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

December 2, 2010

Mr. John Greenewald, Jr.  
[REDACTED]  
[REDACTED]

Tracking No.: OGE FOIA FY 11/19

Dear Mr. Greenewald:

The Office of Government Ethics (OGE) is granting in part and denying in part your Freedom of Information Act (FOIA) request, which we received on November 22, 2010. (There is no charge for processing your request.) In response to your request, we are enclosing copies of the U.S. Postal Service Ethics Program Reviews for 2006, 2000, 1995, 1993, 1991, 1987 and 1981.<sup>1</sup>

Of the records we located, we are withholding in part one page of the Ethics Program Review that was issued in 2006. That page is being withheld in part under FOIA Exemption (b)(6), 5 U.S.C. § 552(b)(6) and is marked as such. The redaction and withholding have been made in accordance with Justice Department policy guidance pursuant to FOIA Exemption (b)(6), 5 U.S.C. § 552(b)(6) as information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The OGE official responsible for this FOIA determination is the undersigned. In accordance with the FOIA, as codified at 5 U.S.C. § 552(a)(6)(A), and OGE's FOIA regulations, at 5 C.F.R. § 2604.304, you may administratively appeal this denial of your request. The name and address of the OGE official to whom such an appeal would have to be submitted are: Don W. Fox, General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917. Any such appeal must be in writing and must be sent within 30 days of the date you receive this response letter. If you do appeal, you should include copies of your request and this response, together with a statement of why you believe this initial determination is in error. Also, if you appeal, you should clearly indicate on the envelope and in the letter that it is a "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in cursive script that reads "Elaine Newton".

Elaine Newton  
OGE FOIA Officer

Enclosures

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<sup>1</sup> In your request, you asked for the Ethics Program Reviews that were conducted in 1982, 1988 and 2005. OGE does not have U.S. Postal Service Ethics Program Reviews for those years so we are enclosing the reviews that were issued in 1981, 1987 and 2006. If these are not the reviews you are seeking, please notify our office as soon as you receive this response.



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

February 22, 2006

Mary Anne Gibbons  
Designated Agency Ethics Official  
United States Postal Service  
Room 6147  
475 L'Enfant Plaza West, SW.  
Washington, DC 20260

Dear Ms. Gibbons:

The Office of Government Ethics (OGE) has completed its review of the United States Postal Service's (USPS) ethics program within USPS headquarters. The review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (Ethics Act). Our objective was to determine the strengths and weaknesses of the ethics program and to assess its compliance with applicable statutes and regulations. The review was conducted from July through October 2005. The following is a summary of our findings and conclusions.

#### HIGHLIGHTS

We found serious deficiencies in the administration of the confidential financial disclosure system within some headquarters components. Most importantly, a significant number of confidential financial disclosure reports are not being reviewed or reviewed adequately for conflicts of interest. We are also concerned that there is no process in place to accurately track the number of days special Government employees (SGE) serve. Additionally, we believe that guidance provided to employees regarding widely attended gatherings (WAG) was not adequate. Our report discusses each of these issues in detail.

We also observed that you incorporate a number of best practices into your ethics program. These include the issuance of "vigilance letters" to financial disclosure report filers and the preparation of a monthly "Conflict of Interest Memorandum" which highlights potential conflicts of interest for members of the Postal Board of Governors (Board) prior to monthly Board meetings. We also strongly endorse your practice of specifically tailoring annual ethics training to particular components or offices.

#### PROGRAM STRUCTURE

The USPS ethics program provides required ethics-related services to USPS employees within headquarters components. As USPS' Senior Vice President and General Counsel, you also serve as the DAEO. Within your immediate office, you are assisted by the Alternate DAEO, who is the Chief Counsel, Ethics and Federal Requirements, and one other full-time and two part-time attorneys. Additionally, the ethics program is supported by one full-time

paralegal; however, that position was vacant at the time of our review. There is also at least one person (ethics official) appointed within each of headquarters' 25 components who primarily serves to administer the confidential system within their respective component. Additionally, there are more than 20 part-time ethics officials who serve the employees within USPS' 10 regionally-based area offices.

We interviewed ethics officials from 6 of the 25 headquarters components. According to them, their ethics responsibilities are not clearly, if at all, included in their position descriptions. Further, their performance appraisals do not typically include a significant discussion of their ethics-related activities. As discussed below, we consider this to be a potentially contributing factor to the most serious deficiencies identified during our review.

#### PUBLIC AND CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEMS

We found serious deficiencies in the administration of the confidential financial disclosure system within some of the 25 headquarters components. Most importantly, a significant number of confidential financial disclosure reports are not being reviewed or reviewed adequately for conflicts of interest. Also, some components have no process to identify new entrant confidential filers and ensure they submit timely new entrant confidential reports. Additionally, the criteria found at 5 C.F.R. § 2634.904, which define who should be required to file confidential reports, are not always applied consistently. These failures leave USPS and its employees vulnerable to the consequences of real or apparent conflicts of interest. They also subvert the purpose, usefulness, and regulatory requirements of the confidential system and must be addressed immediately.

Based on our interviews with component ethics officials and experience with other similarly structured ethics programs, we conclude that, in large part, the deficiencies are a result of delegating ethics functions to ethics officials who perform those functions as additional duties and who are not directly supervised by a more experienced ethics official (e.g., the Alternate DAEO). We also acknowledge that it may be impractical for the Alternate DAEO or another senior ethics official to directly administer one confidential system for all headquarters components. We are, therefore, recommending that you and the Alternate DAEO provide greater oversight of the confidential system within the components.

As a part of this recommendation, and to further enhance the chances of component ethics officials' success, USPS should incorporate ethics-related responsibilities into their position descriptions and encourage supervisors to evaluate their performance, specifically as ethics officials, as part of the performance appraisal process. We consider these steps to be strong management tools to ensure ethics officials are aware of their responsibilities and that they will be held accountable for their performance as ethics officials.

In contrast to our findings regarding the confidential system, we found the public financial disclosure system to be administered effectively and in compliance with applicable regulations. We note that the Alternate DAEO and other senior ethics officials within her office are responsible for directly administering this element of USPS' ethics program.

#### Confidential Financial Disclosure

A significant number of confidential reports filed within headquarters' 25 components are not being adequately reviewed for conflicts of interest. Each of the 25 components which make up USPS headquarters essentially administers its own confidential system. We met with ethics officials from six headquarters components. Ethics officials from three of these six components told us that they do not conduct a conflict of interest analysis before they sign a report as the certifying official. These three components alone account for almost one third (29 percent) of the confidential reports filed within headquarters. Additionally, some of the components made no attempt to identify new entrant filers within 30 days of the date they enter covered positions and did not apply consistently the confidential filing criteria at 5 C.F.R. § 2634.904.

Ethics officials who are reviewing officials have a responsibility with regard to the certifications of confidential reports, as provided at 5 C.F.R. §§ 2634.605 and 2634.909(a):

...[A] report which is signed by a reviewing official certifies that the filer's agency has reviewed the report, and that the reviewing official has concluded that each required item has been completed and that on the basis of information contained in such report the filer is in compliance with [the criminal conflict of interest statutes, the Ethics in Government Act, Executive Order 12731, the Standards of Conduct for Employees of the Executive Branch, and any other agency-specific statute or regulation governing the filer].

Typically, when OGE examines financial disclosure reports, we seek to identify any potential conflicts of interest by considering a filer's disclosed interests, the filer's title, the agency's list of contractors or vendors,<sup>1</sup> and any other available means. If we suspect there is a conflict of interest, we ask an ethics official who signed the report, either as the intermediate reviewer or certifying official, how he or she determined that the holding in question does not constitute a conflict of interest.

In addition to the sections of part 2634 governing the review and certification of reports, § 2634.903(b) requires that new entrant filers submit their reports not later than 30 days after

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<sup>1</sup> The Alternate DAEO explained that USPS does not maintain a contractor list because it would be prohibitively large and expensive to maintain. The Alternate DAEO also explained that reviewers of both public and confidential financial disclosure reports are instructed to assume that any entity the filer discloses an interest in could be a USPS contractor.

assuming a covered position, and § 2634.904 provides the confidential filing criteria that OGE expects each agency to apply consistently.

USPS requires ethics officials within each headquarters component to ensure that master lists of filers are updated each year, report forms are provided to designated filers, and completed reports are collected, reviewed, and certified. The Alternate DAEO stated that all component ethics officials receive training to prepare them to administer the confidential system, including how to review confidential reports for completeness and conflicts of interest.

We examined a sample of 193 of 1,348 annual reports required to be filed in 2004 and new entrant reports required to be filed during 2004-05 at 14 of the 25 USPS headquarters components. Annual reports were generally filed timely and both new entrant and annual reports were generally reviewed and certified timely. However, the majority of new entrant reports were filed late, usually during the annual filing cycle. We also found that there were missing reports, there were uncertified reports from prior to 2004, and there was one ethics official who certified her own report. Moreover, questions relating to the reviews of the reports in general resulted in discussions with ethics officials from 6 of the 14 components,<sup>2</sup> wherein we learned of the inadequacies of the reviews and the lack of consistency in applying the filing criteria. The following table describes the confidential reports required to be filed and the sample of reports examined by us for each of the 14 components.

Headquarters Components Sampled	Number of Filers on Master List	2004 Annual Reports Examined	2004/2005 New Entrant Reports Examined	Filed in 2004, Type could not be determined	Total Reports Examined
Chief Financial Officer	48	4	2/0	0	6
Chief Technology Officer	80	10	0/0	0	10
Consumer Advocate	22	7	3/0	0	10
Controller	73	10	0/0	0	10
Employee Resource Management	74	8	1/0	0	9
Engineering	111	12	1/1	0	14
Facilities	269	32	2/0	2	36
Government Relations and Public Affairs	55	7	1/0	0	8
Intelligent Mail and Address Quality	23	7	0/0	0	7
Network Operations Management	91	12	0/0	0	12
Product Development	50	11	1/0	0	12
Sales	69	9	0/1	0	10
Services and Market Development	25	9	1/0	0	10
Supply Management	358	34	3/2	0	39
<b>Totals</b>	<b>1,348</b>	<b>172</b>	<b>15/4</b>	<b>2</b>	<b>193</b>

<sup>2</sup> Discussions were held with ethics officials at Network Operations Management (NOM), Chief Technology Officer (CTO), Facilities, Engineering, Consumer Advocate, and Supply Management.

The following information was gleaned from the interviews we conducted with ethics officials from the six components.

#### Network Operations Management

We selected NOM primarily because filers' reports from 2002 and 2003 were not certified.

The ethics official from NOM stated that he conducts no conflict of interest analysis of reports, even though he signs as the certifying official and there is no intermediate review of reports he certifies. Unless something appeared to be an "obvious conflict of interest," he would take no action to determine if there was a conflict of interest. For instance, if he was not familiar with a particular stock symbol listed as an asset, he would not seek to determine what company the symbol represented. Or, if a report disclosed the filer held stock in a company which was listed by its full name and he was not familiar with the company, he would not make an effort to determine what business it was engaged in or if it was a USPS contractor.

The NOM ethics official also stated that there was no system in place to identify new entrant filers within 30 days of their entering a covered position. However, he told us that he would implement procedures to do so. Since the ethics official only recently assumed the duties of the component ethics official, he could not explain why reports from 2002 and 2003 were never certified.

#### Chief Technology Officer

We selected this component because of its size and because we noted that some filers' reports from prior years were missing from their individual file folders (e.g., the folder holding the filers' reports contained reports from 2005, 2004 and 2000, but no reports for 2001-03).

The ethics official from CTO stated that she conducts no conflict of interest analysis of reports, even though she signs as the certifying official. She relies on filers' supervisors, who sign their subordinates' confidential reports as intermediate reviewers, to review their subordinates' financial disclosure reports for conflicts of interest.

While the ethics official did recall attending training to prepare her to administer the confidential financial disclosure system, which was provided by the Alternate DAEO, she did not recall that the training included instruction on how to conduct a conflict of interest analysis.

Regarding the apparently missing reports, we were told that a series of reorganizations over the last few years has resulted in employees moving in and out of covered positions and from one supervisor to another. The CTO ethics official stated that supervisors are not always consistent in deciding who should file financial disclosure reports.

### Facilities

We selected this component primarily because of its size and some minor technical errors noted during the examination of reports from the component's filers.

The two ethics officials we spoke with from this component also stated that they do not conduct a conflict of interest analysis of reports before they sign as the certifying officials. They rely on supervisors, as intermediate reviewers, to identify conflicts of interest. The ethics officials also stated that prior to 2005 there was no system in place to identify new entrants within 30 days of the date they enter covered positions. They have since developed procedures to capture new entrants as they enter covered positions and feel the new system has been successful.

### Engineering

We selected this component because we noted that most of the 2004 annual confidential reports we examined were filed in February and March 2005.

The ethics official who administers the confidential system within Engineering was appointed to her ethics position in February 2005.

5 USC § 552(b)(6)

The current ethics official further advised us that there has been no system in place to identify new entrants within 30 days of the date they enter covered positions.

We are encouraged that headquarters ethics officials took action to address the problems in Engineering's confidential financial disclosure system. Our discussion with the current ethics official within Engineering also left us confident that the component's confidential financial disclosure system will be brought into full compliance with applicable regulations. Although the reports we examined were not filed timely, they were reviewed and certified timely and the current ethics official assured us they were thoroughly reviewed for conflicts of interest. We found no issues in our examination of reports, aside from those already discussed.

### Consumer Advocate and Supply Management

We chose to interview ethics officials from these components because the ethics official from Consumer Advocate certified her own report and Supply Management is one of the largest headquarters components in terms of the number of confidential reports required to be filed.

We found the confidential system within both of these components to generally be sound. The Consumer Advocate ethics official recognized that it was inappropriate for her to certify her own report, even though she had no reportable assets or liabilities, and agreed to have a

supervisor certify her report in the future. Aside from this particular issue, we were satisfied that these two components were in compliance with 5 C.F.R. part 2634, subpart I, governing the administration of the confidential system, including a thorough conflict of interest analysis of each report. We found no substantive issues in our examination of reports from these components, aside from that already mentioned.

