies communicate these standards to their employees.

- *Do It Right, an Ethics Handbook for Executive Branch Employees*, is a 35-page pamphlet which provides a detailed summary of the conflict of interest statutes and the Standards of Ethical Conduct as they apply to executive branch employees. The text uses examples to enhance reader comprehension. This is in continued demand by the agencies and is now in its third printing.
- *Take the High Road* is a 24-page pamphlet which provides a more introductory level summary of the laws

and regulations in the area of ethics. It uses a question-and-response format, as well as examples, to help the reader in understanding the material.

In August 1992, OGE published the Standards of Conduct in a handy, 80-page booklet with an easy-to-read format. In 1995 OGE revised the format of this booklet to make the text even easier to read. It also provides information on the status of individual agency supplemental regulations. This has been a particularly useful document for agencies to distribute widely to employees.

The booklet and the pamphlets are available to agencies through the Government Printing Office. Agencies may “ride” the initial OGE requisition and thus obtain publications in a shorter time and at a reduced per copy cost.

A list of and availability information for these and other resource and education materials is found at Appendix II.

Training Devices and Initiatives

In June 1994, OGE produced an ethics training game, *Dangerous Dilemmas*, for classroom use. The game consists of 20 ethics scenarios, each with four possible solutions. Four to six scenarios can be used in a one-hour training session. The competition and discussion challenge employees to apply the Standards of Conduct rules to everyday situations. The game is designed to be used as a competition between teams but can be used on an individual basis as well. If the game is used as part of initial ethics orientation, the individual format can help new

employees identify areas in which they want to study further or seek additional guidance. *Dangerous Dilemmas* has been enthusiastically received in the ethics community. The game is available for downloading from TEBBS, The Ethics Bulletin Board System.

On October 5, 1995, the Ethics Trainers’ Partnership (a voluntary group of agency ethics officials and OGE) aired a broadcast via satellite to meet the annual ethics training requirement for employees of 15 executive branch agencies. The session lasted for one hour and used panels of experts discussing travel, seeking employment, post-employment issues and prerecorded updates on current ethics issues. The session ended with a question and answer period for viewers to call or fax inquiries. An estimated 30,000 employees viewed the broadcast simultaneously and thousands more will view a videotape of the transmission. This broadcast was made possible by outstanding cooperation among the participating Government agencies. While the total shared cost of transmission was \$15,000, it was a very cost-effective means of reaching such a large audience.

In conjunction with the Small Agency Council, OGE assisted executive branch “micro” agencies, those with fewer than 100 employees, to meet the annual ethics training requirement. OGE staff conducted 14 one-hour sessions during 1994 -1995 for those employees of “micro” agencies who were required to attend annual training.

OGE also conducted five training sessions for ethics trainers on presentation skills in adult learning concepts.

Financial Disclosure Review Guides

Just as high-level officials in the executive branch are required to report certain financial interests publicly, other, less senior executive branch employees, whose Government duties involve significant discretion in certain sensitive areas, are required to file a confidential report of their financial holdings and outside business activities with their employing agencies. Financial disclosure assists agencies in identifying possible or potential conflicts of interest between an employee's official duties and his or her financial and fiduciary relationships. It enables ethics officials to provide individually tailored conflicts of interest counseling to employees and to assist the employees in establishing any necessary "ethics agreements" (arrangements in order to avoid conflicts.) In addition, financial disclosure enhances the public's perception of the efficiency and integrity of the Government.

Recognizing the complexity of the conflict of interest laws and regulations underlying public financial disclosure, in March 1994, OGE published *Public Financial Disclosure: a Reviewer's Reference*, for the SF 278 public financial disclosure form. The target audience for this publication is the staff who are beginning to review the reports or who are at an intermediate level in their experience reviewing reports. This reference manual was developed to ensure the consistent, comprehensive and accurate review of executive branch employees' public financial disclosure reports. It aims to increase Government efficiency by providing uniform guidance and interpretation to agency ethics

officials. The reference provides detailed summaries of review procedures, describes technical reporting requirements and conflict of interest considerations for common types of assets and affiliations, and includes model documents and case studies.

A similar but less extensive resource, *SF 450 Review Guide*, published in 1993, is also available for the confidential financial disclosure form. The review guide is written in a self-study format and enables ethics officials to become familiar with the format of the SF 450, how it is to be completed properly, and the review process.

Improvements to the Confidential Financial Disclosure System

In 1994, OGE's Office of Program Assistance and Review conducted a study at 75 departments and agencies to determine the effectiveness of the confidential financial disclosure system. This study, in addition to two "brown bag" luncheon sessions held by the Director for over 30 agency ethics officials, resulted in a number of suggestions for changes and improvements to the overall confidential financial disclosure system. Suggestions included issuing agency guidance on reevaluating which positions are required to file an SF 450; revising the SF 450 to make it more "user-friendly" and improving instructions based on agency suggestions; examining the feasibility of modifying the regulation which governs the content of the SF 450; and, testing alternative reporting approaches. The changes made to date have been well-received by the ethics community.

Computer Software for Confidential Financial Disclosure System

At the 1995 Annual Ethics Conference, OGE demonstrated and distributed a free computer software program for completing and printing the SF 450 confidential financial disclosure form. Developed by OGE's Office of Information Resources Management, this stand-alone software requires no additional software, other than DOS to run the program. The program allows the individual filer to complete and print the form while saving the data to a database file which can be recalled and updated the following year. Any changes made to the data in subsequent filings will be highlighted on the printed form so the reviewer can readily see the differences between the last and current filing. This should save considerable time in the review process. A similar program, with even more sophisticated built-in editing and "technical review" capabilities, is under development for the public financial disclosure report (SF 278). The current version of the SF 450 software (Version 1.0a) can be downloaded from OGE's electronic bulletin board, TEBBS, or is available in OGE's Ethics Information Center. Copies should also be available from the department or agency's ethics office.

The Ethics Bulletin Board System - TEBBS

In 1992, in order to increase services using less resources, OGE established an electronic bulletin board, The Ethics Bulletin Board System (TEBBS). It was established in response to departments' and agencies'

desire to have a faster, more direct, and more convenient method for obtaining information. Through TEBBS, OGE communicates with all ethics officials more directly and more immediately, and OGE is assured of the accuracy and consistency of the message because TEBBS information is produced by OGE. New materials are promptly added to TEBBS as they are developed or issued by OGE so it is as up-to-date as possible. TEBBS callers who want technical information about the system may leave electronic mail messages for OGE bulletin board support staff.

Using TEBBS, callers can read bulletins or informational items about ethics laws, regulations, policies, opinions, training materials, or upcoming events relating to executive branch ethics activities. Callers may also download directly to their own computers electronic copies of materials in TEBBS. In this way ethics personnel can download a document, print and distribute it to agency personnel at nominal cost. Some of the items available are the current issue of the *Government Ethics Newsgram* (a newsletter-type publication of OGE published several times a year), all three pamphlets, and the informal advisory letters and memoranda through 1994. Using the files and a postscript printer will enable production of a "camera ready" black and white copy of these documents.

Since 1992, there have been over 12,000 calls into TEBBS to access information. Easily three-fourths of those calls have occurred in 1994-95 as individuals have become aware of and more comfortable with this type of service. To use TEBBS, an individual needs a personal computer, a modem, a telecommunications software package, and a telephone line.

Ethics CD-ROM

The Ethics CD-ROM was developed by OGE to provide the ethics community with a complete, up-to-date library of information in a CD-ROM format. Most recently issued in October 1995, the Ethics CD-ROM is an effective, efficient manner of making key documents and materials available to the Federal ethics community on a compact disc--easy to store, easy to search, and easy to retrieve. This is also a paperless system which is very cost effective.

The October 1995 issue is a multimedia, searchable collection of Federal executive branch ethics laws, Executive orders, regulations, informal advisory letters, policy memoranda (DAEOgrams), Federal Register notices, and ethics program administration aids issued through September 30, 1995. It includes OGE publications: *A Brief Wrap on Ethics, Take the High Road, Do it Right* and public and confidential financial disclosure review guides. It also includes the latest free OGE software for completing and printing the SF 450 confidential financial disclosure form.

The October version (the earlier April version does not do so) includes preview sample video and audio clips of each of the four ethics videos: *The Ethical Choice: Ethics for Special Government Employees; Public Financial Disclosure: A Closer Look; Guide to the Standards of Ethical Conduct for Employees of the*

Executive Branch; and Integrity in Public Service: Earning the Public's Trust. Each video sample lasts three to four minutes and complete ordering and pricing information is included.

OGE World Wide Web Site

In 1995 OGE announced plans to develop an Office of Government Ethics web site for the World Wide Web network. This site will allow greater ease of access to information about the ethics program. Much of this information is currently available only through telephone requests, modem hookups, and written requests to the Office. This foray into the future of communications will give the executive branch ethics program of the United States greater visibility throughout the world and will promote a broader understanding of the principles of public service.

