



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

Evaluation and Inspection Services

March 12, 2008

Memorandum

TO: Kent Talbert
General Counsel
Office of the General Counsel

FROM: Wanda A. Scott /s/
Assistant Inspector General
Evaluation, Inspection, and Management Services

SUBJECT: Final Inspection Report
Review of the Department's Public Financial Disclosure Reports for Employees Responsible for Oversight of the Federal Family Education Loan Program (ED-OIG/I13H0005)

This final inspection report presents the results of our Review of the Department of Education's (Department) Public Financial Disclosure Reports for Employees Responsible for Oversight of the Federal Family Education Loan (FFEL) Program and the Department's response to those results.

BACKGROUND

On April 26, 2007, Congressman George Miller, the Chairman of the U.S. House of Representatives Committee on Education and Labor, requested that this office determine whether the Department's existing policies, procedures, guidance and practices are adequate for ensuring the absence of financial conflicts of interest among Department employees and officers responsible for the oversight of FFEL. Specifically, Congressman Miller requested that we review, for the six most recent years, the Standard Form 278 Executive Branch Personnel Public Financial Disclosure Reports (SF 278) for these employees and officers. Congressman Miller also expressed interest in the extent to which the Department informs, trains, or counsels existing and newly hired or appointed officials of federal conflict of interest statutes and standards of ethical conduct.

The Ethics in Government Act of 1978, as amended, requires senior officials in the executive, legislative and judicial branches to file public reports of their finances as well as other interests outside the Government. The statute and the U.S. Office of Government Ethics' (OGE) regulations at 5 C.F.R § 2634 provide the filing and reviewing requirements for the SF 278. The

statute specifies which officials in the Executive Branch are required to file a public financial disclosure report.

In the introduction to the “Instructions for Completing SF 278,” OGE emphasizes that it is important for the filer to provide complete and accurate information on the report:

A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Ethics in Government Act or permitted public access to reports must be given sufficient information by reporting individuals concerning the nature of their outside interests and activities so that an informed judgment can be made with respect to compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore, it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government, in that it provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities and allows you and your agency to fashion appropriate protections against such conflicts when they first appear.

Accordingly, if the filer fails to report an item, those responsible for reviewing the SF 278 are not in a position to determine if the item presents any actual or potential conflicts.

On Schedule A of the report, filers are instructed to report each asset held by the filer, the filer’s spouse, and the filer’s dependent children for investment or the production of income which had a fair market value exceeding \$1,000 at the close of the applicable reporting period, or which generated more than \$200 in income during the applicable reporting period, together with such income. On Schedule B, Part I of the report, filers¹ are instructed to report any purchase, sale, or exchange during the applicable reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000.

OGE’s regulations at 5 C.F.R. § 2634.605(b) provide the responsibilities of the reviewing officials. Under 5 C.F.R. § 2634.605(b)(1) the reviewing official is responsible for examining the report “to determine, to his satisfaction that: (i) Each required item is completed; and (ii) No interest or position disclosed on the form violates or appears to violate” applicable laws and regulations. The regulations at 5 C.F.R. § 2634.605(b)(2) provide that the reviewing official does not need to audit the report to determine whether the disclosures are correct and can take the disclosure at “face value” as correct, unless there is a “patent omission or ambiguity or the official has independent knowledge of matters outside the report.”

The Ethics Division of the Department’s Office of the General Counsel (OGC) is responsible for certifying and maintaining the reports filed by Department employees. OGC maintains an ethics file for each public filer that includes public financial disclosure reports, communication with the filer regarding the reports, and other ethics-related documentation. As of December 21, 2007, 411 Department employees were required to file reports and five attorneys in the Ethics Division were responsible for reviewing and certifying the reports. These same attorneys were

¹ There are three different reporting status designations for filers: 1) New Entrant, Nominee, or Candidate, 2) Incumbent, and 3) Termination Filer. The reporting period and the required information vary for each reporting status. New Entrant, Nominee, and Candidate filers are not required to list transactions on Schedule B, Part I.

responsible for developing training materials and newsletters, providing ethics training throughout the year, and counseling all Department employees on ethics issues or concerns as they arise.

The Department implements, regulates, and oversees the FFEL program. The Department's Federal Student Aid (FSA) office has primary compliance and oversight responsibility for the FFEL program.