#### Summary of Findings

You and the Alternate DAEO must provide greater oversight of the confidential financial disclosure system within headquarters components. Accordingly, as part of our recommendation that there be greater oversight of the system, USPS should: ensure that all component ethics officials who review or certify confidential reports conduct a thorough conflict of interest analysis of each report before it is signed; ensure that all component ethics officials work with supervisors to consistently apply the criteria at 5 C.F.R. § 2634.904, which define who should be required to file a report; and ensure that all components have a process to identify new entrants within 30 days of entering covered positions. Additionally, as previously discussed, you should incorporate ethics-related responsibilities into component ethics officials' position descriptions and encourage supervisors to specifically evaluate ethics officials on the performance of their ethics-related duties during the performance appraisal process. This recommendation applies to all 25 headquarters components.

#### Public Financial Disclosure

The USPS public financial disclosure system is in compliance with applicable regulations. The system is administered by the Alternate DAEO with assistance from other senior ethics officials who review financial disclosure reports. Ethics officials told us that they conduct a thorough conflict of interest analysis of each report. They use their knowledge of filers' duties and, when necessary, consult filers' supervisors to determine if disclosed financial interests could conflict with filers' official duties. Written records of requests for follow-up information and analysis are maintained.

We saw a variety of documentation indicating thorough reviews were conducted. Even when a determination was made that a filer had no conflicts of interest, ethics officials often prepared a "vigilance letter" which highlighted the filer's responsibility to avoid participating in any matter which could cause a conflict of interest in the future. The vigilance letters identified the particular interests most likely to create a conflict of interest and advised filers to immediately recuse themselves and seek advice any time they learn their official duties may involve an entity in which they have an interest. We consider this to be a best practice and encourage you to continue providing these letters to individuals when appropriate.

We examined the five public financial disclosure reports required to be filed by USPS' Presidentally-appointed, Senate-confirmed (PAS) employees in 2005; all but one of the reports were annual reports. They were all filed, reviewed and certified timely. Those reports required to be forwarded to OGE were forwarded timely.

We also examined a sample of 73 of the 986 public reports required to be filed in 2004 by non-PAS employees. The sample consisted of 14 new entrant reports, 44 annual reports, and 15 termination reports. They were generally filed timely or less than 30 days after the applicable due date. The reports were reviewed and certified timely. Five of the reports in our sample were filed more than 30 days beyond the applicable due date. We received documentation showing that report filers who filed their reports more than 30 days late were assessed the \$200 late filing fee, as appropriate. Our examination identified no substantive deficiencies.

#### ETHICS AGREEMENTS

We examined the ethics agreements entered into by the members of the Board, all of whom are PAS/SGE employees, during 2004-05. These included two 18 U.S.C. § 208(b)(1) waivers and two recusals. OGE received the final versions of the waivers which identified the particular matters covered and the personal participation that was permissible. The Alternate DAEO stated that OGE was consulted concerning both waivers. The recusals appeared to have been appropriately handled. They were in regard to particular matters to be discussed at Board meetings, wherein the Board members agreed to leave the room while the matter was discussed.

In an ongoing effort to help Board members avoid conflicts of interest, ethics officials prepare a monthly Conflict of Interest Memorandum. This memorandum provides an analysis of potential conflicts of interest based on Board members' disclosed interests and the matters to be discussed at Board meetings. Any private entities which may be doing or seeking to do business with USPS are identified for Board members. The memorandum reminds Board members of the obligation to avoid conflicts of interest and provides them with guidance to determine if they may have a potential conflict of interest. If ethics officials identify a conflict, a recusal is prepared for the affected Board member to sign. The USPS General Counsel and the Secretary to the Board are provided copies of the recusals. One or both of these officials is always present at Board meetings and ensure that recusals are carried out. We consider the memorandum to be a best practice and will suggest it to other agencies when appropriate.

#### STATUS OF THE MEMBERS OF THE BOARD OF GOVERNORS

As previously indicated, you have determined that Board members are SGEs, based on your interpretation of relevant guidance and your good faith estimate that they are not expected to serve in excess of 130 days during any period of 365 consecutive days. However, we are concerned that you do not track the total number of days each member serves. USPS does track members' attendance at regular Board meetings, other scheduled meetings and conference calls, and official meetings with members of Congress, with the understanding that working even part of a day counts as one entire day of work. However, USPS makes no attempt to track the substantive ad hoc phone calls, e-mails, or other occasional work that members do.

The Secretary to the Board told us that members "probably" do not approach the 130-day limit, even including the ad hoc or other occasional work they perform. In addition, you and the Alternate DAEO assured us that ethics training provided to members includes an explanation of the 130-day limit and the consequences for exceeding that limit. You may continue to designate members as SGEs based on your good faith estimate that they will serve no more than 130 days in the ensuing 365-day period. However, you must have some valid basis for making that estimate. We suggest that you could begin by establishing a written policy defining what constitutes a day of work and providing that policy to Board members. Then, take some reasonable steps to demonstrate that the work performed does not constitute more than 130 days. This could be something as simple as canvassing Board members to determine if, under the written policy, the work they perform exceeds the 130-day limit. Accordingly, our report recommends that you take action to establish a sustainable method to provide a valid basis for your good faith estimate.

#### ENFORCEMENT

Ethics officials have a close working relationship with the Office of Inspector General (OIG), in accordance with 5 C.F.R. § 2638.203(b)(11) and (12). Ethics officials, OIG representatives, and other officials were confident that USPS takes effective actions against those who commit ethics violations, as required by 5 C.F.R. § 2638.203(b)(9). However, their ability to provide documentation regarding those actions was very limited, precluding us from assessing USPS' compliance with § 2638.203(b)(9). USPS is aware of the requirement to concurrently notify OGE of referrals to the Department of Justice (DOJ) of alleged violations of the criminal conflict of interest laws, as required by 5 C.F.R. § 2638.603(b), and has done so, although in most cases not timely.

Ethics officials consult on information and findings developed by OIG and utilize the services of OIG as necessary. In addition, ethics officials work closely with the Chief Counsel, Employment Law, who assists supervisors in taking appropriate administrative actions against employees for misconduct, including ethics violations. Coordination of efforts to identify potential ethics violations, investigate those potential violations, and take actions when violations are substantiated were evident in our discussions with ethics and OIG officials and the Chief Counsel.

Ethics and OIG officials and the Chief Counsel agreed that USPS is aggressive in pursuing allegations of ethics violations and taking effective administrative actions against those found to have committed violations. However, they also concurred that their ability to provide comprehensive records of potential violations, subsequent investigations, and possible administrative actions taken was extremely limited. Ethics officials do not maintain records of individual cases of ethics violations. The Chief Counsel was adamant that the financial burden alone of maintaining a data base of disciplinary actions taken against employees would not permit such an effort or justify any benefits that could accrue.

OIG also does not maintain a data base that can readily provide either statistical or substantive information restricted to ethics violations that occurred or were investigated within a given time frame. We met with representatives of OIG to discuss USPS' ability to track this information and requested that they provide examples of cases of potential ethics violations that occurred between January 2003 and August 2005. OIG subsequently provided six Reports of Investigation (RI) concerning allegations of ethics violations which were investigated during 2003-05. One of these cases concerned an alleged violation of 18 U.S.C. § 207 and another concerned an alleged violation of 18 U.S.C. § 209. The four remaining RIs involved the misuse of Government equipment and official position and failure to pay a just debt (income taxes).

All six RIs concerning allegations of ethics violations documented that thorough investigations were carried out. They recorded numerous interviews and the collection of other evidence (contracts, e-mail, correspondence, etc.). The two RIs involving criminal violations resulted in referrals to DOJ. The case involving 18 U.S.C. § 207 was referred to the local U.S. Attorney on April 28, 2003 who declined to prosecute because it was determined the case lacked prosecutorial merit. The investigation was subsequently closed and there was no indication in the RI if any administrative action was considered or taken. OGE did not receive notification of the referral until February 17, 2005, almost two years later. The case involving 18 U.S.C. § 209 was referred to the local U.S. Attorney on November 1, 2004 and was declined because the amount involved fell below minimum dollar thresholds. The RI for this case indicated only that "actions by the [redacted] postmaster are pending." OGE received notification of the referral on November 24, 2004. Another case, involving an alleged violation of 18 U.S.C. § 201, was referred on October 24, 2003, but declined for prosecution because the local U.S. Attorney found that it "lacked the prosecutorial appeal and the financial threshold of his office." While agencies are not required to provide OGE with concurrent notification when referring cases involving only 18 U.S.C. § 201, notification was provided on February 3, 2004. There was no indication if any action was taken after this investigation was closed.

RIs concerning two of the four non-criminal investigations determined that the allegations were not substantiated and no action against the subject employees was considered. A third RI substantiated allegations of misuse of Government property and failure to pay a just debt. The case was "closed and forwarded to Postal Service management for review"; no further information was provided in the RI. The remaining RI involved multiple parties and was redacted in a way which made it difficult to determine what specific violations were alleged against which parties. The RI did state that a letter from an individual identified as "Manager," "concluded that [redacted] failed to perform the duties as a COR [Contracting Officer's Representative] in a satisfactory and ethical manner."

In addition to the two RIs provided by OIG that resulted in referrals to DOJ, USPS provided notification of seven additional referrals made to DOJ during 2003-05, as described in the following table:

USPS Assigned Case Number	Date of Referral to DOJ	Date OGE Received Notification	Statute(s) Allegedly Violated
01HIRS0245C2NC	February 3, 2003	April 24, 2003	18 U.S. C. § 207
01HIRS0245C2NC	February 20, 2003	April 24, 2003	18 U.S. C. § 208
04UIHQ0701B2FU	June 25, 2004	October 20, 2004	18 U.S. C. § 201, 208
02UISM0371M3NC	July 9, 2003	February 17, 2005	18 U.S. C. § 208
04UIML0226C4FC	March 26, 2004	February 17, 2005	18 U.S. C. § 208, 209
04UIHQ1301C1SI	December 10, 2004	April 4, 2005	18 U.S. C. § 208
03UIPO472C3FC	December 29, 2004	January 14, 2005	18 U.S. C. § 208

As demonstrated by the RIs provided by OIG during the review and the table above, USPS has not been timely in its notification to OGE of referrals made to DOJ. Prior to our review, OIG officials provided quarterly reports to OGE of referrals made to DOJ. OIG will now provide monthly reports to OGE to satisfy the requirement at 5 C.F.R. § 2638.603(b) to provide *concurrent* notification to OGE when such referrals are made. They are confident this will greatly improve the timeliness of reporting.

#### ADVICE AND COUNSELING

Ethics advice and counseling services generally met the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). We examined a sample of ethics-related advice and counseling provided by ethics officials to PAS and non-PAS employees. We concluded that most of the written advice, which covered a variety of subjects, was consistent with applicable ethics statutes and regulations and was provided timely. However, we had some concerns regarding the advice and counseling provided to employees regarding WAG, one of the exceptions to the gift prohibitions at 5 C.F.R. § 2635.204(g).

We examined five individual WAG determinations and provided our analysis to the Alternate DAEO. As a result, ethics officials have agreed to consider including some additional standard language in future WAG determinations. The language would address the requirement that financial disclosure report filers who accept gifts of free attendance at WAGs disclose those gifts on their reports when they meet the reporting threshold. Additionally, determinations would mention that employees subject to a leave system must attend WAG events on their own time unless they are officially authorized excused absence.

#### EDUCATION AND TRAINING

USPS's education and training program generally exceeds OGE's requirements at 5 C.F.R. §§ 2638.703 and 2638.704.

##### Initial Ethics Orientation Program

All new employees receive initial ethics orientation during new employee in-processing sessions which are conducted every two weeks. We attended one of these sessions and found the training to be comprehensive, well-prepared, well-presented, and well-suited for the wide variety

of new employees that may be in-processing at any given time. The content of the training met relevant requirements. While necessarily general in nature, the training video and materials provided to new employees and the discussion facilitated by an ethics official were all designed to show new employees that ethics rules are relevant to them, regardless of their position. Since all new employees are required to attend an in-processing session, and all sessions include initial ethics orientation, it is accepted that all new employees receive the required training.

The Alternate DAEO confirmed that she provided in-person initial ethics orientation to all PAS employees appointed during the current and preceding three calendar years.

#### Annual Ethics Training Program

All covered employees, both at headquarters and throughout USPS' various components and field offices, received annual training during calendar year 2004. Ethics officials solicited input from USPS' components regarding issues that should be addressed during training for their employees. With this input, ethics officials prepared a wide variety of Power Point slide presentations, incorporating suggestions and covering all the material required by 5 C.F.R. § 2638.704. They used these individual presentations in appropriate combinations to provide well-tailored training for USPS' components. When necessary, they created new presentations to address issues specific to the component being trained. We examined a number of these presentations. It was obvious that a great deal of effort was required to develop both the number of presentations and their tailored content. We consider the use of training specifically tailored for individual components/offices to be a best practice which enhances the impact of ethics training.

All USPS officers (USPS' rough equivalent of the Senior Executive Service), including PAS employees, received in-person verbal training from either headquarters or local ethics officials in 2004. Training was provided to other covered employees through a combination of in-person and computer-based verbal presentations. Moreover, ethics officials provided tailored verbal training to any office that requested it. This often included training for non-covered employees whom the component felt would benefit from the training. Ethics officials ensured completion of annual training by all covered employees through USPS' national tracking data base.

We were provided with USPS' 2004 and 2005 annual training plans. They were highly detailed and comprehensive in scope. However, they did not estimate the numbers of employees who would be required to receive annual training, as required by 5 C.F.R. § 2638.706. The Alternate DAEO agreed to include the estimate in the 2006 annual training plan.

#### AGENCY SPECIFIC ETHICS PROHIBITIONS, RESTRICTIONS, AND REQUIREMENTS

USPS' supplemental standards of conduct regulation is located at 5 C.F.R. part 7001. Section 7001.102(a) prohibits certain outside employment and business activities with or for

persons who conduct certain types of business with USPS. Section 7001.102(b) requires prior written approval for outside employment and business activities with or for persons who have certain other types of business with USPS. Other than USPS' implementing procedures, there were only a few written approvals available as documentation of the enforcement of the supplemental regulation. Ethics officials explained that USPS employees were very sensitive to the restrictions on outside employment and only rarely engaged in any activity that would require prior approval or which could be called into question under the supplemental regulation.

#### TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

USPS is not eligible to accept payments for travel, subsistence, and related expenses from non-Federal sources under 31 U.S.C. § 1353. USPS does not fit the definition of an "executive agency" as defined in section 105 of title 5, which determines which agencies have the authority to accept such payments. Section 105 of title 5 defines "Executive Agency" to mean an Executive department, a Government corporation, or an independent establishment. The U.S. Code Annotated contains a note of decision stating that the "Postal Service is not an 'executive agency'...." Consistent with this interpretation, USPS has not accepted any such payments.

#### RECOMMENDATIONS

We recommend that you:

1. Provide greater oversight of the confidential financial disclosure system within headquarters components, to include:
  - Ensuring that all component ethics officials who review or certify reports conduct a thorough conflict of interest analysis of each report before they are signed, including annual reports filed during the 2005 annual filing cycle.
  - Ensuring that all component ethics officials work with supervisors to consistently apply the criteria at 5 C.F.R. § 2634.904, which define who should be required to file a report.
  - Ensuring that all components have a process to identify new entrants and require them file a confidential reports within 30 days of entering a covered position.
  - Incorporating ethics-related responsibilities into component ethics officials' position descriptions and encouraging supervisors to specifically evaluate ethics officials on the performance of their ethics-related duties during the performance appraisal process.

Ms. Mary Anne Gibbons  
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2. Establish a sustainable method of providing a valid basis for the estimate of the number of days each Board member serves in a 365 day period following their designation or re-designation as an SGE.

Please advise me as soon as possible, but no later than 60 days from the date of this report, of the specific actions you have taken or plan to take to implement our recommendations. It would be particularly useful to provide at least a preliminary proposal outlining a plan of action to address our recommendations. The Office of Government Ethics is committed to assisting your agency in resolving the noted deficiencies. If you believe that we can be of assistance, we invite you to contact your desk officer, Jennie Keith, at (202) 482-9295, or Doug Chapman, at (202) 482-9223. A follow-up review will be scheduled approximately six months from the date of this report. In view of the corrective action authority vested with the Director of OGE under subsection 402(b)(9) of the Ethics Act as implemented in subpart D of 5 C.F.R. part 2638, it is important that you take timely action.

In closing, I would like to thank you for your efforts on behalf of the ethics program. We look forward to working with your agency towards achieving full compliance with regulatory requirements.

Sincerely,

  
Joseph E. Gangloff  
Deputy Director  
Office of Agency Programs

Report Number 06- 004



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

May 18, 2000

Mary Anne Gibbons  
General Counsel  
U.S. Postal Service  
475 L'Enfant Plaza West, SW.  
Washington, DC 20260-1100

Dear Ms. Gibbons:

The Office of Government Ethics (OGE) has completed its review of the U.S. Postal Service's (Postal Service) ethics program. The review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (Ethics Act). Our objective was to determine the ethics program's effectiveness, measured by its compliance with applicable ethics laws and regulations. We also sought to determine whether improvements were made since OGE's last review in 1995. To achieve our objective, we examined the following program elements: the public and confidential financial disclosure systems, ethics education and training, counseling and advice services, the acceptance of travel payments from non-Federal sources, and coordination with investigative organizations: the Postal Inspection Service (PIS) and the Office of Inspector General (OIG). This review was conducted intermittently from December 1999 through March 2000.

Based on the results of the review, we found that Postal Service's ethics program continues to require improvement in order to be in compliance with the ethics laws and regulations. Although all the recommendations from our previous report were implemented, as evidenced by our subsequent follow-up reviews, we found that ethics officials continue to experience problems with reviewing reports within 60 days and collecting new entrant and termination reports, collecting late filing fees or obtaining fee waivers, and providing concurrent notification to OGE regarding referrals to the Department of Justice (DOJ). The ethics officials attributed the problems associated with Postal Service's ethics program to the turnover in ethics officials and Postal Service's reorganization. While the personnel and organization have stabilized, we believe that enhanced management commitment to the program's integrity and increased oversight is needed.

#### ADMINISTRATION OF THE ETHICS PROGRAM

As the Designated Agency Ethics Official (DAEO), you are responsible for the overall administration of the ethics program. Our review disclosed that Postal Service has a generally decentralized ethics program, with the Chief Counsel, Ethics and Federal Requirements (CCEFR), in the Civil Practice Section of the Law Department, providing coordination and direction for the daily operations of the program. The CCEFR is assisted by a number of ethics representatives within Postal Service's component organizations, both at headquarters and at field locations. Human Resources (HR) also assists the CCEFR with various elements of the program. Our review examined only headquarters components.

#### PUBLIC FINANCIAL DISCLOSURE

Postal Service has a centralized public financial disclosure system which is administered by CCEFR. HR provides the CCEFR with an annually updated list of filers whose positions meet the salary threshold for public disclosure. The CCEFR, assisted by a paralegal specialist and other Law Department staff, is responsible for the distribution and collection of annual, new entrant, and termination reports. Following a technical review by the paralegal specialist, the CCEFR or other ethics attorney performs a final review and certification of public financial disclosure reports. According to the CCEFR, any late filing fees collected are to be forwarded to the Postal Service's Manager, National Accounting to the U.S. Treasury.

In 1999, 866 employees were required to file public reports. Of this total, 745 were incumbent filers and 121 were new entrant or termination filers.

We examined a sample of 179 public disclosure reports, which included 151 incumbent, 15 new entrant, and 13 termination reports. Our review of these reports disclosed no substantive deficiencies. A total of 49 filers in our sample did not submit reports within 30 days of the due date and were therefore subject to the \$200 late filing fee. Of these reports, 13 were incumbent and 33 were new entrant or termination reports (more than a quarter of the total new entrant/termination reports required to be filed in 1999). In addition, three reports (two new entrants and one incumbent) had not yet been collected and will be subject to a late filing fee. You or the CCEFR should collect the three missing public reports and collect the \$200 late filing fees due, unless the filers have requested and have been granted waivers of the fee from OGE, in accordance with 5 C.F.R. § 2634.704.

During our review, we discussed with the CCEFR and the paralegal specialist the status of the three apparently missing

public reports, and the collection of the \$200 late filing fees from the 49 late filers. When questioned about the missing and late reports, the paralegal specialist recalled that an employee had been provided a filing extension; however, this extension was not documented on the employee's report, nor was it entered in the financial disclosure tracking system. The CCEFR recalled that, for another employee, a \$200 late filing fee had been collected; however, she had difficulty finding any documentation. Receipt of the fee had not been documented on the employee's report, nor was it entered in the financial disclosure tracking system. We discussed these issues with the CCEFR, who agreed to make changes to the written procedures to reflect the process for receiving the late filing fees and forwarding them through the Manager, National Accounting to the U.S. Treasury. The CCEFR also agreed to modify the tracking system and annotate the applicable reports to reflect extended filing dates and dates of receipt and disposition of late filing fees.

We also examined the public financial disclosure report review process. We found the review process to be thorough, which resulted in our finding no substantive deficiencies.

#### CONFIDENTIAL FINANCIAL DISCLOSURE

Postal Service's confidential financial disclosure system is decentralized. At headquarters, covered positions are annually designated by Postal Service Vice Presidents with headquarters HR providing the revised master lists of filers. At field locations, covered positions are determined by designated occupational codes. Lists of covered field positions are revised annually by HR to reflect changes in designated occupational codes. According to the CCEFR, HR notifies ethics representatives in field locations every two weeks regarding new entrants and those who have left covered positions. However, headquarters new entrants are identified only annually. According to the CCEFR, supervisors at both headquarters and field locations generally perform an initial review of reports and ethics representatives perform a final review and certification.

We examined a total of 293 confidential reports at four headquarters components: Purchasing and Materials, Information Systems, OIG, and PIS. Of the total we reviewed, 264 were annual reports and 29 were new entrant reports. While our review disclosed that most reports were filed timely, ethics officials were reminded of the need to revise their procedures to ensure that all new entrants, including those at headquarters, are notified regarding the requirement to file reports within 30 days of their entrance into covered positions.

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Our review disclosed that reports were examined for conflicts and appropriately annotated, and that ethics officials had provided cautionary letters and certifications of no conflicts when needed. All but 10 of the reports in our sample were filed timely and, with the exception of OIG, the remaining components' reports were generally reviewed timely. We noted that 18 of the annual filers had submitted their reports before September 30. Ethics officials were reminded that annual reports should include a full and complete statement of required information for the preceding 12 months ending September 30.

As late as January 2000 when we began our visit, OIG's ethics representatives, the Deputy Director HR, and Assistant General Counsel (AGC) had not started the process of reviewing 1999 confidential financial disclosure reports. According to the AGC, this was because of the large increase in confidential filers and because of confusion between the AGC and Deputy Director HR regarding the responsibility for reviewing the reports. After our visit began, the AGC and Deputy Director HR took immediate action to review the reports. Our subsequent examination of these reports disclosed that they had all been reviewed and certified in accordance with 5 C.F.R. § 2634.605, albeit late. We furnished OIG ethics representatives with OGE's September 14, 1994 DAEOgram, subject: "Improving the confidential financial disclosure system," to assist them with future confidential disclosure filings. OIG subsequently developed written procedures to ensure a timely and effective process for reviewing confidential financial disclosure reports. OIG ethics representatives noted that they would change the review process to have supervisors perform an initial review before OIG ethics representatives conduct the final review and certification.

#### SPECIAL GOVERNMENT EMPLOYEES' FINANCIAL DISCLOSURE

Postal Service has a number of special Government employees who are the members of the Board of Governors. The Governors are not subject to the public reporting requirement because they work less than 61 days in each calendar year. Although the Governors are not considered public filers, Postal Service requires that they file annual reports using the public reporting form (SF 278) but are treated as confidential reports and not releasable to the public.

Our review of the nine reports of the Governors disclosed that all had been filed and reviewed timely. We found no substantive deficiencies.

#### EDUCATION AND TRAINING

Postal Service's education and training program is effective and in compliance with regulations at subpart G of 5 C.F.R. part 2638.

Initial ethics orientation at headquarters is provided to all new employees and includes distribution of the following: a summary of 5 C.F.R. part 2635 and Postal Service's supplemental regulation; the names, titles, office addresses, and telephone numbers of ethics officials; several OGE pamphlets (such as "Rules for the Road"); and information regarding Postal Service's Intranet and Internet Web sites. As part of the orientation, employees also view a Postal Service videotape entitled "An Ethics Nightmare," and a headquarters attorney is present to answer questions. Initial ethics orientation in the field consists of a similar training format with a qualified instructor (generally an HR specialist) present at the field location to answer questions.

Annual ethics training is generally conducted in the last quarter of the calendar year. The Postal Service's videotape "An Ethics Nightmare" was broadcast over their network three times during the 1999 training period. The videotape was also distributed to field offices. A qualified instructor was available for questions during and immediately following the annual ethics training sessions. Sign-in sheets were used at both headquarters and the field offices to track attendance. Since both filers and non-filers attended and signed, the CCEFR stated that separate sheets would be used in the future to better track those required to receive training. Contact information was provided at the end of the sessions and is available on Postal Service's Intranet. Postal Service plans to develop an agency-specific ethics training videotape for the CY 2000 annual training cycle.

#### COUNSELING AND ADVICE SERVICES

Postal Service provides effective ethics counseling and advice services to its employees. Our review of approximately 78 written determinations provided during the last two years, disclosed that the advice is timely, comprehensive, and consistent with ethics laws and regulations.

According to the CCEFR, advice is generally provided in written form by E-mail or letter, with some routine matters handled orally. Ethics officials maintain a log for tracking the timeliness, the type of advice, and to whom it was provided. The CCEFR noted that advice commonly concerned such issues as gifts between employees, gifts from outside sources, post employment, seeking employment, and outside activities.

The CCEFR noted that Postal Service does not accept payments from non-Federal sources under the General Services Administration's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353. Postal Service's policy is to use its own funds for all activities.

#### COORDINATION WITH INVESTIGATIVE ORGANIZATIONS

Postal Service's two major investigative organizations are the PIS and the more recently formed OIG. According to the CCEFR, prior to April 2000, PIS investigated criminal conflict-of-interest allegations if they concerned nonexecutive level employees while OIG investigated those pertaining to executive level employees. As of April 2000, OIG was to have exclusive authority for all ethics-related investigations.

In our discussions with the CCEFR and the PIS and OIG ethics representatives, all agreed that they have an effective working relationship. Discussions with the CCEFR disclosed three referrals to DOJ involving criminal conflict-of-interest allegations since our last review. One of these was an 18 U.S.C. § 208 issue regarding the former Postmaster General which had been concurrently reported to OGE in accordance with 5 C.F.R. § 2638.603(b). However, our review disclosed that the other two referrals to DOJ had not been concurrently reported to OGE.<sup>1</sup> We reminded ethics representatives of the need to concurrently notify OGE whenever there is a criminal conflict-of-interest referral to DOJ.

#### CONCLUSIONS AND RECOMMENDATIONS

Postal Service has established systems that provide the foundation of an effective ethics program. However, while Postal Service has undertaken a number of measures to improve its program since our last review, such as adopting written procedures and ensuring compliance with initial training requirements, many of the deficiencies cited in our last report persist.

Postal Service's public financial disclosure system continues to require improvement to ensure that reports are collected timely

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<sup>1</sup>One referral involved an acting executive level employee from the Postal Service's Finance Division who was negotiating for employment. The other referral involved a member of the Board of Governors and was recently declined by DOJ. The CCEFR stated that these cases were being investigated during a reorganization of investigative responsibilities between OIG and PIS. The CCEFR suggested that the reorganization may account for Postal Service's failure to concurrently notify OGE of the referrals to DOJ.

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and that either late filing fees are collected when needed or waivers of the fees are obtained from OGE. Notwithstanding improvements to the confidential financial disclosure system since our last review, headquarters new entrants should be identified and their reports obtained within 30 days of the employees entering covered positions. Confidential reports should be reviewed within 60 days, and OGE should be concurrently notified regarding any criminal conflict-of-interest referrals to DOJ.

We also believe that a stronger commitment on the part of management regarding the implementation of these systems and better oversight are needed to ensure full compliance with applicable laws and regulations.