OGE plans to provide access to a wide range of information about the Office and its role in the executive branch ethics community. Slated for inclusion on the web site are the Executive orders, statutes and regulations which form the basis for the executive branch ethics program, as well as advisory opinions which interpret these sources. In addition, information on the various publications and video and audio training materials will be available and will be updated as new materials are offered.

Ethics Information Center

On May 2, 1994, OGE opened the doors of the Ethics Information Center. The Center is located physically within OGE's offices and offers a wide-range of materials including videotapes, training pamphlets and booklets, brochures, overhead slides, discussion outlines and computer-based training modules. It also has the necessary equipment to assist agency staff in locating, producing, and reviewing materials. A computerized catalogue of materials and information is available at the Center for convenient use by visitors.

While the Center serves as a repository for all types of executive branch ethics training materials, it is much more than a clearinghouse for material and information. The Center provides the necessary equipment and staff to assist agencies in putting together a successful training program. Both video and audio tapes may be copied and edited so that they can be adapted for unique individual agency programs. Specially equipped desks permit review of audio/video materials. OGE staff is on hand to assist those who use the Center.

To date, the most popular items in the Center are videotapes. Since it opened, over 100 representatives of departments, agencies, component offices and other organizations from around the world have utilized the Center. In addition to OGE materials, over 74 agencies have contributed samples of their training materials to the Center.

The Center has already proven to be a useful resource for the agencies in sustaining their ethics training programs. From feedback from agencies using the Center, we have been told the Department of the Army utilized a number of ethics training videotapes in developing its 1995 ethics training courses. Additionally, the Department of the Air Force found the information in the Center to be extremely helpful as they re-wrote all of their course materials. Finally, the Office of Thrift Supervision has found that the Center offers new and useful training materials and arranged for their regional ethics counselors to visit the Center when they were meeting in Washington, DC.

Public Document Service

OGE serves as the source for the general public for Public Financial Disclosure Reports (SF 278) filed primarily by Presidential appointees and for Agency Travel Acceptance Reports filed with OGE by executive branch agencies. A copy of any of these reports is provided to any person or organization who makes a request and who completes a statutorily mandated public request form. (OGE Form 201)

Public Financial Disclosure Reports

OGE is the repository of the public financial disclosure reports filed by officials in high executive branch posts, including the President and the Vice President and those holding Presidential appointments requiring confirmation by the Senate. OGE releases publicly available financial disclosure reports to members of the public who request them.

OGE receives letters or phone calls from news organizations, public interest groups, and the general public asking for copies of reports on one or more individuals who are required to file with OGE. In 1994, OGE received 248 requests for copies of 912 reports. In 1995, OGE received 171 requests for 439 copies of reports.

Agency Travel Acceptance Reports

The Ethics Reform Act of 1989 contains a provision which permits executive branch agencies to accept travel and related expenses from non-Federal sources. This authority allows organizations sponsoring certain types of meetings and events to pay agencies for the travel expenses of executive branch employees who attend rather than the agencies expending Government funds to send the employees.

Each agency accepting travel payments over \$250 for such purposes from a non-Federal source must report that acceptance on a semiannual basis to the Office of Government Ethics. The agency must report the nature of the event to which the employee traveled, who paid the travel expenses, how much was paid, which employee traveled, and when the event occurred. These reports are made public upon request.

In 1994, OGE received 13 requests from news organizations and public interest groups for copies of these reports. Of these, one requested copies of all the reports submitted. In 1995, there were eight requests.

Conferences and a Training Partnership

In 1991, the Office of Government Ethics re-established the practice of holding annual ethics conferences. (Four small conferences had been held in the Metropolitan Washington Area in the early 1980's.) These conferences provide ethics officials an opportunity to meet together to discuss common problems and concerns and to share

solutions at a site away from the immediate demands of their offices. These conferences are also designed as an opportunity for OGE to communicate directly with the entire ethics community. Interest in these conferences has remained high and OGE has had to limit participation because of the size of the facilities in which they were held.

These annual ethics conferences have occurred as follows:

| | | |
|------|--------------------|------------------|
| 1995 | Williamsburg, VA | 475 participants |
| 1994 | Baltimore, MD | 450 participants |
| 1993 | Hershey, PA | 400 participants |
| 1992 | Virginia Beach, VA | 200 participants |
| 1991 | Virginia Beach, VA | 200 participants |

Over 100 Federal agencies have sent representatives to these conferences.

OGE solicits significant participation from the ethics community in planning and developing conference programs. Agency ethics staff also lead a majority of the concurrent sessions covering a wide range of topics. In 1994 and

1995, OGE surveyed all agencies in order to identify the most topical issues agencies wished to have addressed in the program. This survey proved to be a valuable resource in designing a conference program that addresses the most pressing concerns of the ethics community.

OGE also holds small, informal “brown bag” luncheon sessions and “coffee klatches” with ethics officials to provide a forum for free, open exchanges of information and views. These meetings provide ethics officials with an opportunity to discuss directly and candidly the practical day-to-day problems they face in administering an agency ethics program as well as to discuss major policy issues that are of concern to them.

In May 1984, OGE began publishing the *Government Ethics Newsgram* on a regular basis as an informal means of sharing news and information with the entire ethics community throughout the year. In each of the years 1994 and 1995, OGE published three issues of the Newsgram. Articles were provided by OGE staff, ethics officials and others interested in the program.

Ethics Trainers’ Partnership

In the summer of 1994, OGE solicited executive branch agencies’ interest in the formation of an Ethics Trainers’ Partnership whose purpose would be to foster more effective ethics training through the consolidation of

agency resources. Representatives from approximately 83 Departments, agencies and components joined together in the Partnership.

Through the auspices of the Partnership, those individuals developed a variety of programs and training opportunities to assist each other as well as meet the ethics training requirements for agency employees for calendar year 1995. Ethics trainers attended four quarterly meetings covering a wide-range of topics. These topics included discussions of the key elements of a training program, effective training techniques and previews of newly-released ethics training videotapes. In October 1995, 15 of the Partnership agencies pooled their resources and developed a one-hour ethics training session that was broadcast, via satellite, to approximately 30,000 executive branch employees. This joint effort saved the participating agencies substantial time and financial and personnel resources in meeting the annual ethics training requirement for 1995.

OGE and the Presidential Appointment Process

Individuals nominated by the President for positions requiring confirmation by the Senate are required by law to file public financial disclosure reports. These reports are reviewed by the White House Counsel's Office, the agencies in which the nominees will serve and OGE prior to the nominees' confirmation hearings. While working with the White House and the agencies, OGE conducts the last review and certification of the reports before they are transmitted to the U.S. Senate. Rarely will a Senate committee hold a confirmation hearing without having received the financial disclosure report with OGE's certification and opinion letter.

The personal finances of individuals nominated are thoroughly analyzed, problem areas are discussed, and appropriate remedial steps are fashioned, or agreed to by the nominees, in order to avoid conflicts between the nominees' financial interests or affiliations and their prospective Government positions. These remedial steps include agreements for recusals, divestitures, resignations, statutory waivers, and/or blind trusts. The blind trusts and divestitures, particularly, entail extensive coordination by the General Counsel staff. Blind trusts which qualify to solve problems of conflicts of interest are highly technical instruments which must closely reflect statutory requirements and implementing regulations.