INSPECTION RESULTS

The objectives of our inspection were to: 1) Determine whether the Department's process for reviewing the SF 278 was adequate to identify and address financial conflicts of interest or the appearance of conflicts of interest among employees responsible for oversight of the FFEL program who are required to submit an SF 278; and 2) Determine the extent to which the Department informs, trains, or counsels existing and newly hired or appointed officials of federal conflict of interest statutes and standards of ethical conduct.

Finding #1: The Department's Review Process Was Adequate to Identify and Address Financial Conflicts of Interest or the Appearance of Conflicts of Interest

We found that the Department's process for reviewing public financial disclosure reports was adequate to identify and address financial conflicts of interest or the appearance of conflicts of interest among employees responsible for oversight of the FFEL program. This conclusion is based on a review of all assets listed in the ethics files of 90 FSA employees² required to file a public financial disclosure report between 2001 and 2007.³ In this review, we did not find any financial conflicts of interest or appearances of conflicts of interest for the assets reported by FSA employees responsible for oversight of the FFEL program that the Department had not previously identified and addressed.

Finding #2: The Department Informs, Trains, and Counsels All Employees on All Federal Conflict of Interest Statutes and Standards of Ethical Conduct

In determining the extent to which the Department informs, trains, or counsels existing and newly hired or appointed officials on federal conflict of interest statutes and standards of ethical conduct, we found that the Department covers all federal conflict of interest statutes and standards of ethical conduct for all employees.

The Department utilizes a variety of means to educate and inform its employees. It does so through: its intranet site; columns in the FSA and Department-wide monthly newsletters; memoranda to employees; and various documents regarding specific ethics-related topics, which are provided to employees in briefings and training sessions. The Department trains its

² One filer's public financial disclosure reports were not examined as part of this inspection due to a separate OIG matter.

³ We did not review reports filed in 2007 that OGC had not certified.

employees through: orientation for new employees;⁴ individualized ethics briefings for presidential appointees shortly after they enter duty; annual ethics training that is required for selected employees and available to all employees; and ethics briefings for senior management in FSA. Additionally, the Department encourages its employees to seek advice and counsel on any ethics-related issues.

Through the various ways mentioned above, the Department trains and provides information to its employees on all of the conflict of interest statutes that are applicable to executive branch employees (18 U.S.C. Sections 203, 205, 207, 208, and 209) and all of the subparts of the *Standards of Ethical Conduct for Employees of the Executive Branch*.

Finding #3: The Department's Reviewers Did Not Consistently Address Repeated Reporting Errors Made by Filers

During the course of our review of the assets listed in the 90 ethics files, we found that the Department's reviewers did not consistently address reporting errors made by filers. Specifically, we found that some filers' reports contained repeated errors, such as assets not appropriately reconciled, required asset information not disclosed in a clear and concise manner, and Excepted Investment Fund (EIF)⁵ information not consistently and correctly reported for assets. In all of these cases, the filers' reports contained sufficient information for a reviewer to perform a conflict of interest analysis.

We found that some filers' reports repeatedly contained assets that were not appropriately reconciled. Specifically, assets valued over \$15,000 on one year's Schedule A disappeared from the next year's Schedule A without corresponding transaction information listed on Schedule B, Part I; assets not listed on one year's Schedule A appeared on the next year's Schedule A without corresponding transaction information on Schedule B, Part I; and assets listed as purchases, sales, or exchanges on Schedule B, Part I, were not listed on the corresponding Schedule A.

We also found that some filers repeatedly failed to disclose required asset information in a clear and concise manner. Specifically, filers did not list information to clearly distinguish assets; did not provide the values of assets; and did not provide supplemental information that was complete and correct. For example, filers listed the names of assets differently from one report to the next making it difficult for a reviewer to decipher whether an asset was listed on the prior report or is a new entry. Filers also attached account statements as substitutes for Schedules A and B that did not include asset values or did not cover the complete required reporting period.

Additionally, we found that some filers incorrectly or inconsistently designated assets as EIFs. For example, one filer incorrectly listed two checking accounts as EIFs. Additionally, filers often inconsistently designated assets as EIFs from year to year, which indicates that the filers do not understand what qualifies as an EIF.

⁴ At the new employee training, the Department provides new employees a packet that includes the complete Standards of Ethical Conduct for Employees of the Executive Branch and other documents covering a wide range of ethical issues, including conflict of interest statutes.

⁵ An EIF is an investment which is: 1. widely held, 2. (a) publicly-traded (or available) or (b) widely diversified, and, 3. independently managed, that is, arranged so that the filer neither exercises control nor has the ability to exercise control over the financial interests held by the fund.