Accordingly, we recommend that you:

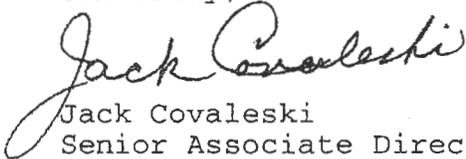
1. Collect the delinquent public reports.
2. Collect the \$200 late filing fees due unless waivers of the late filing fees have been obtained from OGE in accordance with 5 C.F.R. § 2634.704.
3. Ensure that all new entrant confidential filers submit reports within 30 days of entering covered positions.
4. Ensure that financial disclosure reports are reviewed timely, in accordance with 5 C.F.R. § 2634.605(a).
5. Consider a system to track criminal conflict-of-interest referrals to DOJ and ensure that OGE is concurrently notified of any referrals, in accordance with 5 C.F.R. § 2638.603(b).

In closing, I wish to thank ethics officials for their cooperation and their efforts on behalf of the ethics program. Please advise me within 60 days of the actions you have taken or plan to take on each of our recommendations. A brief follow-up review will be scheduled within six months from the date of this report. In view of the corrective action authority vested with the

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OGE Director under subsection 402(b)(9) of the Ethics Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that our recommendations be implemented in a timely manner. Please contact Mike Berry at 202-208-8000, extension 1215, if we may be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Jack Covalesski". The signature is written in dark ink and is positioned above the typed name and title.

Jack Covalesski  
Senior Associate Director  
Office of Agency Programs

Report number 00-016



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

August 9, 1995

Mary S. Elcano  
General Counsel and Vice President  
United States Postal Service  
475 L'Enfant Plaza, SW., Room 6006  
Washington, DC 20260-1100

Dear Ms. Elcano:

The Office of Government Ethics (OGE) has completed its fifth review of the U.S. Postal Service's (Postal Service) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to determine the ethics program's effectiveness and compliance with applicable laws and regulations. We also sought to determine whether improvements were made since OGE's last review in 1993. To achieve our objectives, we examined the following program elements: public and confidential financial disclosure systems, ethics education and training, counseling and advice services, and the relationship with the Postal Inspection Service (PIS). This review was conducted intermittently from December 1994 through April 1995, and included the Postal Service headquarters and Memphis Field Office.

Our review disclosed that, while the Postal Service has made some improvements to its ethics program since our last review, more work remains to be done to develop an effective program. Virtually all program elements require improvement, including the public financial disclosure system, ethics education and training, counseling and advice services, and the relationship with the PIS. Moreover, because of the decentralized nature of the ethics program within components, there is a need for closer monitoring of the activities of headquarters ethics liaisons and field counsels.

#### PRIOR OGE REVIEWS

The fourth review, conducted in 1993, concluded that the Postal Service did not have an effective ethics program. We noted that some improvements had been made to the public financial disclosure system and the education and training program, but that more improvements were needed to strengthen these elements as well as the confidential financial disclosure system. Moreover, consistent management oversight and support were needed to ensure that our recommendations were implemented.

WRITTEN PROCEDURES FOR ADMINISTERING THE  
FINANCIAL DISCLOSURE SYSTEMS NEED TO BE  
DEVELOPED

Pursuant to section 402(d)(1) of the Ethics in Government Act of 1978, as amended, the Postal Service is required to develop written procedures for collecting, reviewing, evaluating, and making publicly available financial disclosure reports. Our review disclosed that the Postal Service has not developed written procedures for its public and confidential financial disclosure systems.

PUBLIC FINANCIAL DISCLOSURE SYSTEM

Although ethics officials have implemented some of OGE's recommendations from the last review, several areas of the public financial disclosure system continue to need improvement. The Postal Service has a centralized public financial disclosure system which is administered by the Law Department. The Corporate Personnel Office is responsible for the distribution and collection of annual, new entrant, and termination public reports. The Law Department's paralegal specialist is responsible for the initial review of reports. The Chief Counsel, Ethics and Information Law, is responsible for conducting the final review and certification.

During the 1994 filing cycle, 692 employees were required to file public reports. We examined 145 public financial disclosure reports filed during 1994. Our sample consisted of 106 incumbent, 26 new entrant, and 13 termination reports. We found no substantive deficiencies and few technical deficiencies.

Our examination disclosed that 117 reports were filed in a timely manner. The remaining 28 reports were filed late. Of the reports filed late, 17 were new entrant reports, 10 were incumbent reports, and 1 was a termination report. Forty-four reports from the sample were not reviewed in a timely manner. Of the reports reviewed untimely, 34 were incumbent, 5 were termination, and 5 were new entrant reports. According to ethics officials, the \$200 late filing fee was imposed on only two filers. The remaining late filers were not assessed the late filing fee nor did they request waivers of the fees from OGE.

CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

Overall, the Postal Service's confidential financial disclosure system is generally effective. Our review disclosed that most reports were filed and reviewed in a timely manner.

The Postal Service had not administered an agencywide confidential financial disclosure system in many years, notwithstanding previous OGE recommendations to do so. In order to

correct this problem, the Designated Agency Ethics Official (DAEO), in November 1992, issued a memorandum which addressed the restructuring of the ethics program. In the ensuing restructuring, senior management officials were designated to serve as Associate Ethical Conduct Officers. These officers subsequently appointed within headquarters components ethics liaisons who were to actually implement the new confidential financial disclosure system. In consultation with personnel managers, senior ethics officials at headquarters (i.e., the DAEO, Alternate DAEO, and Chief Counsel, Ethics and Information Law) determined agencywide which positions would be subject to confidential financial disclosure. For the 1994 filing cycle, confidential filers were granted an extension of the filing deadline until February 1, 1995.

The Postal Service Information Systems Service Center in Minneapolis, Minnesota is responsible for distributing the confidential reporting forms and filing instructions to non-headquarters filers. The 17 headquarters ethics liaisons are responsible for distributing the confidential reporting forms to headquarters filers within their functional area and collecting the completed reports.

Financial Disclosure Reports Were Generally  
Filed And Reviewed In A Timely Manner

During the 1994 filing cycle, 3,735 employees were required to file confidential reports. We examined a sample of 367 reports which included 329 annual reports and 18 new entrant reports. Twenty filers did not indicate their filing status. We examined reports from the Engineering, Marketing, Operations Support, Labor Relations, and Purchasing components at the Postal Service headquarters. We also examined reports which had been filed and reviewed at the Memphis Field Office.

Our examination disclosed that 329 reports were filed in a timely manner and 38 reports were filed untimely. Of the late filers, 19 were annual reports and 18 were new entrant reports. The filing status of one late report could not be determined. We determined that new entrant reports at the Memphis Field Office were filed during the annual cycle rather than within 30 days of entering covered positions. In addition, 36 reports were not reviewed in a timely manner. The confidential reports we examined did not disclose any substantive deficiencies. Some of the reports contained technical deficiencies, such as the family names of various mutual funds being indicated rather than the specific names and other instances of incomplete information.

Headquarters Ethics Officials Need to Monitor  
Components' And Areas' Administration of the  
Ethics Program

Our review disclosed that ethics officials do not routinely monitor the activities of the ethics liaisons and field counsels. While there is occasional liaison/counsel-initiated contact to obtain advice, senior headquarters ethics officials do not provide feedback concerning the operation of the program at the component levels. Overall, we believe that more communication is needed between headquarters ethics officials and the ethics liaisons and field counsels.

While most ethics liaisons were aware of the need to perform technical and substantive reviews of financial disclosure reports, we found that in some instances ethics liaisons were not provided sufficient guidance. According to the Engineering ethics liaison, he was not provided adequate training or specific instructions from senior ethics officials on how to conduct substantive or technical reviews, and viewed his role regarding the confidential reports as "custodial." Furthermore, our examination disclosed that the Engineering ethics liaison had reviewed and certified his own report. Ethics liaisons in the components generally conduct reviews to identify potential conflicts of interest based on their personal knowledge of a filer's position and duties and the firms with which the filer interacts. While the Postal Service has a contractor list, it is seldom, if ever, used as part of the review process. The availability of an up-to-date contractor list for use by ethics liaisons could help improve the quality of the conflict-of-interest analyses.

SPECIAL GOVERNMENT EMPLOYEES'  
FINANCIAL DISCLOSURE

Most of the financial disclosure reports filed by members of the Board of Governors were not certified and appeared not to have been reviewed.

The Governors are not subject to the public reporting requirements because they are special Government employees (SGE) who work less than 61 days in each calendar year. Although the Governors are not considered public filers, the Postal Service requires that they file annual reports using the public reporting form (SF 278) but which are treated as confidential reports and not releasable to the public.

If the Postal Service believes that a Governor will not work more than 60 days during the year, but recognizes the possibility of his or her going over 60 days, it can offer the Governor the opportunity to file confidentially on an SF 278 which would be marked "not for public release." If the Governor does go over 60

days, a second report would not have to be completed and the SF 278 would become publicly available. Furthermore, in determining whether or not the 60-day threshold has been exceeded, the Postal Service should count the days on which a Governor actually worked. If the Governor works part of a day, or a Saturday, Sunday, or a holiday, then that day counts as one day in determining the number of days worked. Finally, in its DAEOgram of April 11, 1995, OGE advised agencies that for confidential reports being filed at the time of reappointment/redesignation as an SGE, agencies could collect them all at one time (e.g., May 15), rather than on the anniversary of each employee's initial appointment.

Most of the Governors' annual reports filed in 1994 as well as in previous years had not been certified. The Alternate DAEO, who is responsible for reviewing and certifying the Governors' reports, stated that the reports were reviewed for conflicts of interest but he did not always document actions that resolved the issues.

#### ETHICS EDUCATION AND TRAINING

The education and training program needs improvement. Our review disclosed that the initial agency ethics orientation provided to new employees does not appear to meet the requirements of 5 C.F.R. § 2638.703. On the other hand, annual training was conducted agencywide during 1994 and appeared to meet the requirements of § 2638.704.

At headquarters, new employees are shown only the Postal Service's modified Department of Defense (DOD) videotape summarizing 5 C.F.R. part 2635, entitled "Ethics and You," without being provided with the names, titles, office addresses, and telephone numbers of the DAEO and other agency ethics officials. Furthermore, in view of the fact that the videotape was considered simply a summary of 5 C.F.R. part 2635, the Postal Service was not ensuring that copies of the complete text of part 2635 were being retained and readily accessible in the employees' immediate offices.

We found similar problems with the initial ethics orientation in two Postal Service districts under the Memphis Field Office. According to the Human Resource Specialist at the Postal Employee Development Center (PEDC) in the district of Tennessee, new employees were shown the modified DOD videotape and provided with a booklet containing Executive Order 12674, as modified by Executive Order 12731, and the names, titles, office addresses, and telephone numbers of the DAEO and other ethics officials at headquarters and in the district. Once again, the Postal Service was not ensuring that copies of the complete text of 5 C.F.R. part 2635 were being retained and readily accessible in the employees' immediate offices.

According to the Human Resource Specialist at the PEDC in Alabama, the initial ethics orientation simply consisted of new employees being informed that they could obtain, at the nearest "associate post office," the complete text of Executive Order 12674 and part 2635, along with the names, titles, office addresses, and telephone numbers of the DAEO and other ethics officials. In this case, new employees were neither given a copy of part 2635, furnished a copy of part 2635 for the purposes of review only, nor given materials which summarize Executive Order 12674 and part 2635. Furthermore, it appears likely the initial ethics orientation in Alabama fails to meet the one hour of official duty time requirement found at 5 C.F.R. § 2638.703(a)(3).

#### COUNSELING AND ADVICE

The Postal Service's counseling and advice were generally consistent with applicable laws and regulations. However, according to senior ethics officials, most advice is oral.

We reviewed the written determinations for 1994 and 1995. The Alternate DAEO provides most of the counseling at headquarters. The DAEO and attorneys in Ethics and Information Law also provide ethics advice. In addition, ethics liaisons at headquarters provide advice to headquarters employees, and counsels and ethics resource persons in the field provide advice to non-headquarters employees.

Employees seeking advice on complex issues are urged to do so in writing and are provided written responses. According to the Chief Counsel, Ethics and Information Law, post-employment advice is given upon request in the form of a written summary of post-employment restrictions.

While written advice which we reviewed was generally consistent with applicable laws and regulations, we identified one instance where, perhaps, a written determination should have been rendered in advance. One of the Governors was a principal in a company when it was merged into another company which was in the process of obtaining a Postal Service contract. The Governor served as a member of the board of directors of the successor company for a short period of time after the contract was let and before resigning from the company.

Part 10 of 39 C.F.R., which has been "grandfathered" pending the issuance of the Postal Service's supplemental standards of conduct regulation, states at section 10.22(a) that:

No Governor may have a financial interest, direct or indirect, that conflicts substantially, or appears to conflict substantially, with his or her duties and responsibilities to the Postal Service. For the purposes

of this Code, a Governor's interests include those of his or her spouse, his or her minor child or children, and other individuals related to the Governor by blood who are residents of the Governor's household.

Further, section 10.22(b) of 39 C.F.R. states that:

No Governor shall enter into a contract with the Postal Service or otherwise have an interest in any contract with the Postal Service unless there has been a prior determination by an ethics official that the interest is so minor that no realistic possibility of a conflict of interest, or the appearance of a conflict of interest, exists.

According to the Alternate DAEO, he did not provide a written determination although he acknowledged in retrospect that one may have been warranted. Nevertheless, he stated that (1) while Governors have authority over broad Postal Service policies, they did not get involved with specific contracts; (2) he expected that this Governor would be leaving the Postal Service shortly, as her term has expired, although she continues to sit pending the appointment of a replacement; (3) he believed he had provided oral advice to her; and (4) the above-cited sections of the Postal Service's standards of conduct will be rescinded by the supplemental standards.

#### RELATIONSHIP WITH POSTAL INSPECTION SERVICE

The working relationship between senior ethics officials and the PIS needs improvement, as senior ethics and PIS officials do not appear to routinely coordinate with each other.

Our examination of the ethics files disclosed a number of conflict-of-interest and standards of conduct allegations which had been referred to the PIS for investigation. However, ethics officials had not followed up to determine the results of the investigations.

When questioned about the outcome of the investigations, the Alternate DAEO acknowledged that the PIS had not communicated with senior ethics officials in some time regarding these matters and that, likewise, senior ethics officials had not followed up to determine whether violations had occurred and what actions had been taken. Senior ethics officials are to report any alleged standards of conduct or conflict-of-interest violations to the PIS and follow up to determine the results of the investigations.