Individual Public Financial Reports Certified to U.S. Senate for Confirmation

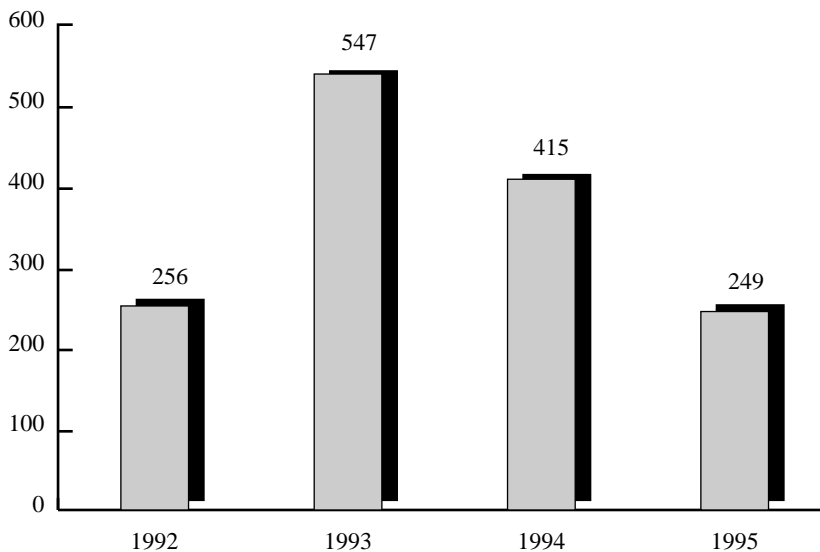


Chart II

Upon appointment, an individual seeking to divest assets to avoid an actual or apparent conflict may request a Certificate of Divestiture from OGE to alleviate the financial hardship which may occur through the recognition of otherwise unplanned capital gains. (Executive branch employees, other than PAS appointees, may also request a Certificate of Divestiture should circumstances make divestiture an appropriate conflict avoidance step.) Section 1043 of the Internal Revenue Code allows an eligible person to defer taxes on capital gains from the sale of assets, when that sale is made in order to avoid a conflict of interest or the appearance of a conflict. The determination of qualifying assets and parties covered by a Certificate of Divestiture is strictly limited by statutory and regulatory guidelines. Further, the Director of the Office of Government Ethics will issue a Certificate of Divestiture only upon concurrence with the Designated Agency Ethics Official's determination that the divestiture is reasonably necessary to comply with 18 U.S.C. § 208, or any other Federal conflict of interest statute, regulation, rule, or Executive order, or if the sale is requested by a Congressional committee as a condition of confirmation. OGE processed 187 requests for Certificates of Divestiture in 1994, and 114 during 1995. Most of these requests were from individuals who had agreed to divestitures during the confirmation process.

During 1994, the OGE staff reviewed, coordinated, certified, and forwarded to the Senate 415 public financial disclosure reports for Presidential nominees. For 1995, 249 such reports were processed. On average, 75 to 100 nominee draft reports were pending review and coordination at OGE at any given time during 1995.

OGE also tracks a Presidential appointee's compliance with any ethics agreement the appointee made during the confirmation process. These agreements may concern the financial interests of an appointee, his or her spouse, and any dependent children in order to bring the appointee into compliance with applicable ethics laws and regulations and to avoid conflicts of interest with the appointee's Government position. An appointee is to certify, with documentation to OGE, that such agreements have been satisfied within 90 days of confirmation.

In 1994, of the 415 nominees whose public financial disclosure reports were approved by OGE and forwarded to the Senate, 155 nominee/appointees entered into agreements affecting their financial interests. In 1995, 77 of 249 nominee/appointees entered into ethics agreements.

International Conference on Government Ethics

The U.S. Office of Government Ethics and the U.S. Information Agency cosponsored the International Conference on Ethics in Government in Washington, DC, November 20-23, 1994.

Over 80 representatives from 49 countries attended the conference. Experience in government ethics systems varied among attendees. Some were from countries with highly structured government ethics programs, and others were from new democracies where such systems are only beginning to take shape. Ethics officials from throughout the executive branch of the Federal Government and the States shared their perspectives and experiences administering government ethics programs with Conference attendees.

The Conference featured a series of lively and informative panel sessions, engaging keynote and luncheon speakers including then Counsel to the President Abner Mikva and former Attorney General Elliot Richardson.

By any measure, the Conference was an overwhelming success. OGE continues to receive favorable comments from participating delegates, and has received inquiries regarding follow-up meetings with foreign participants. Participants have subsequently organized their own regional meetings in Latin America, Eastern Europe and in the Middle East. This is perhaps the most important product resulting from the Conference—the beginning of the creation of a worldwide ethics community.

Litigation

OGE has been a party to three cases during the period. One which culminated with a Supreme Court decision in 1994, involved a challenge to the statutory ban on receipt of honoraria. A second involved a provision in the Standards of Ethical Conduct relating to speaking, teaching and writing. The third involves a claim in part against OGE for its response to a Freedom of Information request for documents relating to the President's Legal Expense Fund Trust. The first two cases will require regulatory amendments once the final injunctions are issued in the cases.

A summary of each case follows:

United States v. National Treasury Employees Union, 115 S. Ct. 1003 (1995).

In November 1989, Congress enacted the Ethics Reform Act of 1989 which included a provision that prohibited Members of Congress and officers and employees of the Federal Government from accepting honoraria for an appearance, speech or article. In 1991, this provision was amended to exclude from the definition of honorarium any series of appearances, speeches or articles unrelated to the employee's official duties or status. The Office of Government Ethics issued regulations at 5 C.F.R. part 2636 implementing the honoraria restriction with respect to executive branch employees.

Subsequently, several employee unions as well as a number of individual executive branch career employees sued to have the honorarium restriction struck down as unconstitutional. On March 19, 1992, the United States District Court

for the District of Columbia held that this provision was an unconstitutional abridgement of First Amendment rights as it applied to Executive Branch employees. See *National Treasury Employees Union v. United States*, 789 F. Supp. 4 (D.D.C. 1992). The district court enjoined enforcement of this provision but stayed its judgment pending appeal. The Government appealed from the judgment and injunction and the plaintiffs appealed from the stay.

The appeal was heard by the United States Court of Appeals for the District of Columbia Circuit and on March 30, 1993, the Appeals Court in a split decision affirmed the decision of the District Court. See *National Treasury Employees Union v. United States*, 990 F.2d 1271 (D.C. Cir. 1993). The majority held that the law was not narrowly tailored as it applied to executive branch employees. The Government appealed to the Supreme Court.

On February 22, 1995, the United States Supreme Court issued a decision that affirmed in part the decision of the Appeals Court. *United States v. National Treasury Employees Union*, 115 S. Ct. 1003 (1995). The five member majority upheld the decision of the Appeals Court as it applied to the class of parties who had challenged the honoraria ban but reversed it insofar as it granted relief to a class of senior executive branch officials who were not represented in the group of employees who had taken the case to court.

As of the date of this report, the case is back before the District Court awaiting issuance of the court's final order.

Sanjour v. Environmental Protection Agency, 56 F.3d 85 (D.C. Cir. 1995).

This case involved a First Amendment challenge by two EPA employees to 5 C.F.R. § 2635.807, and its prohibition on employee acceptance of travel expense reimbursements from non-Government sources in connection with certain unofficial speech relating to agency programs.

On February 19, 1992, the United States District Court for the District of Columbia upheld the constitutionality of the regulation. See *Sanjour v. Environmental Protection Agency*, 786 F. Supp. 1033 (D.D.C. 1992). The United States Court of Appeals for the District of Columbia Circuit in a split decision affirmed the decision of the District Court. *Sanjour v. Environmental Protection Agency*, 984 F.2d 434 (D.C. Cir. 1993). Subsequently, the full court granted rehearing *en banc*.

On May 30, 1995, the U.S. Court of Appeals for the District of Columbia Circuit, in a 5-4 *en banc* decision, reversed the District Court's opinion and held invalid the prohibition on travel expense reimbursement. The court explicitly reserved judgment, however, on the constitutionality of the rule as applied to "senior" executive branch employees.

After the Court of Appeals issued its decision, the Solicitor General decided not to petition for further review in the Supreme Court. The case was remanded to the District Court, where, at the time of this report, it awaits issuance of the Court's final order.

Judicial Watch, Inc. v. H.R. Clinton, 880 F. Supp. 1 (D.D.C. 1995), *appeal filed*, No. 95-5070 (D.C. Cir. argued Jan. 22, 1996).

In the summer of 1994, two private groups brought a lawsuit alleging that the Presidential Legal Expense Trust, the President's legal defense fund, should be chartered under the Federal Advisory Committee Act (FACA) and should respond to a documentary request made under the Freedom of Information Act (FOIA). The plaintiffs also complained of the withholding of certain documents by OGE under the FOIA (OGE had released copies of various documents requested by one of the plaintiffs, but withheld certain sensitive records based on the FOIA exemption for pre-decisional staff deliberative process materials. OGE further did not provide certain personal records and a Congressional transcript not constituting OGE records). In an opinion issued in February 1995, the U.S. District Court for the District of Columbia found that the President's legal defense fund, as an operational entity not providing recommendations on Governmental policy matters, did not constitute a Federal advisory committee and was not subject to the FOIA and, further, that the documents at issue before the Court were properly withheld by OGE. The private groups have appealed to the U.S. Court of Appeals for the District of Columbia Circuit (oral argument took place on January 22, 1996).

General Agency Management

Since its inception, the Office of Government Ethics has been small by any standard; but a small agency must still have the same basic internal services as its larger counterparts. Therefore, OGE has always looked for ways to provide quality support services in a cost-effective and efficient manner.

OGE is continuing its cross-servicing agreement, begun in 1989, with the U.S. Department of Agriculture National Finance Center for a wide-range of services which include payroll/personnel, administrative payments, billings and collections, and financial management support.

OGE participated with a consortium of agencies serviced by the USDA National Financial Center in EMPLOYEE Express - a project which allows employees to access and make changes directly to their personnel and payroll records thus reducing processing time and effort, and removing a layer of personnel office activities which add no value.