OGE's guide for reviewers,⁶ *Public Financial Disclosure: A Reviewer's Reference (Second Edition)* (Reviewer's Guide), states that the current report must reconcile with previous reports and that each asset should normally either "continue on the next report, disappear (or appear) because of a reported transaction or disappear because it slipped below a threshold or dissipated." The Reviewer's Guide also states that reviewers should seek additional information for a report when the form is incomplete and when the form reveals one entry (or the absence of one) that is inconsistent with another entry on the report or on the filer's previous report(s). We found that reviewers did follow up with filers when the reports were incomplete or when entries were inconsistent; however, as we noted above, reviewers did not consistently do so.

The Reviewer's Guide does encourage reviewers to exercise prudent judgment when deciding whether to request additional information from the filer:

The decision . . . often involves the exercise of judgment on the part of the reviewer. This is especially true when two reports do not reconcile. Reviewers have the primary responsibility for conflict of interest counseling. Each reviewer should use more or less scrutiny, depending on the familiarity of the filer with the process, the technical accuracy of any previous report(s) and the possibility of conflicts of interest.

Since we did not find any financial conflicts of interest or appearances of conflicts of interest in the 90 files we reviewed, it appears that reviewers did exercise prudent judgment; however, OGC does not have policies and procedures to ensure the consistent handling of reporting errors.

Reports that contain repeated reporting errors indicate that filers did not understand the reporting instructions. The Department does not provide formal training to filers on the basics of completing a public financial disclosure report. OGC does encourage filers to ask questions and seek advice if they are having any difficulty completing the report, but it does not appear that filers always seek that advice. Reviewers informed us that they believe the filers would benefit from some form of training related to filing public financial disclosure reports.

Recommendation:

We recommend that the General Counsel for OGC require the Ethics Division to:

1. Develop policies and procedures to ensure the consistent handling of reporting errors; and
2. Develop a process to ensure that all filers receive appropriate training on public financial disclosure reports.

DEPARTMENT COMMENTS

On February 8, 2008, we provided the Department with a copy of our draft report for comment. We received the Department's comments to the report on March 10, 2008. The Department

⁶ The stated purpose of this document is to "ensure the consistent, comprehensive and accurate review of executive branch employees' public financial disclosure reports." Further, "[i]t aims to increase Government efficiency by providing uniform guidance and interpretation to agency ethics officials."

generally concurred with the findings and recommendations of our report. The Department's response provided a brief description of the steps they have already taken, or are planning to take, to strengthen the Department's ethics program and, in particular, to implement the report's recommendations. For those areas where the Department did not completely agree with the information presented in our report, we have summarized the Department's comments and provided our responses below. The Department's response, in its entirety, is attached.

Department Comment

The Department commented that there are many reasons why an asset reported one year and not the next, or vice versa, has no corresponding transaction in Schedule B. The Department stated that filers are not required to report gifts given or received and that assets like common stocks may disappear without a transaction when companies merge and change names. The Department also commented that an asset may not have a corresponding transaction on Schedule B if the asset simply loses value and does not meet the reporting threshold.

OIG Response

During our review, we did not find any evidence in the files or on the public financial disclosure reports that the assets that were not appropriately reconciled were in fact gifts or were assets that disappeared due to a merger. Additionally, these assets were valued over \$15,000; therefore, it would be unreasonable to assume that they dropped under the \$1,000 reporting threshold. We did not find any evidence in the files or on the public financial disclosure reports that the reviewers determined that the assets had dropped under the reporting threshold.

Department Comment

The Department commented that our report's statement that five attorneys were responsible for reviewing and certifying the reports was incorrect because the Ethics Division had six attorneys who were responsible for reviewing and certifying public financial disclosure reports during the time period covered in our scope. The Department added that the Ethics Division has three ethics program specialists who are involved in the initial reviews of the reports to ensure completeness.

OIG Response

The statement in the report is accurate. As of December 21, 2007, five attorneys in the Ethics Division were responsible for reviewing and certifying the reports. This statement is based on information provided by the Acting Assistant General Counsel for OGC's Ethics Division on that date. The three ethics program specialists are not attorneys and do not certify reports.

OBJECTIVES, SCOPE, AND METHODOLOGY

The original objectives of our inspection were to: 1) Determine whether the Department's process for reviewing the SF 278 was adequate to identify and address financial conflicts of interest or the appearance of conflicts of interest among employees responsible for oversight of the FFEL program who are required to submit an SF 278; 2) Determine, to the extent possible, whether any employees who are required to submit an SF 278 failed to disclose potential conflicts of interest; and 3) Determine the extent to which the Department informs, trains, or counsels existing and newly hired or appointed officials of federal conflict of interest statutes and

standards of ethical conduct. We determined that the data to answer objective two was not readily available and further work in answering the objective would not have been an effective use of resources. As a result, we eliminated the objective and informed the Department of the change in our objectives.