According to the PIS Counsel, OGE is not concurrently notified of referrals to the Department of Justice (DOJ) of criminal

conflict-of-interest violations and their disposition, as required by 5 C.F.R. § 2638.603(b) and (c). According to the PIS Counsel, he is aware of the requirement but has waited for the DOJ to actually decline the case before notifying OGE or senior ethics officials regarding the case. As for coordination with senior ethics officials generally, although no formal agreement exists, the PIS Counsel meets with the Alternate DAEO at least quarterly to share information.

#### CONCLUSION

Ethics officials have made some progress in improving the ethics program but continue to have difficulty in administering an effective agencywide ethics program that is in compliance with applicable laws and regulations. As noted in our last review, the DAEO must provide consistent oversight and strong support to ensure that the ethics program continues to improve. The public financial disclosure system, education and training, and coordination with the PIS all require more consistent oversight to ensure that improvement continues. Moreover, we believe that you and the senior ethics staff need to be more active in coordinating with ethics liaisons.

#### RECOMMENDATIONS:

We recommend you ensure that:

1. Written procedures are developed for administering the public and confidential disclosure systems.
2. Public reports are filed in a timely manner.
3. The \$200 late filing fee is collected, or the public filers request waivers from OGE.
4. The initial ethics orientation meets the requirements of 5 C.F.R. § 2638.703.
5. Ethics officials improve coordination with the PIS and follow up on referrals for investigation.
6. OGE is concurrently notified of any referrals to the DOJ of alleged conflict-of-interest violations and their disposition.

In closing, I wish to thank you for all of your efforts on behalf of the ethics program. Please advise me within 60 days of the actions you have taken or plan to take on each of the recommendations in our report. A brief follow-up review will be

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scheduled six months from the date of this report. In view of the corrective action authority vested with the Director of the Office of Government Ethics under subsection 402(b)(9) of the Ethics in Government Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that our recommendations be implemented in a timely manner. Please contact Mike Berry at 202-523-5757, extension 1215, if we can be of further assistance.

Sincerely,



Jack Covaleski  
Associate Director  
Office of Program Assistance  
and Review

Report Number 95-029





United States

## Office of Government Ethics

1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

August 23, 1993

Mary S. Elcano  
General Counsel and Vice President  
United States Postal Service  
475 L'Enfant Plaza West, SW.  
Room 6006  
Washington, DC 20260-1100

Dear Ms. Elcano:

The Office of Government Ethics (OGE) has completed its fourth review of the United States Postal Service's (Postal Service) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to: (1) assess the ethics program's effectiveness and compliance with applicable laws and regulations, and (2) determine whether the Postal Service had implemented the recommendations from our February 5, 1991, report. To achieve our objectives, we examined the following program elements: the ethics officials' duties and responsibilities, the public and confidential financial disclosure systems, and the ethics education and training program. This review was conducted intermittently during May and June 1993.

Overall, we found that the Postal Service does not have an effective ethics program. In addition, limited progress has been made on implementing our 1991 report's recommendations because of the Postal Service's slowness in taking corrective actions. However, we believe that the recent actions taken are the foundation steps to building an effective ethics program.

Our review disclosed that some improvements have been made to the public financial disclosure system and the education and training program. However, more improvements are needed to strengthen these elements of the program, as well as the confidential financial disclosure system. We strongly recommend that you provide consistent management oversight and support in these three areas of the ethics program to ensure that our recommendations are implemented.

### BACKGROUND

The Postal Service is responsible for processing and delivering mail to individuals and businesses around the United States. In addition, the Postal Service is responsible for

Ms. Mary S. Elcano

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protecting the mail from loss or theft and for apprehending those who violate postal laws.

Basically, the management structure of the Postal Service consists of 21 Vice Presidents or employees at a commensurate level within headquarters offices in Washington, DC. In addition, there are ten area offices around the United States. Approximately one year ago, the Postal Service began an across-the-board reorganization aimed at reducing duplication and streamlining processes. Some Postal Service offices and activities are still being reorganized.

The General Counsel serves as the Designated Agency Ethics Official (DAEO). Within the General Counsel's office, referred to as the Law Department, the Chief Counsel, Ethics and Information Law, manages the ethics program Postal Service-wide on a day-to-day basis. The Senior Counsel, Ethics and Information Law, serves as the Alternate DAEO. The Alternate DAEO is primarily responsible for providing counseling and advice services and reviewing public financial disclosure reports. Other attorneys within the Law Department perform ethics-related duties on a part-time basis. Also within the Law Department, a full-time paralegal specialist assists in administering the public financial disclosure system. The paralegal specialist's duties include collecting, reviewing, monitoring, and maintaining the public reports. In addition, the paralegal specialist notifies filers when their reports are not filed on time or when additional information is needed to complete the technical review.

#### PRIOR OGE REPORTS

OGE issued three prior reports--in 1982, 1988, and 1991--on the Postal Service's ethics program. The first review concluded that, although the structure for the ethics program had been developed, some basic deficiencies needed to be addressed. The second review disclosed that actions had been taken to improve the deficiencies cited in the 1982 report; however, we identified more serious problems needing attention. We recommended: (1) improving the timeliness of filing and reviewing public financial disclosure reports; (2) improving the timeliness of filing and reviewing confidential financial disclosure reports and eliminating technical reporting deficiencies; (3) developing a formal ethics education and training program; (4) establishing a program monitoring system; and (5) adding staff resources to the program.

The third review was conducted in 1990 because of the Postal Service's lack of response to our 1988 report's recommendations. Our 1991 report disclosed that there were significant deficiencies within both the public and confidential disclosure systems. In addition, we reported deficiencies in providing ethics education and training due to haphazard administration of the program. We

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also found that the general long-standing problems in the ethics program were primarily attributable to the lack of strong support by senior management officials, specifically the DAEO, and insufficient staffing.

#### PUBLIC FINANCIAL DISCLOSURE SYSTEM HAS IMPROVED

Ethics officials have implemented many of OGE's recommendations to improve the public financial disclosure system since our last review. Specifically, the large backlog of reports from 1989 and 1990, not previously reviewed, have now been reviewed, except for approximately 100 reports at the time of our examination. In addition, reports which had not been filed have now been collected and reviewed.

We examined 106 of the approximately 1,100 public financial disclosure reports filed by the end of 1992. Our examination disclosed that the reports were filed timely. However, 94 reports (89 percent) were not reviewed and certified in a timely manner. The untimely reviews were primarily due to the backlog of reports, from prior years, which had not been reviewed. Generally, we were impressed with the paralegal specialist's thoroughness in reviewing the public reports for completeness. Our examination of the reports disclosed that 46 reports (43 percent) had technical deficiencies which consisted mostly of format errors, such as status of filers and date of appointment boxes left blank or "N.A." used instead of checking the "None" box. We did not identify any substantive deficiencies. While we could not examine a sample of all of the public reports filed in the 1993 filing cycle, due to the time frame of our examination, it appeared that reports were being filed in a timely manner and that some reports had already been reviewed.

While many improvements have been made to the public financial disclosure system, we believe that the DAEO needs to monitor the system to ensure that reports continue to be filed and reviewed in a timely manner. In addition, management oversight is required to ensure that outstanding questions on prior years' public reports are resolved so that the review process can be completed.

#### CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM NEEDS IMPROVEMENT

The Postal Service has not administered an agency-wide confidential financial disclosure system in many years, notwithstanding previous OGE recommendations to do so. However, the Postal Service recently took action to implement such a system. On November 30, 1992, the DAEO issued a memorandum which addressed the restructuring of the ethics program. In the ensuing restructuring, senior Postal Service management officials were

designated to serve as Associate Ethical Conduct Officers. These Officers subsequently appointed ethics liaisons who were to actually implement the new confidential financial disclosure system mandated by subpart I of 5 C.F.R. part 2634 along with the new confidential reporting form (SF 450).

Ethics officials anticipated that the confidential reports would be collected by the end of February 1993, covering the 12 months ending on September 30, 1992. However, according to ethics officials, due to the ongoing Postal Service-wide reorganization, ethics liaisons did not begin to identify confidential filers until March and the filing and collection of the reports did not begin until May and June. At the time of our review, ethics officials informed us that not all of the reports had been filed and collected and not all of the reports which had been collected had been reviewed. Furthermore, because of the protracted nature of the system's implementation, ethics officials allowed filers to report their financial interests for the 12 months preceding the date of filing. Ethics officials expressed concern over their ability to administer the 1993 annual filing of reports which would be due by October 31.

Section 2634.903(a) of 5 C.F.R. requires that a covered employee file an annual confidential report on or before October 31, while section 2634.908(a) requires that such an annual report covers the preceding 12 months ending on September 30. These provisions in the regulation were further explicated in two subsequent OGE DAEOgrams. In one DAEOgram, issued on April 9, 1992, entitled "Publication of new regulation on public and confidential financial disclosure and new standard form for confidential financial disclosure," DAEOs were provided the following advice:

Agencies may choose to proceed with any planned annual confidential disclosure collections under their current system during the next few months prior to the new uniform system's effective date [October 5, 1992], in which case OGE will not object if they wish to waive the filing requirement under the new system for October 31, 1992. Alternatively, agencies may choose to suspend all future annual filings under their current confidential disclosure system, in anticipation of collecting under the new system on October 31.

In a second DAEOgram, issued on August 25, 1992, entitled "New confidential financial disclosure form (SF 450)," DAEOs were provided the following advice:

Because [the SF 450] is a new form which will not be available for requisition until very near the [filing] due date, we recognize that some agencies may experience

difficulty in obtaining adequate supplies and making timely distribution. Therefore, pursuant to OGE's general authority over this uniform system, we are authorizing agencies to delay the first collection deadline for both new entrant and annual filers for up to 30 days, if necessary because of form availability problems. This is in addition to your authority under § 2634.903(d) of the new regulation to grant extensions to confidential filers totaling 90 days, for good cause shown. An agency's inability to obtain and distribute adequate supplies of the SF 450 would constitute good cause to grant a blanket extension for all [of] its confidential filers under that regulatory authority, in addition to the 30-day delay which OGE has authorized herein.

We believe the Postal Service's delay in implementing the new confidential financial disclosure system, along with its use of reporting periods other than a 12-month period ending on September 30, and filing deadlines other than October 31, are contrary to the language of the regulation as well as the two DAEOgrams. Accordingly, because of the monumental delay in implementing the new system for the 1992 annual filing cycle, the Postal Service should now concentrate on implementing the system for the 1993 annual filing cycle. Furthermore, the DAEO should develop a system to monitor the status of the distribution, collection, and review of the confidential reports Postal Service-wide.

#### EDUCATION AND TRAINING PROGRAM NEEDS MONITORING

Ethics officials have made some recent progress in developing a Postal Service-wide ethics education and training program. We believe, that a foundation now exists for implementing and establishing an effective program. However, ethics officials need to monitor the status of the program to ensure that the requirements of 5 C.F.R. part 2638 are satisfied.

A memorandum, dated May 3, 1993, disclosed that the Office of Employee Relations and the Law Department had developed a revised ethics training plan for the Postal Service. While a training plan was submitted to OGE on August 31, 1992, before the reorganization began, the revised plan, according to ethics officials, is now the Postal Service's basis for meeting the requirements of OGE's new training regulation at 5 C.F.R. part 2638. As required, ethics officials have met the initial ethics training requirements. According to ethics officials, and as stated in the training plan, the required annual ethics training will be completed Postal Service-wide by the end of calendar year 1993.

At the time of our review, we found that training had already taken place for employees who were being trained as "ethics resources." Numbering approximately 300, ethics resources employees are human resource, finance, and administrative support managers who are responsible for responding to routine ethical questions that arise in Postal Service field locations. In addition, we found that several training classes for contracting personnel have already taken place. Training for "all employees" has just begun.

Prior to the development of the training plan, ethics training was conducted on an ad hoc basis with no systematic formal instruction by the DAEO or other ethics officials on specific matters needing coverage in training classes. It appears that ethics officials have overcome this deficiency by developing a training plan and standardized ethics training materials. Ethics training materials include videotapes that are for use in training classes. In addition, we found that a formal feedback mechanism of requiring quarterly reports to monitor attendance at training classes is in place.

We believe that the ethics education and training program has markedly improved since our last review. However, the program needs to be monitored by ethics officials to ensure that it stays on track and that it provides accurate and consistent ethics information to all employees.

We also believe that it is important to increase ethics awareness, in general, among Postal Service employees. Ethics officials agreed that, on an occasional basis, it would be worthwhile to issue policy and informational memorandums to all employees on ethics matters on such topics as the financial disclosure systems, gift acceptance, and outside activities. This action along with publishing occasional articles on ethics matters in Postal Service newsletters, for example in FOCUS or BRIEFINGS, would be an excellent way to provide ethics information to all employees on an informal basis.

#### CONCLUSIONS

Ethics officials are beginning to make progress to correct the major deficiencies from the past. More work remains to be accomplished, however, before the Postal Service will have an effective ethics program that is in compliance with applicable laws and regulations. The DAEO must provide consistent oversight and strong support to ensure that the ethics program continues to improve, especially regarding the confidential disclosure system. In addition, the improvements made to the public financial disclosure system and the education and training program need consistent monitoring to ensure that improvement continues.

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RECOMMENDATIONS

We recommend that you ensure the Postal Service:

1. Eliminates the remaining backlog of unreviewed public financial disclosure reports.
2. Continues to review the public financial disclosure reports filed during the 1993 filing cycle in a timely manner.
3. Implements and administers a confidential financial disclosure system for the 1993 filing cycle, as required by subpart I of 5 C.F.R. part 2634.
4. Develops a system to monitor the status of distributing, collecting, and reviewing the confidential disclosure reports Postal Service-wide.

Please advise me within 60 days of the specific actions you have taken or plan to take concerning each of the recommendations in our report. A full ethics program review of the Postal Service will be conducted during the second quarter of fiscal year 1994. At that time we expect that actions will have been taken on all of our recommendations. In view of the corrective action authority vested with the Director of the Office of Government Ethics under subsection 402(b)(9) of the Ethics Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that the Postal Service implement action to correct deficiencies in a timely manner. Please contact Ilene Cranisky at (202) 523-5757, extension 1218, if we can be of further assistance.