To make procurement more effective and to be consistent with recommendations of the National Performance Review, OGE implemented internally the simplified acquisition procedures of the Federal Acquisition Streamlining Act of 1994. Selected program officials were delegated the authority to make purchases for goods and services valued at \$2,500 or less through the use of a Government purchase card. Purchases

of this nature are to be made using this process to the maximum extent possible.

OGE entered into an agreement with the Office of Personnel Management (OPM) to use the Microcomputer Assisted Rating System (MARS) which was developed by OPM to provide competitive and merit promotion examining services also based upon recommendations in the National Performance Review. The use of this service has undoubtedly enabled OGE to make more efficient use of its limited personnel staff in other human resource management areas.

OGE continues to make substantial use of modern electronic equipment to reduce personnel costs. The use of computers has resulted in a very low ratio of clerical support staff to professional staff. Each computer is part of a LAN network so that all staff can easily share documents throughout the system. This ability to access one document throughout the Office makes it possible for several people to develop, review, correct, and complete written materials.

OGE continues to use and has enhanced its voice mail system thus maintaining a reduced need for phone tending. It also installed an enhanced electronic mail system for fast and efficient interoffice communication, reducing paperwork and wasted staff time. For communications outside OGE, the agency maintains The Ethics Bulletin Board System (TEBBS) through which it provides to departments and agencies a modern

method for obtaining information on ethics laws, regulations, policies, opinions, and other related material regarding executive branch ethics activities. TEBBS is fast, efficient, and paperless. It is easily available, generally, seven days a week. Furthermore, because the System is managed by OGE, the information available is correct and reliable.

The agency also subscribes to commercial data bases to facilitate automated legal and legislative research rather than investing in a substantial “hard copy” library or more research personnel.

OGE makes its training materials, videos and pamphlets available in the most cost-effective manner by ensuring that the ethics community can join OGE in ordering together, thus saving repeated developmental costs and reducing the per unit cost for all.

OGE continually fine-tunes its internal administrative systems and examines its programs to see if they can be operated more efficiently or eliminated. OGE management looks for small economies as well as effective project management.

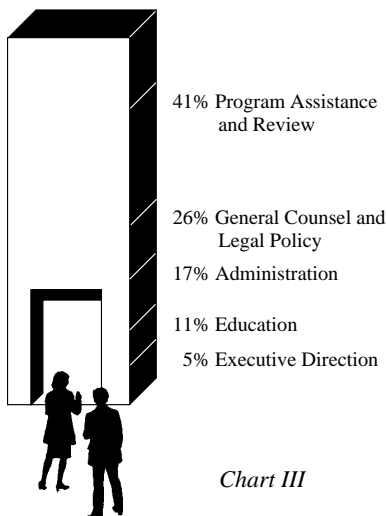
Resources

OGE's program is heavily weighted towards the provision of professional services. The agency does not provide grants, engage in construction projects, use substantial equipment, or engage in many of the types of programs for which other agencies require funds. Therefore, OGE's appropriated resources (other than rent) are primarily devoted to the salaries and benefits of the staff who carry out OGE's programs—the assessment of ethics agency programs, the development of educational and training materials and programs, the provision of advisory and interpretative assistance, the development of policy and the issuance of regulations. *Charts III and IV* indicate the general allocation of funds and distribution of employees among the several program areas of OGE.

In Fiscal Years 1994 and 1995, OGE did not receive significant increases in resources over the level it received in FY 1993. In FY 1994, OGE had a ceiling of 98 FTEs and an appropriation of \$8.3 million. In FY 1995, OGE had a funding level of \$8.1 million and a FTE ceiling of 91. Its use of those resources is noted in *Chart V*. As indicated, a focus of the Office has been efficient enhancement of the professional services offered by the staff of OGE to assist in meeting the increasing needs of agencies whose programs are receiving less funding. We believe we have been successful, but are not unaware that diminishing resources throughout the Government in the coming years will increase the demands on OGE's services and thus necessitate an increase in our inventiveness in meeting those demands.

Staffing

Central to the successful achievement of the goals and objectives established for OGE are the staffing resources assigned to the programs. During Fiscal Years 1994 and 1995, staff equated 86 full-time equivalent positions (FTE) in 1994 and 85 in 1995. *Chart III* reflects the utilization of those staff resources during this two-year period.



Funding

Funding resources obligated to realize agency programs totaled \$7.5 million in Fiscal Year 1994 and \$7.7 million in Fiscal Year 1995. *Chart IV* reflects how those resources were shared within OGE.

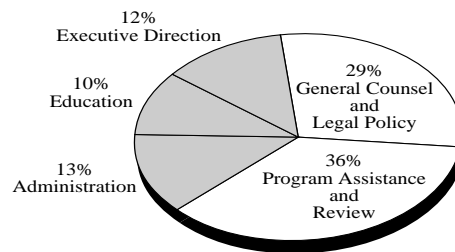


Chart IV

Office of Government Ethics

Resources by Unit (dollars in thousands)

| Unit | FY 1994 Actual | | FY 1995 Actual | |
|---|-------------------|----------------|-------------------|----------------|
| | FTE* | Amount | FTE | Amount |
| Office of the Director | 4 | \$ 911 | 4 | \$ 872 |
| Office of Program Assistance and Review | 35 | \$2,665 | 36 | \$2,859 |
| Office of General Counsel and Legal Policy | 22 | \$2,185 | 22 | \$2,236 |
| Office of Education | 10 | \$ 773 | 9 | \$ 796 |
| Office of Administration | 15 | \$ 1,016 | 14 | \$ 945 |
| Total | 86 | \$7,550 | 85 | \$7,708 |

* Full-Time Equivalent Personnel

Chart V

References

Key Legislative Dates

- October 26, 1978** Enactment of Ethics in Government Act (Pub. L. No. 95-521)
Established the Office of Government Ethics as a part of the Office of Personnel Management, effective as of January 1, 1979.
- June 13, 1979** Ethics in Government Act of 1978, Amendment (Pub. L. No. 96-19)
Amended certain financial disclosure provisions prompted by problems encountered in the administration of the disclosure system in each branch of Government.
- June 22, 1982** Ethics in Government Act Amendments of 1982 (Pub. L. No. 96-28)
Made substantial changes in the restrictions on former Government officials from representing others in certain matters before the agencies in which they served.
- November 11, 1983** Ethics in Government Act of 1978, Amendment (Pub. L. No. 98-150)
Extended the authorization of OGE until September 30, 1988, amended and clarified the authority of OGE and amended certain financial disclosure provisions of the 1978 Act.
- November 3, 1988** Office of Government Ethics, Reauthorization (Pub. L. No. 100-598)
OGE is reauthorized and made a separate agency effective October 1, 1989.
- November 30, 1989** Ethics Reform Act (Pub. L. No. 101-194).
Amended for technical corrections on May 4, 1990 (Pub. L. No. 101-280)
- July 16, 1990** Ethics in Government Act Amendment of 1990 (Pub. L. No. 101-334)
Increased the appropriations cap to \$5 million.
- October 24, 1992** Office of Government Ethics Amendment of 1992 (Pub. L. No. 102-506)
Removed appropriations cap.

Current and Past Directors*

| | |
|------------------------------|------------------------------------|
| August 1990 - present | Mr. Stephen D. Potts** |
| November 1989 - July 1990 | Mr. Donald E. Campbell (acting) |
| December 1987 - October 1989 | Judge Frank Q. Nebeker |
| August 1987 - December 1987 | Mr. Donald E. Campbell (acting) |
| August 1983 - August 1987 | Mr. David H. Martin |
| August 1982 - August 1983 | Mr. David R. Scott (acting) |
| October 1979 - August 1982 | Mr. J. Jackson Walter |
| January 1979 - October 1979 | Mr. Bernard Wruble (interim) |

*Directors appointed after October 1, 1983 receive a five-year appointment (Pub. L. 98-150).

**Mr. Potts' first term expired August 5, 1995. He was renominated by President Clinton and confirmed by the Senate. His appointment to a second five-year term was effective August 14, 1995.

Major Ethics Program Elements

Criminal Conflicts of Interest Statutes

One of the basic elements of the executive branch ethics program is adherence to and counseling on the criminal conflict of interest statutes. These statutes are found in 18 U.S.C. §§ 201-209. Most of the restrictions in these statutes are based upon similar restrictions in statutes enacted during the Civil War and the following few decades. In 1962, they were recodified into chapter 11 of title 18. While all have been modified since, only the post-employment restrictions of section 207 have been substantially amended. In 1989, the criminal penalties were increased, but civil and injunction remedies were also added as enforcement tools.