We began our fieldwork on June 18, 2007 and conducted an exit conference on January 17, 2008.

We reviewed applicable conflict of interest laws and regulations. We also reviewed OGE's *Public Financial Disclosure: A Reviewer's Reference, (Second Edition)*; OGE program reviews of OGC's Ethics Division; and the *Standards of Ethical Conduct for Employees of the Executive Branch* issued by OGE. We reviewed conflict of interest training materials and ethics-related information provided by OGC's Ethics Division. We interviewed Department staff in the OGC Ethics Division.

We requested that OGC provide a listing of all FSA employees required to file public financial disclosure reports for each of the past six years.

To answer our first objective, we identified 90 FSA employees who we determined to be primarily responsible for oversight of the FFEL program for the time period covered by our review. We determined that employees from the following FSA offices do not have FFEL program oversight responsibilities: School Services and Training Channel, Application Development Group, Enterprise IT Services Group, Funds Control and Accounting Operations Branch, Budget Group, Budget Support Division, Financial Management Systems Group, Project Management and Oversight Group, Contracts Group, Communication Management Services, and Facilities Security and Emergency Management Services. We determined that employees from all other FSA offices could have FFEL program oversight responsibilities. As a result, we identified 90 filers from FSA who worked in these offices within the past six years.

The scope of our review included new entrant and annual reports filed in 2001; new entrant, annual, and termination reports filed between 2002 and 2007; and related documentation in the ethics files of the 90 FSA employees with FFEL oversight responsibilities. We did not review reports filed in 2007 that OGC had not certified. We performed extensive reviews of approximately 3,000 assets listed in all applicable public financial disclosure reports in the 90 ethics files to determine if there were any financial conflicts of interest or appearances of conflicts of interest related to the FFEL program that were not identified and addressed by the Department.

We limited our review to the assets listed in the public financial disclosure reports. As a result, we reviewed Schedule A and Schedule B, Part I of the reports since Schedule A is required to contain a listing of all assets and Schedule B, Part I is required to contain all corresponding transaction information for those assets. After completing our review of the files, we used listings of current FSA vendors and FFEL participants provided by OGC and conducted extensive internet searches to research all assets valued over \$15,000 for the 90 FSA filers for possible connections to the FFEL program.

We identified 70 assets that required more complete information from OGC before any conclusions could be made. We provided this list of assets to OGC for further review and

comment. OGC then provided the information necessary for us to draw conclusions on those assets.

Our inspection was performed in accordance with the *2005 President's Council on Integrity and Efficiency Quality Standards for Inspections* appropriate to the scope of the inspection described above.

ADMINISTRATIVE MATTERS

An electronic copy of this final inspection report has been provided to your Audit Liaison Officer. We received your comments, which generally concurred with our findings and recommendations.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your offices will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System (AARTS). Department policy requires that you enter your final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after six months from the date of issuance.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Electronic cc: Phil Rosenfelt, Deputy General Counsel
Susan Winchell, Acting Assistant General Counsel, Ethics Division



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

March 10, 2008

Christian Vierling, Director
Evaluation and Inspection Services
Office of Inspector General
550 12th Street, S.W., Room 8111
Washington, D.C. 20202

Dear Mr. Vierling:

The purpose of this letter is to respond to the Draft Inspection Report dated February 8, 2008, entitled *Review of the Department's Public Financial Disclosure Reports for Employees Responsible for Oversight of the Federal Family Education Loan Program (ED-OIG/I13H0005)*. As explained more fully below, we generally concur in the inspection report's findings and recommendations, and provide our comments. We also provide a brief description of the steps we have already taken, or are planning to take, to strengthen the Department's ethics program and, in particular, to implement the report's recommendations. We appreciate the hard work that went into the report and the professional manner in which the staff working on the report conducted themselves.

The following is our response to each of the findings:

Finding #1: Adequacy of The Department's Review Process to Identify and Address Financial Conflicts of Interest or the Appearance of Conflicts of Interest. We are pleased that the inspection report finds that the Department's public financial disclosure report review process is considered "adequate" to identify and address actual and apparent conflicts of interest (the inspection focused on those officials responsible for the oversight of the FFEL program). Furthermore, the inspection report did not find any financial conflicts of interest or appearances of conflicts of interest for the assets reported by FSA employees. We are particularly pleased with the report's finding in light of the fact that the review examined several years of reports for each employee whose reports were reviewed.