Sincerely,



Stephen D. Potts  
Director

Report Number 93- 030





United States

## Office of Government Ethics

Suite 500, 1201 New York Avenue, N.W.  
Washington, D.C. 20005-3917

February 5, 1991

Mr. Harold J. Hughes  
General Counsel  
United States Postal Service  
475 L'Enfant Plaza, SW  
Washington, D.C. 20260-4261

Dear Mr. Hughes:

Our Office has completed a third review of the United States Postal Service's ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's effectiveness and compliance with applicable laws and regulations and whether improvements have been made since our 1987 review.

Overall, we found that the Postal Service has not implemented the recommendations from our 1987 review. Many problems still exist in the public and confidential financial disclosure systems, the ethics training program, and the administration and oversight of the program. We believe these deficiencies are due to the lack of management support for the program and inadequate resources to administer all program elements.

### PRIOR POSTAL SERVICE ETHICS PROGRAM REVIEWS

Our Office has performed two prior reviews of the Postal Service's ethics program. Our initial review in 1981 concluded that although the structure for the ethics program had been developed, some basic deficiencies needed to be addressed. Our second review performed in 1987 disclosed that actions had been taken to improve the deficiencies found in 1981; however, we also identified more serious problems needing attention. We recommended a number of actions to improve the ethics program including;

- timely collection and review of public financial disclosure statements;
- revision to the confidential reporting system;
- development of a formal ethics education and training program;
- establishment of a program monitoring system; and

-- the addition of staff resources to the program.

Although your predecessor informed our Office in 1988 that actions had been taken to resolve deficiencies in the program, our follow-up review showed that none of our recommendations had been fully implemented. We scheduled our current review because of the Postal Service's lack of response to these recommendations.

#### RESULTS OF OUR CURRENT REVIEW

The Postal Service has an ethics program structure in place, but more resources and major improvements are required to make it effective and in compliance with applicable ethics laws and regulations.

Our review identified significant deficiencies within both the public and confidential financial disclosure systems. You must ensure that all public reports are collected, reviewed and approved in a timely manner and that thorough substantive reviews of the reports are performed to identify real or apparent conflicts of interest. Furthermore, the Postal Service's decentralized confidential reporting system and ethics training are, at best, haphazardly administered and require significant effort to improve coordination among the many organizational components. You need to train Associate Ethical Conduct Officers and provide them with detailed instructions to assist them in performing their ethics program duties, including the confidential reporting system. You must develop a status reporting system to monitor program activities in headquarters, the regions and at the department and group levels. More staff resources must be assigned to carry out basic program requirements at the headquarters' level.

The longstanding problems in your program are primarily attributable to a lack of strong support by top management and inadequate staff resources. Active participation by Postal Service management and a commitment to provide the resources necessary to develop, administer, and maintain a comprehensive ethics program will protect the integrity of employees and Postal Service operations. A first step would be the establishment of a full-time position to manage the ethics program.

#### Public Financial Disclosure System

With certain exceptions, public filers are required to: (1) file incumbent reports by May 15, (2) file new entrant reports within 30 days of assuming a covered position, and (3) file termination reports within 30 days after termination. Reviewing officials are responsible for reviewing each report within 60 days after the date of filing.

A list maintained by the alternate DAEO showed that of the 597 employees required to file a public report in 1990, 508 had filed. However, only 106 (20 percent) of the reports filed were actually reviewed and approved--402 (80 percent) reports had not been approved by November 1990. Overall for 1990 we found that:

- 89 reports were still missing;
- 96 incumbent reports were submitted late; and
- 12 new entrant and 7 termination reports were filed after the required 30 days.

Also, at least 300 public disclosure reports filed for 1989 still had not been approved as late as November 1990. According to the alternate DAEO, the reports for 1989 had not been reviewed due to staffing shortages. It appeared also that Postal Service gave a low priority to the review of the reports.

To evaluate the report review process, we examined 100 of the 508 public reports filed during 1990. We found the technical reviews generally adequate. Of the 100 statements 16 were not reviewed or approved and 41 were approved after the required 60 days. The reviewing official made few notations in the files concerning his technical reviews or his conflict of interest analysis.

#### Conflict of Interest Analysis

During our review of the public reports we identified one instance in which the reviewer should have obtained additional follow-up information to resolve a conflict of interest question. In that case, an Assistant Postmaster General reported a pension interest, deferred income, stock options, and common stock interests in AT&T which totalled several hundred thousand dollars. The filer also reported financial interests in other telephone-related companies. His duties included oversight of programs that provide telephone service for Postal Service's headquarters. In our review of the individual's public report and discussions with the reviewing official, we found that the reviewer did not fully consider these interests in light of the individual's official duties and responsibilities to determine the existence of any real or apparent conflict of interest.

Regarding the pension interests reported by this same individual, we suggest that the ethics official review the Office of Government Ethics' Informal Advisory Letter (88 X 11), dated June 23, 1988, which addresses the manner of reporting employee benefit plans and pensions on public financial disclosure reports. This opinion recommends that agency ethics officials obtain the

necessary facts to determine whether such plans are widely diversified and subject to the control of the reporting individual.

You should examine thoroughly the financial interests of this official in light of his duties and determine whether any conflict of interest laws or regulations have been violated, and what remedial action is necessary.

#### Confidential Financial Disclosure Reporting System

The administration of the confidential reporting system is delegated among 26 Associate Ethical Conduct Officers. However, it is the DAEO's responsibility to ensure that all financial disclosure statements submitted by headquarters and regional employees are effectively and consistently reviewed [5 C.F.R. 2638.203(2)].

The Associate Officers receive little or no detailed guidance or training on how to administer the confidential reporting systems. As a result, the systems administered in the departments are, at best, haphazard. In addition, there is no status reporting mechanism in place to inform the DAEO of component organizations' reporting activities.

In a letter to OGE dated July 15, 1988, the DAEO stated that the Postal Service was "preparing a training guide which will provide detailed instructions for the associate officers and their designated assistants in their duties...." In addition, the Postal Service was also "preparing a status reporting system...which should serve as both a monitoring device and as a reminder of the functions which the associate officers are to perform." However, these actions still have not been taken. The adoption of these measures would improve significantly the administration of the ethics program, including the confidential reporting system.

To assess the effectiveness of the confidential reporting system and to determine whether improvements have been made since our last review, we selected five departments for review:

- Delivery, Distribution and Transportation;
- Facilities;
- Information Resources Management;
- Law; and
- Procurement and Supply.

The Delivery, Distribution and Transportation Department last collected confidential statements in 1989. The Information

Resources Management and Law Departments have not collected statements since 1986. The Facilities Department was collecting and reviewing confidential statements filed for 1990 at the time of our review. Only the Procurement and Supply Department had collected and reviewed all statements for 1990. While there are other factors contributing to the lack of reporting, one factor is that the Postal Service has not enforced the June 30 deadline for submission of confidential statements by required employees.

Since the Delivery, Distribution and Transportation Department did not collect statements in 1990, we reviewed all 67 statements filed in 1989. We were informed that all of the statements had been collected and reviewed. However, we identified technical deficiencies such as sections of statements left blank. In addition, spousal employment was not identified in most statements and questionable financial interests were not documented to indicate whether they had been examined by the reviewer. For example, one filer reported "stock" but did not identify the company. Our examination of the statements also indicated that the reviewing official did not sign or date the statements. As a result, we could not determine the dates of the reviews.

All 78 Procurement and Supply Department employees required to file confidential statements in 1990 had done so. Our review of the 78 statements disclosed that a number of them did not contain the reviewers initials or a date of certification. Therefore, we could not determine whether they had been reviewed within the required time frame. We also identified minor technical deficiencies such as sections of the statements left blank and few filers reporting spousal employment.

#### ETHICS EDUCATION AND TRAINING

Ethics education and training activities are carried out by the alternate DAEO, the Training and Development Department, Associate Ethical Conduct Officers, the Personnel Division, and the Postal Career Executive Service. The alternate DAEO provides ethics briefings on an ad hoc basis while associate officers are responsible for the training of employees in their organizations and providing the bulk of employee counseling. While we were told that ethics training is performed, the alternate DAEO did not know the content of the training sessions.

There are no formal instructions or guidance issued by the DAEO on specific matters that should be covered in training courses. Written ethics material needs to be developed and distributed to associate officers for the training of employees. The content of the material needs to be coordinated so that accurate, consistent, and timely information is provided to all Postal employees.

The alternate DAEO informed us that new non-supervisory employees attend an orientation conducted biweekly by the Personnel Division. Each person who attends is provided section 660 of the Employee and Labor Relations Manual (ELM) which reiterates the standards of conduct.

The Procurement and Supply Department has developed a booklet entitled Doing Business With Suppliers - Standards of Business Behavior and Ethics, which supplements the standards of conduct. Annually each employee is required to acknowledge in writing that they have read it and understand its contents.

Post-employment briefings are not routinely provided to terminating employees but are provided by the alternate DAEO to individuals on request and at pre-retirement seminars.

On September 18, 1990, our Office published proposed ethics training regulations in the Federal Register. Once final, these regulations will be codified at new subpart G of 5 C.F.R. part 2638 and will implement sections 301(b) and (c) of Executive Order 12674, April 12, 1989, as modified by Executive Order 12731, October 17, 1990. These sections basically require the training of certain employees and the coordination by executive branch agencies with our Office on the development of annual agency ethics training plans. We look forward to assisting the Postal Service in its training as it implements these regulations.

#### CONCLUSIONS

The Postal Service' ethics program has serious deficiencies which must be addressed by top management. Significant improvements are required in the financial disclosure systems, program monitoring and oversight, and the ethics education and training areas. Our review disclosed that public financial disclosure reports are not collected, reviewed and approved within required time frames and that confidential statements are not collected from all covered employees as required. Some component organizations have not collected confidential statements from employees for years.

Although the Postal Service has a decentralized ethics program, the DAEO is ultimately responsible for ensuring that the ethics program is effectively and consistently administered, throughout the organization. To achieve this, your office needs to substantially improve its coordination and communication among the many component organizations and establish a strong monitoring system throughout the agency.

As you are aware, many changes to the ethics program are forthcoming due to legislation and regulatory revisions. Much more work and time will be required by all agency ethics officials to

ensure that ethics related laws and regulations are effectively administered. As the DAEO it will be your responsibility to revise Postal Service regulations and to implement new systems and procedures throughout your organization in an effective and timely manner. This cannot be done with the weak program structure now in place.

While there are many ways to administer an ethics program, the most effective method is the establishment of a full-time position to manage the ethics program. This individual would handle day-to-day ethics matters, develop effective regulations and systems, and monitor component programs and systems. In a large organization such as yours he or she would need to be assisted by other staff. Most large departments have established, or are in the process of establishing, an ethics office with sufficient resources to administer and monitor the program throughout the component agencies.

While you generally agreed with our findings, you pointed out that you have attempted to obtain additional staff to assist in the program. Due to competing priorities it would be extremely difficult to obtain staff at this time. However, the cost to administer the ethics program properly is a small price to pay to protect the integrity of Postal Service employees and operations.

#### RECOMMENDATIONS

To implement an effective ethics program in compliance with Federal laws and regulations, we recommend that you, as the Designated Agency Ethics Official:

1. Ensure that the ethics program has management support and adequate resources to administer the program and to implement the forthcoming changes mandated by legislation. You should consider establishing an Office of Ethics to manage the program.
2. Develop a strong ethics training program throughout the Postal Service according to the proposed ethics training regulations issued by OGE at new subpart G of 5 C.F.R. part 2638.
3. Provide the guidance, detailed instructions, and ethics training to all Associate Ethical Conduct Officers that are needed to effectively carry out their responsibilities.
4. Ensure that the Associate Ethical Conduct Officer in each department collects and reviews all confidential financial disclosure reports required to be filed in 1991, including new entrant reports.

- C 5. Notify all confidential filers of the requirement to report spousal financial interests, including employment.
- A 6. Emphasize to reviewing officials the need to determine whether pension plans disclosed on financial disclosure reports are widely diversified and if filers have the authority to direct plan investments. Ethics officials must ensure that all assets and transactions are properly reported in accordance with OGE's Informal Advisory Letter (88 X 11) dated June 23, 1988.
- A 7. Ensure that the large backlog of public reports filed in 1989 and 1990 are promptly reviewed and approved in compliance with applicable laws and regulations. Any required statements that were not filed should be collected.
- | 8. Review the financial interests of the Assistant Postmaster General to determine whether any conflict of interest laws or regulations have been violated, and whether any further action is necessary. Please report to us on your review and resolution of this matter.
- √ 9. Establish a program monitoring system to review and evaluate the administration of the ethics program. Such a system should include filing of status reports by all components as to the collection and review of financial disclosure reports, ethics counseling and training, unresolved ethics issues, etc.

As you can see, there are serious matters to be addressed in your ethics program. I would like you to report to me as of March 30, 1991, and every sixty days thereafter, as to the actions you have taken or plan to take concerning these recommendations. Such reports should continue until our recommendations have been implemented. Please include your progress in reducing the backlog of unreviewed public financial disclosure reports, and your plans to collect and review all public financial disclosure reports due to be filed May 15, 1991.

We will schedule a follow-up review once we believe you have implemented our recommendations. In view of our authority to take corrective action to ensure that ethics program deficiencies are corrected, it is vital that you take action in a timely manner.

We are also sending a copy of this report to the Postmaster General and the Chief Postal Inspector. If we can be of any assistance, please call me or Ed Pratt at (202) 523-5757.

Sincerely,



Stephen D. Potts  
Director

Report Number: 9018UPSOH



## AGENCY REPORT

**AGENCY:** U.S. Postal Service

**REVIEW DATES:** November 2 - December 4, 1987

**OGE STAFF:** Joann R. Barber  
Management Analyst

**AGENCY DAEO:** Louis A. Cox  
General Counsel

**AGENCY STAFF:** Charles W. Hawley  
Assistant General Counsel

Brenda Collins  
Staff Attorney

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## SUMMARY

The U.S. Postal Service (USPS) was reviewed as part of the cyclic coverage of the Federal executive branch. The review focused on the agency's compliance with the applicable ethics laws and regulations, as well as the implementation actions on prior OGE recommendations. The agency was last visited in November 1981.