The Office of Government Ethics, based upon a 1980 Memorandum of Understanding (MOU) with the Department of Justice can provide binding advice with regard to sections 202-209. Section 201 which sets forth bribery and gratuity restrictions was not included in the MOU. In addition, Executive Order 12674 as amended, directed OGE to issue interpretive regulations regarding sections 207, 208, and 209. By statute, OGE has a role in issuing limited waivers of and designating by regulation separate agencies for purposes of the post-employment restrictions of section 207. And, by regulation OGE can issue branch-wide exemptions of the restrictions of the conflicting financial interests provisions of section 208. Appointing officials of executive branch employees have the authority under section 208(b)(1) to issue individual waivers of its requirements and ethics officials are almost always involved in the execution of those waivers.

These statutes, not only because of their complexity but because a violation can involve significant criminal penalties, require substantial counseling and interpretive resources of both OGE and agency ethics officials. For their interpretations of these statutes, ethics officials rely more heavily upon OGE's resources than for advice and counseling on other restrictions. In addition, in part because of OGE's interpretive role in these statutes, OGE has a close working relationship with the Office of Legal Counsel and the Public Integrity Section of the Criminal Division of the Department of Justice.

In order to facilitate this interpretive function, the Office surveys the Criminal Division and the U.S. Attorneys offices each year for cases they have prosecuted or charged under these statutes. The results of this survey are made available to ethics officials so that they can understand more fully what types of cases are being pursued criminally and use those cases as examples in their training efforts.

Uniform Standards of Conduct

In August 1992, the Office of Government Ethics issued an historic set of standards of ethical conduct that apply to all executive branch employees. Built on 14 basic principles, the standards set forth rules for: giving and receiving gifts between employees and from sources outside the executive branch agency, conflicting financial interests, impartiality in performing official duties, seeking other employment, misuse of position, and engaging in outside activities.

For 26 years, the ethical standards for executive branch employees were based on Executive Order 11222 signed by President Lyndon B. Johnson on May 8, 1965. This Order set forth “Standards of Conduct” and directed the Civil Service Commission to issue model regulations implementing the Order. Each agency was directed to issue its own regulations that were consistent with that model.

The Civil Service Commission, followed by its successor agency the Office of Personnel Management, was responsible for reviewing these regulations until the Office of Government Ethics was established. However, OGE found that agency regulations were not always consistent with the model, or they were written consistently, but were interpreted differently by individual agencies.

In 1989, the President’s Commission on Federal Ethics Law Reform was convened to evaluate existing ethics rules and policies. One of its key recommendations was:

that the Office of Government Ethics be directed by executive order to consolidate all executive branch standards of conduct regulations into a single set of regulations. Individual agencies could supplement these regulations with stricter standards with the approval of the Office of Government Ethics.

This recommendation was implemented by Executive Order 12674, issued on April 12, 1993 (later amended slightly by Executive Order 12731). It directs OGE to “establish a single, comprehensive, and clear set of executive-branch

standards of conduct that shall be objective, reasonable, and enforceable.” These were to be based upon 14 basic principles set forth on page 54.

OGE’s response was to draft a set of standards which would bring substantial conformity to the interpretations of agencies’ regulations by providing written interpretations using extensive examples within the regulations themselves. The new standards provide a central source of written guidance for ethics questions that arise during the performance of an executive branch employee’s or a special Government employee’s duties.

The Standards of Conduct regulations were finished and published as final on August 7, 1992, and became effective on February 3, 1993. The six-month period between publication of the Standards and the effective date provided time for agencies to train employees before they would be held accountable for following the new rules.

Individual agencies were allowed by Executive Order 12674, as amended, and the Standards of Conduct to seek a supplemental regulation that would cover ethics matters unique to their respective agencies or which were left optional under the uniform rule. These regulations must be reviewed and concurred in by OGE prior to publication. The Executive Branch-wide Standards of Conduct are found at 5 C.F.R. part 2635. Agency supplementals are published at the end of that same title beginning with part 3202.

Financial Disclosure Systems

As a result of the 1978 Ethics in Government Act, high-level Federal executives have been required to disclose, in a public system, personal financial interests and affiliations. Such disclosures are made, in part, to demonstrate to the public that the officials are able to carry out their duties without engaging in or appearing to engage in actions that are in conflict with those duties. Employees in the executive branch file the public reports with their respective agencies on a standard form developed by OGE (SF 278). Additionally, copies of disclosure reports filed by persons having PAS appointments, (Presidential Appointment with Senate confirmation) are sent to the Office of Government Ethics for final review.

These reports are made available to the public through OGE and/or the agency upon specific written request. Requests are generally received from news organizations, public interest groups, and the general public. The form that a requestor is required to complete is itself also made public upon request.

Those required to file public financial disclosure reports in the executive branch are:

- the President, the Vice President, (and candidates for President and Vice President);
- each Independent Counsel (IC) (form not a public document if IC appointed under seal);
- each officer or employee in the executive branch, including special Government employees, whose position is classified above GS-15 of the General

Pay Schedule or is paid at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15;

- individuals with the ranks of Brigadier General and Rear Admiral and above in the uniformed services (07's and above);
- administrative law judges;
- the Postmaster General;
- the Board of Governors of the Federal Reserve System;
- any civilian employee not previously defined who is employed in the Executive Office of the President and holds a commission of appointment from the President;
- positions of a confidential or policy-making character; and
- the Director of OGE and each agency's primary Designated Agency Ethics Official.

The statute establishing the system requires reports from new entrants or nominees as well as incumbents to covered positions. Reports are also required at the time each filer terminates executive branch employment.

Provisions of the Ethics Reform Act of 1989 made changes in the public financial disclosure system and established a uniform system of confidential financial disclosure in the executive branch. Just as high-level officials are required to report certain financial interests publicly to ensure that every citizen can have 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 certain sensitive areas, to report their financial holdings and outside business activities to their employing agencies. This process facilitates the agency review of possible conflicts of interest, assists the agency in administering its ethics program, and assists in counseling employees to avoid conflicts of interest.

Those required to file confidential financial reports are:

- all special Government employees including those who serve on advisory committees (unless they are required to file public reports); and
- each officer or employee in the executive branch, the United States Postal Service or the Postal Rate Commission, whose position is classified at GS-15 or below, or the rate of basic pay for which is less than 120% of the minimum rate for GS-15, or at a pay grade less than 0-7 for uniformed service members; **IF** it is determined by the agency: that the duties and responsibilities of a position require the employee to participate personally and substantially, (through decision or the exercise of significant judgment), in taking a Government action regarding contracting or procurement, administering or monitoring grants, subsidies, licenses or other Federally conferred financial or operational benefits, regulating or auditing any non-Federal entity, or decisions or actions having a direct and substantial economic effect on the interests of any non-Federal entity; or that the duties and responsibilities of the position otherwise require the employee

to file a report in order to avoid involvement in a real or apparent conflict of interest and to carry out any applicable law, Executive order or regulation; and

- certain otherwise public filers, as determined by the agency.

Certain information required to be disclosed by public filers is not necessary in order to counsel employees regarding actual or potential conflicts of interest. Therefore, it is not required of confidential filers. These differences recognize the less intrusive philosophy of the nonpublic confidential system, as well as a balancing of the utility of certain information against the administrative review burdens inherent in such a broad-based filing program.

The purpose of reviewing disclosure reports is to identify potential conflicts between the interests of an employee (including those of a spouse and dependent children) and the employee's official position and duties and then to counsel the employee. If the report reveals that an employee may not be in compliance with ethics laws and regulations, the agency must determine what remedial action is required to resolve the situation and then notify the employee. For example, an employee may be asked to divest the conflicting interest, submit a request for a statutory waiver, or submit a written disqualification. The employee may also be reassigned by the agency to duties that do not conflict with the employee's interests.

Both public and confidential financial disclosure reports are kept for six years after the dates on which they were filed.

Training and Education

One of the major responsibilities of an ethics program is ensuring that all executive branch employees are aware of their responsibilities in conducting themselves and the business of Government in a manner that is consistent with the standards of conduct expected of them as public servants. This includes not only informing employees but helping them understand in practical terms how those statutes and regulations might impact their actions as individual employees.

Working with the Designated Agency Ethics Official in each agency, the Office of Government Ethics provides leadership and educational coordination on a wide array of activities intended to support this function. In addition to developing and providing materials which can be incorporated in an agency's instructional programs, OGE provides skilled and knowledgeable instructors to train those who, in turn, train employees. The Office also educates ethics trainers in adult education skills.

In 1989, pursuant to Executive Order 12674, each agency became responsible for developing a mandatory annual ethics training program for its employees. The training must include mandatory annual briefings on ethics and standards of conduct for:

- all employees appointed by the President;
- all employees in the Executive Office of the President;

- all officials required to file public or nonpublic financial disclosure reports;
- all employees who are contracting officers and procurement officials; and
- any other employees designated by the agency head.