Public financial disclosure is a significant component of the Department's ethics program. The Department currently has approximately 400 officials required to file public financial disclosure reports. As compared to other Executive Branch agencies, this is a high percentage of public financial disclosure filers: 9.7% of the Department's employees file public forms as compared to an average of 1.4% of employees at all Cabinet level agencies and 3.6% of employees at agencies in our size range. The high percentage of public filers at the Department may be a result of the fact that, despite

having fewer total employees, our Department's organizational structure is similar to other Cabinet agencies.

We believe that it is critical that the public continue to have confidence in the integrity of the Ethics program at the Department, and the inspection report finding is helpful in this respect. Nonetheless, as discussed below, the Department began implementing strategies to strengthen the review process last year prior to the beginning of this inspection and intends to develop and implement additional strategies based, in part, on the inspection report's observations in Finding #3, discussed below.

Finding #2: The Department Informs, Trains, and Counsels All Employees on All Federal Conflict of Interest Statutes and Standards of Ethical Conduct. We are pleased that the inspection report finds that the Department's ethics training and outreach program covers all federal conflict of interest statutes and the Standards of Ethical Conduct for Employees in the Executive Branch. The Inspection Report noted that "[t]he Department utilizes a variety of means to educate and inform its employees."

In the Department's view, providing effective outreach to Department employees on the rules and laws governing their conduct as Federal employees is a crucial component of an effective ethics program. Indeed, the U.S. Office of Government Ethics recognized our training program as one of the best in government when the Ethics Division received the Ethics Training Award in 2007 for our "efforts in developing training programs and products that foster an ethical culture." We continue to explore methods and strategies for improving the ethics training and outreach program by making it more accessible and understandable, covering subject matter areas most likely to address ethics issues that are relevant to a variety of situations employees may find themselves in, and effectively using new technology.

Finding #3: The Department's Review of Repeated Reporting Errors Made by Filers. We appreciate the inspection report's observations regarding certain weaknesses in the review process for handling administrative errors on reports. At the same time, the report notes in a positive manner that "[s]ince we did not find any financial conflicts of interest or appearances of conflicts of interest in the 90 files we reviewed, it appears that reviewers did exercise prudent judgment..." Although the report did not find that the administrative errors discussed in this finding prevented the Ethics Division from conducting an adequate conflicts of interest review, we nonetheless believe that improving the review process in this area will further enhance the ethics program at the Department by ensuring that issues are consistently recognized and addressed.

We also have the following additional comments about the specific areas of concern identified in Finding #3 to help put the finding in the appropriate perspective:

- 1) **There are many legitimate reasons for changes in a filer's report from one year to the next that are appropriate.** Specifically, the inspection report notes that there are instances when assets previously reported on

Schedule A are not reported the following year, and no transaction is noted on Schedule B; and vice versa. There are many reasons why an asset reported one year and not the next, or vice versa, has no corresponding transaction in Schedule B. Schedule B requires filers to report any purchases, sales, or transactions. It does not, for example, require the filer to report gifts given or received, which could account for either the disappearance or appearance of an asset without a corresponding transaction. Likewise, assets like common stocks may disappear without a transaction when companies merge and change names. Another common reason for this is that an asset simply loses value and does not meet the reporting threshold, in which case no corresponding transaction is required. Having said this, as described below, the Ethics Division is taking steps to ensure that the appropriate reconciliation between reports filed in successive years, and between Schedules A and B are conducted on each report; and that appropriate notes are included in the file to explain any discrepancies.

- 2) **Filers failed to disclose required information in a clear and concise manner, including not clearly distinguishing assets; not providing the values of assets; and not providing supplemental information that was clear and complete.** We understand from your basic finding, that the Ethics Division conducted reviews that were adequate to identify and resolve actual and apparent conflicts of interest, and that these concerns address administrative errors or inconsistencies in the information provided by filers. While the primary responsibility for proper filing of forms must continue to be with the filers, as discussed below, we intend to address these administrative issues through more careful follow-up with filers by the reviewers, and by providing additional filer training and clinics. We also look forward to meeting with the OIG inspectors to learn of specific examples of these problems so we can better address the concerns and the specific problems found.
- 3) **Filers incorrectly or inconsistently designate assets as Excepted Investment Funds (EIFs).** We understand from your basic finding, that the Ethics Division conducted reviews that were adequate to identify and resolve actual and apparent conflicts of interest, and that the inspection did not conclude that pooled investment funds that are not EIFs were not properly reported by filers. Rather, we understand that this concern is strictly a matter of administrative error by the filer. We intend to address this concern through more careful follow-up with filers, reviewer training, and additional training and clinics for filers.