The review indicated that very little progress has been made in improving the efficiency of the program. The agency needs to revise its approach in organizing and implementing the ethical components; specifically:

- o Additional resources need to be devoted to the program. In addition, the DAEO needs to be more involved with the program and ascertain that all persons involved in the management of the program are familiar with the purposes and functions of an effective ethics program, as well as being able to perform their specific responsibilities.
- o Effective and efficient procedures need to be established to ensure the continuity of the program as well as compliance to regulations in Executive Order 11222 and 5 C.F.R. § 734.
- o A comprehensive education program needs to be developed that would systematically expose all USPS employees to the ethical elements.

These issues were discussed with the Alternate DAEO. He was advised that the program could not continue in this deficient state. If improvements are not made, it would be necessary for the Director of OGE to bring the matter to the attention of the Postmaster General. He concurred with the recommendations with the intent of implementing them to the extent possible.

## BACKGROUND

The U.S. Postal Service was created as an independent establishment of the executive branch by the Postal Reorganization Act of 1970. The Service is committed to the development of efficient mail-handling systems and operates its own planning and engineering programs.

The Postal Service is probably the largest civilian agency. It employs approximately 780,000 individuals. The agency is directed by a Board of Governors, which consists of nine Presidential appointees, the Postmaster General and the Deputy Postmaster General. The Presidential appointees, who are confirmed by the Senate, appoint the Postmaster General and together they appoint the Deputy Postmaster General. The most significant factors of the Service are its size and decentralization. The agency operates at three levels of organization: National, Regional and Field. There are five regions and 74 field divisions.

The Postal Service is the only federal agency whose employment policies are governed by a process of collective bargaining. It also has its own pay schedule, the Executive and Administrative Salary Schedule (EAS). The EAS includes a pay schedule for the executive management officials, known as the Postal Career Executive Service (PCES). It is very similar to the Senior Executive Service, except that the minimum salary level is lower.

This visit was the second-full scale review of the agency's ethics program. The last review occurred in November 1981.

## ORGANIZATION

The ethics program is under the direction of the General Counsel, Mr. Louis Cox. It is administered by the Assistant General Counsel, who is also the Alternate DAEO, Mr. Charles Hawley. Mr. Hawley is responsible for interpreting agency policy and its application as well as providing overall guidance on ethical issues. He is assisted in the day to day operation of the program by a Staff Attorney, Ms. Brenda Collins.

The ethics program is somewhat decentralized in that organizational heads are responsible for implementing the ethical elements in their area. These persons have been designated as Associate Ethical Conduct Officers. Currently, there are 26 officers.

## STANDARDS OF CONDUCT

The agency's standards of conduct are included in 39 C.F.R. § 447. These standards were comprehensively revised in 1974. Since that time, subsequent amendments have been made; the latter being October 1984.

The regulations were current and appeared to be agency-specific. All the provisions of the criminal statutes and Executive Order have been incorporated. Additionally, specific prohibitions concerning employees' financial interests in USPS contracts and transportation and real estates entities were included. The agency has also incorporated procedures for financial disclosure and gift acceptance. The Alternate DAEO plans to expand the section on gifts to include criteria for acceptance of in-kind gifts. In addition to this area, the filing requirements for the confidential financial disclosure need to be refined. The regulations state that changes shall be reported "...; as June 30 each year [and] [i]f no changes or additions occur, a report to that effect is required". There is no deadline for the submission of reports. I advised the Alternate DAEO to specify a timeframe in which reports are to be filed. I also discussed the need for filers to fully disclose their financial interests in lieu of indicating "No Change". Negative reports normally do not receive a substantive review.

Another area of interest was outside employment. I advised the ethics officials to consider approval requirements for outside employment. Presently, there is no requirement that outside activities be approved, even though the standards outline what type of activity an employee may or may not engage in. In reviewing the ethics files, I noticed that several employees had engaged in employment that appeared to conflict with their Postal Service position. These employees were employed with a

company whose business interests are substantially dependent on providing goods or services to the Postal Service. In addition, these individuals as Postal employees may come in contact with this contractor. This type of outside employment is prohibited by the USPS regulations at § 447.23 (2) and (6). The agency became aware of the situation through allegations from another contractor. Situations of this nature will continue to be obscure if approval procedures are not established. I advised the ethics officials to develop policy whereby employees seek approval from the supervisor prior to engaging in outside activities. If the activity is sensitive to the mission of USPS, final approval should be obtained from the Associate Ethical Conduct Officer. I also discussed with the officials the need for the DAEO's office to be more aware of the various types of outside activities. At a minimum, the total questionable outside activities should be reported on a continuous basis.

The standards of conduct have been restated in an internal document known as "The Code". This document was established in June 1982. It is part of the Employee and Labor Relations Manual, which is distributed to all employees. The Code has not been updated since it was published.

The agency has also developed standards of conduct for its Board of Governors. They are included in 39 C.F.R. Parts 10 and 20. They were adopted in July 1987. Basically, these standards set forth regulations pertaining to business and financial interests, outside employment, gifts, advisory service, and post-employment activities. The standards also incorporate the filing of nonpublic financial disclosure reports.

## Recommendations

1. That the standards of conduct be revised to:
  - (a) specify a timeframe for the submission of confidential financial disclosure reports;
  - (b) eliminate negative reporting on the confidential reports; and
  - (c) include approval requirements for outside activities.
2. That all questionable outside activities be reviewed by the ethics officials. Additionally, these activities should be reported to the DAEO's office on a continuous basis.
3. That "The Code" be updated in accordance to the regulations included in 39 C.F.R. § 447.

## PUBLIC FINANCIAL DISCLOSURE SYSTEM

The public financial disclosure system was inefficient. The system is centralized and maintained by the DAEO's staff. Additional support is provided by the Personnel Division in that they furnish quarterly listings of the PCES.

The system presently includes 537 employees. The designations were made by the Alternate DAEO. They are based on the PCES and include employees with an annual salary of \$63,135 or more. The financial statements are filed directly with the Alternate DAEO for review and retention.

A random sample of 56 filers' statements were examined during my visit. It appears that the system has been somewhat dormant since 1982. The majority of statements have not been certified by the ethics officials. Of the sample, the following resulted:

Year	#Statements	#Certified
1983	11	5
1984	20	4
1985	28	4
1986	28	7
1987	52	25

Of the 1987 statements that were certified, 72 percent (18 statements) were reviewed during my visit.

The financial statements for 1987 were submitted in a timely manner; only seven of the sample statements were filed after the deadline. Additionally, it appeared that most required annual statements were being collected. Of the sample, two were missing from 1987; one from 1986; four from 1985; and one from 1984. However, a problem was noted with the collection of new entrant statements. It appears that first-time filers are submitting statements at the time of the annual filing in lieu of the 30 day requirement.

The Alternate DAEO indicated that there was no central source for personnel changes, therefore, they were not always aware of those hired or promoted. It was strongly recommended that efforts be coordinated with the Personnel Director to ensure the receipt of such information.

In regards to the review of the financial statements, the regulations require that the ethics official make a determination of status of the statement within 60 days of the filing date. As illustrated in a previous paragraph, this policy is not being adhered to. The 1987 statements that were reviewed averaged a 148 day timeframe, approximately five months. The shortest review period was 68 days and the longest was 187 days. This delay deters actions for correction of potential or actual conflicts of interests.

As to the quality of the statements, the technical reporting problems were minimal. Several statements included holdings that had not been fully identified or disclosed, but these statements had not been reviewed by the ethics official.

I discussed the problems of this system with the Alternate DAEO. He attributes them to a lack of resources. Presently, he devotes approximately 45 percent of his time to the ethics program and the staff attorney devotes 33 percent. We both agreed that the program would benefit from a full-time staff; however, he doesn't foresee that in the near future. I strongly urged him to obtain at least a full-time person to technically maintain the system. In addition, I advised him to establish formal procedures to ensure the continuity of the system. In reference to the outstanding statements, it was agreed that all statements would be examined and reconciled within 120 days upon completion of this review.

### Recommendations

1. That additional resources be obtained to assist in the administration of the system.

Recommendations (cont.)

2. That effective procedures be established to ensure the collection of new entrant reports.
3. That controls be strengthened to enhance the efficiency of the system.

Specifically:

- (a) a master logging of all filers needs to be prepared to assure the collection of statements; in conjunction, formal follow-up procedures need to be developed;
  - (b) procedures need to be established to ensure a timely review of the statement; and
  - (c) questionable interests need to be examined and documented.
4. That all financial statements for years 1982 to 1987 be reviewed and certified.

## CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

The confidential financial disclosure system needs strengthening in various areas. The system is decentralized and maintained by the Associate Ethical Conduct Officers. Presently, it is comprised of employees at the EAS 24 level (comparable to the GS 13 level) and above. The Alternate DAEO speculates that approximately 2500 employees file statements.

The system lacked consistency. The Officers used their discretion in incorporating the requirements. Three offices in headquarters were visited and each administered the system differently. For instance, the Office of the Chief Inspector allowed employees to file on an annual basis in lieu of the June 30 deadline. Also, some offices require field personnel to file directly to headquarters, whereas others report to the regional ethics official. The DAEO is not aware of the various inconsistencies in applying the requirements of the system.

In addition to the Chief Inspector's Office, the offices of Finance & Planning and Facilities & Supply were visited. Consistent with these offices was the lack of review documentation and spousal employment reporting. At present, the USPS confidential statement does not require certification of the reviewer. It was also noted that questionable holdings had not been documented to show that they had been examined. Other technical reporting errors such as no employee signature and date; blank sections; and the use of "N/A" in lieu of "None" was observed. These issues were discussed with the various reviewers. They were encouraged to certify the statements in regards to completion and conflict of interest. They were also advised to document questionable interests and apprise filer of the technical reporting problems.

I subsequently discussed these issues with the Alternate DAEO and indicated that the DAEO's staff should be more involved with the system. Interpretive guidance should be periodically provided to ensure consistent application of the requirements. A monitoring system should also be established to assure compliance.

### Recommendations

1. That the DAEO provide overall instructions for the confidential system to ensure consistency within the agency.
2. That filers be apprised of common technical errors and spousal employment reporting requirements via departmental memorandum.
3. That reviewers be required to obtain the necessary information and document question interests. Additionally, they should certify that the statement is accurate and no conflicts exist.
4. That a monitoring system be established to include status reports and periodic samplings of the Conduct Officer's reviews.

## EDUCATION, TRAINING AND COUNSELING

Very little has been done in the area of formal ethics education and training. Each Conduct Officer is responsible for developing and administering its education program.

Of the organizations visited, the efforts varied; however, inclusive of all was the receipt of the Employee and Labor Relations Manual by new employees and informal and formal counseling on an ad hoc basis. Headquarter managers and procurement personnel have viewed the PCIE film, "The Consent of the Governed: The Enduring Public Trust" and received training sponsored by our Office. The DAEO has also made this film available to the organizational units. The agency is discussing the possibility of developing its own film, which would be adaptable department-wide. The Facilities Division has copied the PCIE film and distributes it to its regions on a requested basis. The Assistant Postmaster General of this division also provides periodic training sessions and annually reminds employees to review the standards of conduct.

A department as widespread as USPS should take measures to assure consistent application of the ethical elements. During this visit and the previous one, we encouraged the ethics official to develop a training and education program for all employees. The most logical approach would be the development of a core program by the DAEO that could be adapted by all organizational components. Likewise, a schedule should be established for its implementation.

As previously mentioned, ethics counseling is available. Advice is normally sought from the Conduct Officers. On occasions, the DAEO's staff may get involved. All inquiries into the DAEO's office are logged and maintained. I reviewed the opinions for 1987. Most concerned outside employment and gift acceptance. I found the advice to be reasonable and in compliance to the regulations.

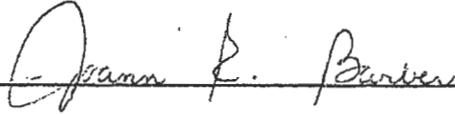
### Senior Designations and Post-Employment

The senior employee designations in accordance to subsection 207 of 18 U.S.C. are made by the Alternate DAEO. He also notifies the employees of the designation. When these employees are leaving the Postal Service, post-employment counseling and restrictions are provided as requested. The Alternate DAEO indicated that they are not always aware of an executive impending separation, so they have encouraged employees to contact them for advice and assistance. A retirement planning seminar has been scheduled, in which senior employees will be given a formal presentation on the post-employment restrictions. Mr. Hawley indicated that the agency has not experienced any problems in this area, with the exception of a conviction three years ago; an employee falsified his financial statement by omitting an agreement for his future employment.

### Recommendation

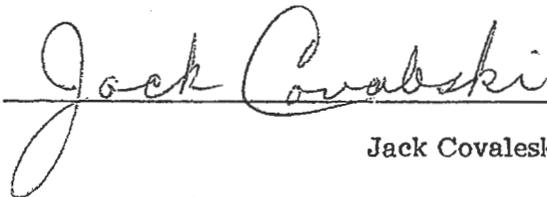
1. That the DAEO develop a comprehensive education program adaptable to all components of the Service. The program should include:
  - (a) a training session;
  - (b) an annual reminder to review the standards of conduct;
  - (c) periodic issuance of ethics-related memoranda; and
  - (d) dissemination of ethics information received from other sources to the ethics officials.

SIGNATURE PAGE

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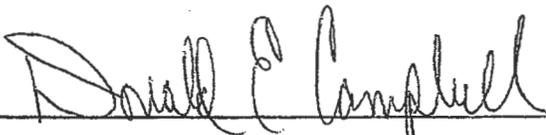
Joann R. Barber

Management Analyst

 2/12/88

Jack Covaleski

Chief, Monitoring and Compliance Division

 3/10/88

Donald E. Campbell

Deputy Director

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Frank Q. Nebeker,

Director



## AGENCY REPORT

**SUBJECT:** OGE Staff Review of the Ethics Program at the United States Postal Service (USPS)

**Dates of Visit:** October 26 - November 6, 1981

**OGE Staff:** Ed Pratt - Management Analyst  
Daryl Selden - Management Analyst  
Jeri Powell - Management Analyst

**Purpose of Visit:** To Evaluate the Effectiveness of USPS's Ethics Program

## AGENCY REPORT

The U. S. Postal Service (USPS) is an independent establishment of the executive branch which is committed to providing swift and reliable mail delivery and handles approximately 106 billion pieces of mail annually. To meet its delivery standards the USPS maintains extensive processing and delivery systems and integrated bulk mail handling systems which utilize complex transportation services to link every community in the nation with every other community and foreign countries. Postal Service activities designed to facilitate postal operations include design and maintenance of the postal rate structure, development of mail classification standards, and the procurement of supplies, services, and real estate.