OGE regulations implementing Executive Order 12674 provide a framework for uniformity among agency ethics training programs. The OGE regulation, found at subpart G of 5 C.F.R. part 2638, establishes minimum standards of course presentation, content and duration. Under the regulation, the annual ethics briefing must be presented verbally. Agencies may choose from a number of differing formats in meeting this requirement. Depending on their needs, agencies have used videotapes, audiotapes, satellite broadcasts and interactive computer programs, classroom training, or combinations of these in providing annual training. Whatever the format, the annual training must include a brief reminder of the Standards of Ethical Conduct and the criminal conflict of interest statutes. Agencies generally must provide their employees with a minimum of one hour of official duty time to receive their annual training.

To ensure that all executive branch employees have the opportunity to understand the rules that govern their conduct, OGE also requires agencies to provide all new employees with an "initial ethics orientation" within

90 days of the time the new employee joins the agency. At a minimum, agencies must provide employees with an hour of official duty time to review either a summary or the actual text of the Standards of Ethical Conduct for Employees of the Executive Branch. Agencies must also provide employees with the name, address and telephone

number of a person in the agency that they can go to for ethics-related advice.

As a part of OGE's ongoing process of reviewing regulations, OGE is currently considering changes to the training requirements that would allow agencies to use their training resources more efficiently.

Office of Government Ethics Program Offices

Office of General Counsel and Legal Policy

The Office of General Counsel at OGE is responsible for establishing and maintaining a uniform legal framework of Government ethics for executive branch employees, and for assisting agencies in its implementation. As such, it is the primary policy office within the agency. To accomplish this broad purpose, the General Counsel staff:

- assists the Director in coordinating with the White House, the Department of Justice, the Office of Personnel Management, the Office of Management and Budget, and Congress all ethics policies and requirements for the executive branch, including liaison on pending legislation and regulations;
- reviews public financial disclosure reports of Presidential nominees, as part of the Senate confirmation process;
- develops and publishes regulations and forms implementing executive branch ethics program requirements established by Executive orders and statutes;
- provides interpretive guidance on the administrative ethical standards of conduct, the criminal conflict of interest statutes, the civil ethics statute restrictions, public and confidential financial disclosure requirements, and other ethics-related matters, to agency ethics officials, employees, and the public, by means of written and oral opinions;
- fulfills a consultative role of assisting agency ethics officials with the application of statutes and regulations to specific factual situations;
- coordinates with the Department of Justice in its enforcement of the criminal conflict statutes and the civil ethics-related statutes, and manages OGE's corrective action enforcement authority;
- augments the OGE Office of Education's role, by providing official speakers and panelists at forums for Government employees and the public, and at regional and Washington, DC training seminars for agency ethics officials; and by developing or reviewing written materials made available by OGE in support of the training mission;
- administers the qualified blind trust program for the entire executive branch, as well as the issuance of Certificates of Divestiture to permit deferral of tax on certain capital gains realized through the sale of assets to avoid conflicts with executive branch service;
- provides in-house counsel legal services for OGE in carrying out its own agency functions;
- provides advisory services to Independent Counsels pursuant to requirements of the Act providing for their appointments;
- coordinates with the General Services Administration on the issuance of regulations pertaining to agency gift acceptance of travel and with the Federal Acquisition Council on the issuance of regulations under the Procurement Integrity Act; and
- provides consultation to agency ethics officials in their waiver determinations under the criminal conflict of interest statute, 18 U.S.C. § 208, for employees who may be permitted to participate in official matters where they hold insubstantial interests.

Office of Program Assistance and Review

As provided in Title IV of the Ethics in Government Act of 1978, as amended, OGE's responsibilities include "monitoring and investigating compliance with the annual public financial disclosure requirements of...the Act" and "monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the Executive Branch." The Ethics in Government Act also provides that the Director of OGE may order corrective action on the part of agencies and employees, as well as the processes for undertaking such corrective action. Moreover, under the implementing regulations at 5 C.F.R. part 2638, OGE is to monitor agency compliance with the public and confidential reporting requirements and evaluate the effectiveness of programs designed to prevent conflicts of interest. Part 2638 also prescribes detailed procedures for implementing OGE's corrective action authority.

To carry out these responsibilities, the Office of Program Assistance and Review monitors executive branch agency ethics programs. The Office of Program Assistance and Review consists of two separate divisions: the Program Review Division (PRD) and the Program Assistance Division (PAD). Management analysts in PRD monitor agency and employee compliance with executive branch ethics laws and regulations through periodic ethics program reviews. Ethics specialists, who serve as desk officers in PAD, assist agencies in the development, maintenance, and improvement of their ethics programs. Consequently, the two

Divisions often work in tandem, with PAD assisting agencies in implementing ethics program recommendations stemming from reviews conducted by PRD. Although the divisions are interrelated, each one will be described here separately.

Program Review Division (PRD)

PRD conducts on-site headquarters and regional ethics program reviews to determine whether an agency has an effective ethics program tailored to its mission. The reviews are accomplished in accordance with detailed review guidelines and are scheduled in advance in an annual program plan. The guidelines provide a step-by-step approach to examining each of the ethics program elements at an agency. The program plan sets forth which agency reviews will be conducted during the year. The plan lists headquarters offices in Washington, DC, and various offices and military facilities in the regions. On average, PRD spends two weeks or more at the headquarters of an agency during its review. Reviews at regional offices or military facilities usually last a few days to a week.

Reviews entail a thorough analysis of the agency's implementation of all basic requirements of an ethics program, as well as more unique elements of a program that may arise because of the actual mission of the agency. Individual ethics program elements which PRD examines include:

- ethics program structure and staffing;
- public financial disclosure reporting systems;
- confidential financial disclosure reporting systems;
- ethics education and training;

- ethics counseling and advice;
- outside employment and activities; and
- post-employment counseling.

Following the review, a report is sent to the Designated Agency Ethics Official. That report may or may not contain recommendations to improve the ethics program. While copies of reports had been routinely sent to agency heads, as of mid-1995, OGE changed its distribution policy and now only sends copies of PRD reports to agency heads when significant ethics program deficiencies exist. Within the parameters of executive branch laws and regulations, program review recommendations are tailored to the type of agency program, and focus on the procedures and internal controls that will enhance a strong ethics program at the agency. Agencies are required to respond to OGE within 60 days concerning the actions they are taking or plan to take pursuant to OGE's recommendations. To confirm that the agency has acted on OGE's recommendations, PRD conducts a follow-up review six months from the date of the report.

Program Assistance Division (PAD)

The Program Assistance Division (PAD) works with executive branch agencies to develop and maintain strong ethics programs that meet every requirement of executive branch ethics laws and regulations. In addition, PAD has primary responsibility for tracking, collecting, and reviewing the annual and termination public financial disclosure reports of approximately 1,000 Presidential appointees confirmed by the Senate and approximately 125 Designated Agency Ethics Officials. To carry out its responsibilities, PAD:

- operates a desk officer system which assigns an OGE management analyst to each agency to act as a liaison between the agency and OGE. The desk officers provide advice to agency ethics officials on various substantive ethics issues as they arise or on technical matters, by telephone and/or through personal contact;

- lends assistance to OGE's Office of General Counsel in its review of reports submitted during the nomination process for Presidential appointees requiring advice and consent of the Senate (PAS);

- tracks, collects, and reviews public annual and termination reports of all PAS nominees and appointees and works closely with agency ethics officials to ensure that all reports are complete, in accordance with the Ethics in Government Act and implementing regulations, and that the filers are free of any conflicts of interest or the appearance of conflicts;

- processes waivers to be granted by agencies under Title 18 U.S.C. § 208, when such waivers are submitted to OGE's Office of General Counsel for consultation in accordance with the provisions of Executive Order 12674, as modified by Executive Order 12731;

- plays an active role in implementing recommendations made by OGE following a PRD review of the ethics program;

- tracks and ensures compliance with agreements made by Presidential appointees during the confirmation process;

- processes requests, pursuant to the Ethics in Government Act, for filing exemptions and extensions, as well as requests for waivers of the \$200 late filing fee;

- collects, analyzes, and makes available to the public semiannual reports required of agencies under 31 U.S.C. § 1353 which detail payments of more than \$250 which the agency has accepted from non-Federal sources for travel, subsistence, and related expenses;

- advises agencies on matters concerning confidential financial disclosure regulations, including supplementation of the confidential filing system and implementation of a system for collecting and processing the financial disclosure reports; and

- releases publicly available financial disclosure reports to members of the press and to the general public who request them.