The inspection report discusses the reviewers' responsibility to follow-up with filers and obtain additional information when necessary, recognizing that reviewers did use "prudent judgment" in deciding when follow-up is needed. We are aware that this is an area for improvement in the review process, and prior to the initiation of this inspection by your office, the Department began actively implementing strategies to address the

underlying concerns raised in this report. Specifically, last spring the Secretary directed the Ethics Division to begin conducting a “two-attorney review” of each public financial disclosure report beginning in May 2007. Additionally, the Secretary instructed the Ethics Division to review best practices in agency ethics program administration from throughout the Executive Branch and, based on that review, prepare a report with recommendations on how to enhance the Department’s ethics program. This report, issued to the Secretary in September 2007, included specific recommendations on how to strengthen the public financial disclosure review process.

The Ethics Division has now been implementing the two-attorney review procedure for approximately 10 months, including through one cycle of annual reports. In this review process, three Ethics Division employees review each report: an ethics program specialist reviews the report for completeness and clarity; the first level attorney reviewer conducts a second review for completeness, a conflicts review, and develops any necessary recommendations or advice; and a second level attorney reviewer conducts a second conflicts review and either clears the form for certification or returns the form for further action. Although this has been a very labor-intensive process, it has also ensured that all reports are reviewed consistently and in accordance with the U.S. Office of Government Ethics review standards. We are continuing this two attorney review process for the now, but anticipate shifting to a spot-check review procedure under which one in five forms will undergo the two level review each year.

The Ethics Division report to the Secretary with recommendations for program enhancement contains several additional recommendations for enhancing the public financial disclosure review process, including annual reviewer training, annual report filer training, and the development of an ED Financial Disclosure Reviewers “Handbook”.

The Ethics Division has already implemented several of these recommendations:

- Reviewers received annual training on reviewing public financial disclosure forms through an in-house briefing conducted by the Department’s OGE Desk Officer on August 16, 2007; several members of the Ethics Division staff attended an all-day conference on reviewing public financial disclosure forms sponsored by OGE on February 28, 2008. Materials provided at this conference will be used as the basis for more in-house training to Ethics Division staff later this spring. In addition, the Ethics Division has instituted a system of regular staff meetings during which reviewer questions are discussed and issues are resolved.

- The Ethics Division is currently preparing a training session, to be conducted in April and May 2008, for public filers on how to complete the form properly. We anticipate conducting one-on-one filer clinics in conjunction with this training so employees will also have an opportunity to seek confidential assistance filling out their forms.

- An internal Financial Disclosure Reviewers Handbook has been created and issued in draft last year. This Handbook is still in the development process and will be further supplemented with documents, guidance, and other help aids for reviewers as they become available. In particular, and building on the OGE reviewers guide, this Handbook will establish specific review policies and procedures to address the concerns raised in the report regarding filers' administrative errors and consistency, thorough reviewer follow-up. The Handbook will include guidance on using good judgment in determining when additional information is needed from a filer, basic requirements for reconciling reports from year to year and between Schedules A and B, and standards for reviewer documentation of follow-up communications with filers.

The Ethics Division is also studying the feasibility of two additional strategies that may further enhance the review process: implementing a policy of not accepting brokerage statements in lieu of completing Schedules A and B of the form based on a determination that such statements are generally not "clear and concise," and offering filers an electronic filing option that will help to ensure that complete information is provided on each form.

Finally, we would like to briefly correct a statement on page 3 of your report. You state that "five attorneys are responsible for reviewing and certifying the reports." The Ethics Division has had an attorney vacancy for the past 13 months. Prior to that, including the time period during which the reports reviewed for this report were reviewed and certified by the Ethics Division, the Division had 6 attorneys who were responsible for reviewing and certifying the reports. Additionally, the Ethics Division has 3 ethics program specialists who are also involved in the initial reviews of the reports to ensure completeness.

We appreciate your review of our public financial disclosure form review process and look forward to working with you as we continue to strengthen and enhance the Department's Ethics program. Please let me or Susan Winchell know if you have any questions about any of our comments.

Sincerely,

Kent D. Talbert