Office of Education

Section 402(b)(14) of the Ethics in Government Act of 1978, as amended, makes the Director of OGE responsible for “providing information on and promoting understanding of ethical standards in executive agencies.” Under implementing regulations at 5 C.F.R. § 2638.203(b)(6), each Designated Agency Ethics Official must ensure that an education program for agency employees concerning all ethics and standards of conduct matters, including post-employment matters, is developed and conducted in cooperation with the education program of the Office of Government Ethics.

The Office of Education assists Departments and agencies in ensuring that quality ethics education programs are provided to almost five million executive branch employees and materials are made available to facilitate these programs. In order to accomplish this goal the Office of Education:

- provides classes for trainers and practitioners in both Washington, DC and the Federal regions;

- creates materials and media presentations on ethics rules and policies;

- provides guidance for agencies in the design of their ethics training programs;

- maintains within the Ethics Information Center a central repository of ethics training materials from executive agencies;

- plans and supports conferences and meetings;

- coordinates joint agency cooperation in the creation of training materials and the development of universal ethics courses; and

- coordinates and analyzes the annual agency reports to OGE.

In 1995, the Office of Education also assumed the responsibility for publishing OGE’s *Government Ethics Newsgram*. Issued at least three times a year, the *Newsgram* informs the ethics community about OGE activities as well as various agency activities that are of interest generally.

Appendix I

Program Review Division Reports Issued During Calendar Years 1994 and 1995

| Cabinet Level Departments | Date Report Issued |
|--|---------------------------|
| Department of Health and Human Services | 07/06/94 |
| Department of Labor | 01/28/94 |
| Department of State | 06/06/95 |
| Department of Transportation | 05/03/94 |

| Departmental and Independent Agencies | Date Report Issued |
|---|---------------------------|
| Advisory Commission on Intergovern- mental Relations | 12/20/95 |
| Agency for International Development | 11/13/95 |
| Air Force Office of Scientific Research | 05/17/94 |
| Air University Command | 06/06/94 |
| Appalachian Regional Commission | 10/27/95 |
| Army/Air Force Exchange Service | 03/24/95 |
| Bureau of Labor Statistics (DOL) | 09/06/95 |
| Centers for Disease Control (HHS) | 08/18/94 |
| Central Intelligence Agency | 04/27/95 |
| Commodity Futures Trading Commission | 02/13/95 |
| Comptroller of the Currency (Treasury) | 10/19/95 |
| Defense Intelligence Agency | 01/24/95 |
| DOD On-Site Inspection Agency | 12/21/95 |
| Federal Aviation Administration (DOT) | 07/25/94 |
| Federal Bureau of Investigation (DOJ) | 10/07/94 |
| Federal Deposit Insurance Corporation | 11/25/94 |
| Federal Election Commission | 01/27/95 |
| Federal Emergency Management Agency | 03/17/95 |
| Federal Energy Regulatory Commission | 01/23/95 |
| Federal Housing Finance Board | 01/05/94 |
| Federal Mediation and Conciliation Service | 12/21/95 |
| Federal Trade Commission | 06/23/95 |
| Federal Transit Administration (DOT) | 07/18/95 |
| Financial Management Service (Treasury) | 11/06/95 |
| Food and Consumer Service (USDA) | 09/06/95 |

| Departmental and Independent Agencies | Date Report Issued |
|---|---------------------------|
| Foreign Claims Settlement Commission of the United States (DOJ) | 12/14/95 |
| Forest Service (USDA) | 02/25/94 |
| Hill Air Force Base | 07/12/94 |
| Immigration and Naturalization Service (DOJ) | 08/11/95 |
| Internal Revenue Service (Treasury) | 12/21/94 |
| National Archives and Records Administration | 07/30/94 |
| National Credit Union Administration | 01/28/94 |
| National Defense University | 03/09/95 |
| National Institute of Standards and Technology/Office of Technology Policy (Commerce) | 10/27/95 |
| National Institutes of Health (HHS) | 06/19/95 |
| National Labor Relations Board | 05/20/94 |
| National Oceanic and Atmospheric Administration (Commerce) | 05/11/95 |
| National Security Agency | 10/13/95 |
| Naval Air Station Patuxent River | 06/06/94 |
| Naval Air Station Pensacola | 10/13/95 |
| Naval Criminal Investigative Service | 12/20/95 |
| Naval Research Laboratory | 01/05/94 |
| Naval Surface Warfare Center (Crane, IN) | 08/10/95 |
| Navy Exchange Service Command | 08/09/95 |
| Nuclear Waste Technical Review Board | 04/20/95 |
| Occupational Safety and Health Review Commission | 04/20/95 |
| Office of Navajo and Hopi Indian Relocation | 12/21/95 |
| Patent and Trademark Office (Commerce) | 09/27/94 |
| Peace Corps | 01/26/95 |
| Pearl Harbor Naval Shipyard | 06/12/95 |
| Postal Rate Commission | 03/06/95 |
| Puget Sound Naval Shipyard | 01/26/95 |
| Railroad Retirement Board | 06/02/95 |
| Saint Lawrence Seaway Development Corporation (DOT) | 08/11/95 |
| Securities and Exchange Commission | 02/23/95 |
| Small Business Administration | 06/20/95 |
| Tennessee Valley Authority | 07/07/94 |

| Departmental and Independent Agencies | Date Report Issued |
|---|---------------------------|
| Trade and Development Agency | 09/11/95 |
| Uniformed Services University of the Health Sciences | 01/11/94 |
| U.S. Army Fort Benning | 10/18/95 |
| U.S. Army Fort Bragg | 10/11/95 |
| U.S. Army Fort Detrick | 11/25/94 |
| U.S. Army Fort Huachuca | 01/23/95 |
| U.S. Army Letterkenny Army Depot | 06/01/95 |
| U.S. Army Medical Research and Material Command | 11/28/94 |
| U.S. Army Military District of Washington | 02/25/94 |
| U.S. Army Missile Command | 09/26/94 |
| U.S. Army Rock Island Arsenal | 06/21/95 |
| U.S. Army White Sands Missile Range | 04/22/94 |
| U.S. Coast Guard (DOT) | 01/16/95 |
| U.S. Enrichment Corporation | 06/27/95 |
| U.S. Information Agency | 11/28/94 |
| U.S. Postal Service | 08/09/95 |
| Warner Robins Air Logistics Center | 10/06/94 |

Appendix II

Ethics Reference and Education Materials

VHS Video Tapes

All tapes may be ordered through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Telephone sales desk: 703-487-4650. A shipping fee will be added to all orders. The amount of the fee is determined by the total value of your order.

■ *Integrity in Public Service: Earning the Public's Trust.* This 20-minute tape uses vignettes to briefly outline the statutes and regulations governing employee conduct. An on-screen narrator provides commentary on the vignettes to clarify particular points. This video is closed-captioned and may be used either with an instructor present or as a stand-alone training tool. Order number: PB93-781342. Price: \$35.00.

■ *Guide to the Standards of Ethical Conduct.* This 50-minute tape is intended to be used as an aid for ethics officials in educating themselves about the Standards of Ethical Conduct for Employees of the Executive Branch. It is divided into three sections, each of which summarizes the major provisions of a portion of the Standards. An accompanying study guide contains a brief summary of each subpart and rule. Order number: PB93-780005. Price: \$40.00.

■ An audio tape of the *Guide to the Standards of Ethical Conduct* is also available. Order number: PB93-781409. Price: \$12.50.

■ *The Ethical Choice: Ethics for Special Government Employees.* This 20-minute tape follows three Special Government Employees (SGEs) through many of the ethical hurdles they face in the course of their Government service. While the videotape focuses on SGEs, it also addresses many of the rules applicable to all executive branch employees. Video is closed-captioned. Order number: AVA19673-VNB1. Price: \$45.00.

■ *Public Financial Disclosure: A Closer Look.* This 15-minute videotape explores the need for high-level executive branch officials to file a public financial disclosure report (SF 278) and emphasizes the importance of completing the report accurately and completely. Video is closed-captioned. Order number: AVA19788-VNB1. Price: \$40.00.

The Ethics CD-ROM

The Ethics CD-ROM may be ordered through GPO, Superintendent of Documents' order line, 202-512-1800. Orders may also be faxed to 202-512-2250 but **only** if you pay by Visa, MasterCard, or Purchase Order.

Note: *The Ethics CD* is issued biannually in April and October. Each subsequent issue contains all information from previous issues and incorporates new material available since the last publication date.

■ *The Ethics CD*, October 1995 issue, is a multimedia searchable collection of Federal executive branch ethics laws, Executive orders, regulations, advisory opinions, policy memoranda (DAEOgrams), Federal Register notices, and ethics program administration aids issued through September 30, 1995. It includes OGE publications: *A Brief Wrap on Ethics*, *Take the High Road*, *Do It Right*, and public and confidential financial disclosure review guides. It also includes free OGE software for completing and printing the SF 450 confidential financial disclosure report.

This CD previews sample video and audio clips from four OGE ethics videos: *The Ethical Choice: Ethics for Special Government Employees*; *Public Financial Disclosure: A Closer Look*; *Guide to the Standards of Ethical Conduct for Employees of the Executive Branch*; and *Integrity in Public Service: Earning the Public's Trust*. Each video clip lasts three to four minutes and includes complete ordering and pricing information. Although the CD-ROM is capable of running on either a DOS or Windows-based personal computer (PC), a Windows-based PC with a sound card is necessary to view the video clips. Stock number: 052-003-01434-3. Price: \$28.00.

Reference Publications

OGE reference publications may be ordered through the Government Printing Office (GPO), Superintendent of Documents' order line, 202-512-1800. Orders may also be faxed to 202-512-2250 but **only** if you pay by Visa, MasterCard, or Purchase Order.

Note: Unless otherwise indicated, reference publications are also available on The Ethics Bulletin Board System (TEBBS) or *The Ethics CD-ROM*.

■ *Standards of Ethical Conduct for Employees of the Executive Branch*. This booklet presents the Standards in an easy-to-read format. In addition, it has space on the back cover to record the names, telephone numbers and office addresses of agency ethics officials. Stock number: 052-003-01382-7. Price: \$6.00 per copy.

■ *Standards of Ethical Conduct for Employees of the Executive Branch* is also available in Spanish. For further information contact OGE's Office of Education, at 202-523-5757, ext. 1231.

■ *Informal Advisory Letters and Memoranda and Formal Opinions of the U.S. Office of Government Ethics 1979-1988*. A complete collection of all OGE opinions issued between 1979 and 1988. Stock number: 052-003-01172-7. Price: \$43.00.

■ *Supplement to the Informal Advisory Letters and Memoranda and Formal Opinions of the U.S. Office of Government Ethics 1989*. A complete collection of all OGE opinions issued in 1989. *No longer available from the Superintendent of Documents*. May be obtained from TEBBS or The Ethics CD-ROM.

■ *Supplement to the Informal Advisory Letters and Memoranda and Formal Opinions of the U.S. Office of Government Ethics 1990*. Includes all OGE opinions issued in 1990 as well as an index to the 1990 opinions. *No longer available from the Superintendent of Documents*. May be obtained from TEBBS or The Ethics CD-ROM.

■ *Supplement to the Informal Advisory Letters and Memoranda and Formal Opinions of the U.S. Office of Government Ethics 1991-1992*. Includes OGE guidance issued in 1991 and 1992, a new index for the guidance issued from 1990 through 1992, and a corrected version of the index for the guidance issued from 1979 through 1989. Stock Number: 052-003-01363-1. Price: \$13.00.

■ *Supplement to the Informal Advisory Letters and Memoranda and Formal Opinions of the U.S. Office of Government Ethics 1993*. Includes OGE guidance issued in 1993 and a new index for the guidance issued from 1990 through 1993. Stock Number: 052-003-01400-9. Price: \$8.50.

■ *Supplement to the Informal Advisory Letters and Memoranda and Formal Opinions of the U.S. Office of Government Ethics 1994*. Includes OGE guidance issued in 1994, a new index for the guidance issued from 1990 through 1994, and labels for the first two volumes of OGE guidance. Stock Number: 052-003-01437-8. Price has not been determined as of publication date of this listing.

■ *Public Financial Disclosure: A Reviewer's Reference*. This is a loose-leaf 300-page reference manual for reviewers of Standard Form 278. It contains an introduction to the public financial disclosure system, the procedures and mechanics of review and conflict resolution, summaries of applicable ethics laws and regulations, sample SF 278 entries, model letters and documents related to the review process, and case studies. Stock number: 052-003-01458-1. Price has not been determined as of publication date of this listing.

Booklets

Booklets may be ordered through GPO, Superintendent of Documents' order line, 202-512-1800. Orders may also be faxed to 202-512-2250 but **only** if you pay by Visa, MasterCard, or Purchase Order.

Note: Unless otherwise indicated, the text of these booklets are also available on The Ethics Bulletin Board System (TEBBS) and The Ethics CD-ROM.

■ *Do It Right* is a 35-page booklet which provides a detailed summary of the conflict of interest statutes and the standards of ethical conduct as they apply to executive branch employees. The booklet uses examples to promote reader comprehension. Stock number: 052-003-01359-2. Price: \$2.75.

■ *Take the High Road* is a 22-page booklet which provides an intermediate level summary of the ethics laws and regulations. It uses a question-and-response format, as well as examples, to help the reader understand the material. Stock number: 052-003-01355-0. Price: \$2.25.

■ *A Brief Wrap on Ethics* is a 20-page booklet which provides an easy-to-read, anecdotal treatment of some of the basic ethics laws and regulations. It uses simple examples to facilitate reader understanding. Stock number: 052-003-1401-7. Price: \$1.50.

Posters are sold **only** in increments of 10. The order number is FPI-200396 for both posters; however, please **specify by name which poster you are ordering**. Shipment will be made 3 business days after receipt of the order. Estimate shipping costs to be approximately 15 percent of the total order.

Both posters are two-color on white coated text stock.

■ *Code of Ethics*, a 12x18 inch poster, lists the 14 points of the Standards of Conduct. Price: \$26.50 for 10 posters.

■ *Ethics is the Cornerstone of Government Service*, an 11x15 inch poster, symbolizes strength through ethics, and contains an allocated space for your agency to add the name and phone number of its DAEO. Price: \$21.50 for 10 posters.

Posters

Posters may be ordered by contacting Karla Kunsemiller at 202-508-8462 and sending an SF 1 or purchase order to UNICOR Federal Prison Industries, Print Program Management, **Attention:** Karla Kunsemiller, 320 1st St., NW., Washington, DC 20534. Orders may also be faxed to 202-628-1897.

Appendix III

Citations to Statutes, Regulations and Executive Orders

Statutes, Regulations and Executive Orders in which OGE has an interpretative or other role:

- *5 U.S.C. app. §§ 101 et seq.* (Title I of the Ethics in Government Act, as amended) Public financial disclosure requirements
- *5 U.S.C. app. §§ 401 et seq.* (Title IV of the Ethics in Government Act, as amended) Office of Government Ethics
- *5 U.S.C. app. §§ 501 and 502* Outside earned income limitation, honoraria prohibition and outside employment limitations
- *5 U.S.C. § 7351* Prohibition against gifts to superiors
- *5 U.S.C. § 7353* Prohibition against solicitation or receipt of gifts

Criminal Conflict of Interest Statutes (ch. 11 of Title 18, United States Code)

- *Section 203* Prohibition against seeking or receiving compensation for certain representational services before Government
- *Section 205* Prohibition against assisting in the prosecution of claims against the Government or acting as an agent or attorney for others before the Government
- *Section 207* Post-employment restrictions
- *Section 208* Conflicting financial interest restrictions
- *Section 209* Prohibition against supplementation of Government salary as compensation for Government services
- *26 U.S.C. § 1043* Sale of property to comply with conflict of interest requirements
- *28 U.S.C. § 594(j)* Independent Counsel restrictions
- *31 U.S.C. § 1353* Acceptance of travel and related expenses from non-federal sources
- *41 U.S.C. § 423* Procurement Integrity Provisions

Regulations issued by or assisted in by OGE:

- *5 C.F.R. part 2634* Financial disclosure, blind trusts and certificates of divestiture
- *5 C.F.R. part 2635* Standards of Ethical Conduct for Executive Branch employees
- *5 C.F.R. part 2636* Limitations on Outside employment and outside earned income and prohibition of honoraria
- *5 C.F.R. part 2637* Post-employment pre-1/1/91
- *5 C.F.R. part 2638* Office of Government Ethics
- *5 C.F.R. part 2641* Post-employment after 1/1/91
- *5 C.F.R. Chapters XXI to LXXVI* Agency supplemental standards of conduct
- *41 C.F.R. part 304-1* Travel payments from non-Federal sources
- *48 C.F.R. part 3* Procurement Integrity

Executive Orders in which OGE has a role:

- *E.O. 12674, as modified by E.O. 12731** Directs OGE to establish a single, comprehensive, and clear set of executive branch standards of conduct
- *E.O. 12834* Clinton Administration post-employment pledge

*The Fourteen Principles of Ethical Conduct for Executive Branch Employees printed on page 54 are taken from this Order.

Fourteen Principles of Ethical Conduct for Executive Branch Employees

(1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

(4) An employee shall not, except as permitted by the Standards of Ethical Conduct, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(5) Employees shall put forth honest effort in the performance of their duties.

(6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

(7) Employees shall not use public office for private gain.

(8) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all financial obligations, especially those -- such as Federal, State, or local taxes -- that are imposed by law.

(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in the Standards of Ethical Conduct. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.