The Postmaster General is appointed by the 9 Governors of the USPS, who are appointed by the President with the advice and consent of the Senate to overlapping 9-year terms. The 9 Governors and the Postmaster General appoint the Deputy Postmaster General, and together these 11 people constitute the Board of Governors. USPS employs about 667,000 employees.

The USPS is organized into 5 regions with regional offices located in New York, Philadelphia, Chicago, Memphis, and San Bruno, California. In addition, there are 40 district offices, 250 sectional center offices, and thousands of post offices.

## STRUCTURE AND ORGANIZATION

Mr. Louis Cox, USPS General Counsel and DAEO, has essentially delegated all of the DAEO functions to the alternate DAEO, Mr. Charles Hawley, the Assistant General Counsel for Legal Affairs. Ms. Leslie Corston, Staff Attorney, assists Mr. Hawley. Mr. Hawley devotes about 20 percent of his time on the ethics program, Ms. Corston about 10 percent of her time, and Mr. Cox less than 10 percent of his time. Mr. Hawley administers the public financial disclosure system. The confidential financial disclosure system is administered by the assistant postmasters general and other major department heads at USPS headquarters and by the regional postmasters general in the field. However, USPS employees generally have not filed confidential financial disclosure reports the last two years.

The Employee Relations Department, which is essentially the personnel office, on request has provided the alternate DAEO with a list of officials required to file public financial disclosure reports. The Inspection Service, which is similar to the Office of the Inspector General at other agencies, has had infrequent involvement with the ethics program.

The USPS has an Executive and Administrative Salary Schedule (EAS), which is comparable to the General Schedule except that the EAS has 30 grades instead of 18. The USPS also has a Postal Career Executive Service (PCES) which differs somewhat from the Senior Executive Service in that the minimum salary level under the PCES is \$25,000.

## PUBLIC DISCLOSURE SYSTEM

The public disclosure system is administered by the alternate DAEO. A staff attorney assists in reviewing the statements, while a secretary helps collect them. Except for one EAS employee, all employees filing public financial disclosure reports (SF 278's) are members of the PCES. Approximately one-third of the reporting individuals are located in the Washington, D.C. area. The only USPS officials appointed by the President and requiring the advice and consent of the Senate are the nine Governors, and they do not have to file annual public reports because they work less than 60 days per year.

The USPS uses the "pay compression cap" of \$50,112 in lieu of the higher salary of a GS-16, Step 1 of \$52,247 in determining whether an individual has to file a public report. The alternate DAEO informed us that PCES salaries do not necessarily increase (as a result of cost-of-living and annual merit raises) at the same annual rate as General Schedule cost-of-living increases; thus the USPS wanted to preclude situations where the PCES salary might meet the GS-16 salary level one year but fall short the next year.

In May the alternate DAEO developed a control list, based largely on a computer list furnished by the Employee Relations Department, of those USPS employees who met the \$50,112 salary requirement for having to file SF 278's. The list has not been revised and the alternate DAEO indicated he does not receive timely notification from the Employee Relations Department of terminations or of employees who have to file public reports as a result of receiving merit pay which pushes their salaries to the \$50,112 level. He had not revised his control list since May. The alternate DAEO also indicated that not all reporting individuals in the field who terminate are given SF 278's to complete during their out-processing.

An official in the Employee Relations Department stated that the Department could furnish the alternate DAEO with a monthly list of all PCES employees who meet the \$50,112 annual salary level, and every 3 months a list of the employees who have terminated since the end of the last period.

The alternate DAEO's control list together with a few additional terminees we identified during our review of the SF 278 files indicated that 207 public reports should have been filed in May. We identified 185 reports. Of the 22 reporting individuals who had not filed, 15 had retired, 2 were deceased, 1 had been mistakenly placed on the control list, and the alternate DAEO did not know the status of 4. Since the alternate DAEO had not revised the list since May, additional reports from new entrants and terminees were possibly missing.

The alternate DAEO told us that in reviewing property holdings on the SF 278 he considers items of property having value of \$5,000 or less to be de minimus and, according to him, excepted from the conflicts of interest statutes and regulations. Also, except with regard to a recent report filed by a Board of Governors nominee, he has never used a list of USPS contractors as a tool in reviewing the reports. An official in the Procurement and Supply Department stated that such a list could be furnished at any time.

We reviewed 66 of the 185 SF 278's filed. On 7 reports we identified a total of 12 holdings in companies having contracts with the USPS. The companies ranged from the well known (e.g., IBM) to the relatively unknown (e.g., Storage Tech). The value of the holdings ranged from the \$1,001 - \$5,000 to the \$15,001 - \$50,000 categories. A subsequent review by the alternate DAEO indicated that matters affecting the companies did not come under the official responsibilities of the individuals in question,

and the alternate DAEO did not believe the holdings created any apparent conflicts. In addition, we identified 17 reports having such common discrepancies as valuation method missing, category of value of income or property missing, "Not Applicable" used in lieu of "None," etc. Finally, we identified many reports which either had not been signed or dated by a reviewing official or which were not accompanied by a position description.

#### CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

The confidential financial disclosure system is administered in a decentralized fashion by associate ethical conduct officers who are generally assistant postmasters general in charge of departments at headquarters and regional postmasters general in the field. The alternate DAEO informed us that in the past he has always mailed a notice to the conduct officers, informing them of the confidential filing requirement and the due date. Since 1980 he has not done so and covered employees virtually stopped filing reports in 1980 and 1981 except for the Board of Governors and employees in the Law Department and the Central Region. Because the alternate DAEO has never received either the lists of the employees in each department and region required to file or those actually filing confidential reports, he did not know the true extent of non-compliance with the filing requirement.

The alternate DAEO has been reluctant to enforce compliance with the filing requirement because he believes that one of the three filing criteria contained in the regulations - any employee who is paid an annual salary of \$30,000 - or more - is not realistic since it arbitrarily requires filing by many employees below the GS-13

equivalent level. The other two filing criteria which could trigger a confidential filing are being in a pay grade of EAS-24 or above, or being involved in activities such as contracting or procurement in which decisions may have an economic impact on the interests of enterprises other than the USPS. A discussion of how the confidential filing criteria are to be revised is contained in the section addressing the agency standard of conduct regulations.

During the course of and in response to our visit the alternate DAEO sent letters to all associate ethical conduct officers advising them of the confidential filing requirement and requesting that reports be filed immediately. Prior to the end of the visit confidential reports were filed by employees in the Procurement and Supply Department.

We reviewed confidential reports filed by the Board of Governors and employees in the Law Department and the Procurement and Supply Department. We also reviewed position descriptions in the Departments of Procurement and Supply, Rates and Classification, and Real Estate and Buildings. The detailed results of these reviews follow.

#### Review of Statements on File

Current reports were on file for members of the Law Department, the Board of Governors and the Procurement and Supply Department. The following chart and explanatory notes summarize our review of those reports:

Schedule of the Review of USPS  
Confidential Disclosure Reports

<u>Organization</u>	<u>Total Positions Filing</u>	<u>Reports Reviewed</u>	<u>Reports needing Clarification</u>
Board of Governors	8	6 <sup>1</sup>	6 <sup>2</sup>
Law Department	23 <sup>3</sup>	21 <sup>4</sup>	4 <sup>5</sup>
Procurement Supply Department	<u>39</u>	<u>39</u>	<u>10<sup>6</sup></u>
TOTAL	<u>70</u>	<u>66</u>	<u>20</u>

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1. Reports had not been filed by 2 Members of the Board of Governors. The alternate DAEO indicated he would followup to see that statements were filed.
  
2. All of the Governors completed SF 278's that were being held by the DAEO in a confidential manner. None of the statements were complete. Valuation methods and amounts, and income were missing, schedules were incomplete or blank and none of the forms were signed or dated by a reviewing official indicating certification.
  
3. The Law Department has 10 lawyers at level EAS-24 or above who have been excepted from confidential filing because they are involved with union activities, and Mr. Hawley has determined that their activities are not covered by the filing requirements.
  
4. Reports had not been received from 2 required filers to date. The alternate DAEO indicated that he would followup to ensure that these reports were filed.

5. These 4 reports showed stock holdings by the filers. Of these 4, 2 reports showed stock for companies that have contractual agreements with USPS. One of these 2 filers has recently left USPS. The alternate DAEO in response to our analysis indicated that his reviews had not been as thorough as they should be and he would in the future make a stronger effort to identify potential conflicts both real or apparent.
  
6. All 10 reports showed stock holdings that we felt needed further clarification or identification by the reviewing official, the Assistant Postmaster General for Procurement and Supply. This official informed us that for 9 of the statements the companies listed did not do business with USPS and, in those instances where they did, a determination was made for each filer that he/she was not involved in any official capacity with his/her particular holdings in any way. The reviewing official was not sure of the holding listed on the tenth statement and she indicated she would followup to ensure that no conflicts exist.

#### Review of USPS Headquarters Positions

We reviewed position descriptions in three major USPS Departments:

- The Procurement and Supply Department with 365 employees.
- The Rates and Classification Department with 135 employees.
- The Real Estate and Buildings Department with 120 employees.

The following chart and explanatory notes summarize the results of the review of these positions. We did not identify any covered positions for which confidential reports should not be filed.

Schedule of Review of USPS Headquarters Positions (Covered and Uncovered)

<u>Organization</u>	<u>Total Different Professional Positions</u>	<u>Positions Reviewed</u>	<u>Positions Currently Covered</u>	<u>Uncovered Positions that Should Be Covered</u>
Real Estate and Buildings Department	95	52	22	18 <sup>1</sup>
Rates and Classification Department	52	49	22	8 <sup>2</sup>
Procurement and Supply Department	<u>124</u>	<u>43</u>	<u>16</u>	<u>8<sup>3</sup></u>
TOTAL	271	144	60	34

1. The 18 positions OGE identified for the Real Estate and Buildings Department that are not presently covered by the confidential disclosure requirements but satisfied USPS criteria for confidential filing are:

- EAS - 23 Contract Specialist, Senior
- EAS - 20 Contract Specialist
- EAS - 19 Project Specialist (Mechanical Systems and Equipment)
- EAS - 18 Electrical Engineering Technician
- EAS - 23 Compliance Specialist
- EAS - 21 Industrial Engineer
- EAS - 22 Realty Management and Acquisition Specialist
- EAS - 19 Realty Management and Acquisition Analyst
- EAS - 23 General Engineer, Senior

- EAS - 23 Architectural Engineer, Staff Consultant
- EAS - 23 Mechanical Engineer, Senior
- EAS - 23 Electrical Engineer, Senior
- EAS - 21 Project Manager
- EAS - 21 Senior Postal Equipment Specialist
- EAS - 20 Architectural Engineer
- EAS - 20 Electrical Engineer

2. The 8 positions OGE identified for the Rates and Classification Department that are not presently covered by the confidential disclosure requirements but satisfied USPS criteria for confidential filing are:

- EAS - 23 Mail Classification Specialist, Senior
- EAS - 15 Mail Classification Specialist, Junior
- EAS - 21 Special Services Specialist
- EAS - 18 Mail Classification Records Analyst
- EAS - 20 Economist
- EAS - 23 Operations Research Analyst, Senior
- EAS - 21 Mail Classification Specialist
- EAS - 23 Special Services Specialist, Senior

3. The 8 positions OGE identified for the Procurement and Supply Department that are not presently covered by the confidential disclosure requirements but satisfied USPS criteria for confidential filing are:

- EAS - 23 Traffic Officer
- EAS - 23 Contract Specialist, Senior

- EAS - 23 Manager, Building Services Branch
- EAS - 23 Supply Program Officer
- EAS - 20 Traffic Management Specialist
- EAS - 23 Contract Price Analyst
- EAS - 20 Contract Specialist
- EAS - 23 Manager, Space and Construction Management Branch

#### EDUCATION, TRAINING AND COUNSELING

The alternate DAEO told us that neither he nor the DAEO have conducted any formal education or training programs related to ethics. The extent of any education or training performed by the alternate DAEO has consisted of cover letters and instructional memoranda sent to employees at the time of filing of the public reports, and a few advisory opinions. The alternate DAEO has not conducted a formal counseling program either. His belief is that employees generally understand the ethics standards and procedures and, if not, they will seek advice from supervisors, associate ethical conduct officers, or the DAEO or alternate DAEO. However, the alternate DAEO said he would explore the possibility of formal education and training programs on ethics, and would contact OGE's Agency Relations Branch as soon as he makes a determination of the resources and logistics involved in training USPS employees scattered throughout the country.

The alternate DAEO said that the responsibility for informing employees of their responsibilities under the standard of conduct regulations has never been clearly defined at the USPS. In an indirect sense the Employee Relations Department has been given the responsibility since the Department ensures that all offices in the USPS have copies of the Employee and Labor Relations Manual which contains a 14-page "Code of Ethical

Conduct" written in non-legalistic language. The Department also provides central direction to employee relations specialists assigned to all USPS offices. Although these specialists are responsible for dealing with the whole spectrum of employee problems including violation of the ethics standards, we were not able to ascertain the degree to which the specialists were involved with ethics.

The Inspection Service is the only other entity at the USPS which is at all involved in any ethics — related training. All new employees in the field attend an orientation session during which they receive a one-hour presentation from an Inspection Service representative related to common criminal violations by employees and the attendant penalties.

None of the three Departments we visited had conducted any formal education or training programs. However, all the assistant postmasters general in charge of the Departments agreed that such education or training, if properly designed and conducted, would be of value. One of the officials — the Assistant Postmaster General in charge of the Procurement and Supply Department — has since been contacted by the Agency Relations Branch of OGE about developing a training program for the Department.

Finally, the Training and Development Institute, which is responsible for employee training at the USPS, expressed no interest in developing an ethics training program.

#### AGENCY STANDARD OF CONDUCT REGULATIONS

The USPS's code of conduct regulations are essentially an adaptation of the OPM regulations. The most significant differences are that the USPS regulations contain some very specific prohibitions related to financial interests and outside employment. USPS regulations state that employees who receive an annual income of \$30,000 and above, or are in certain grade levels contained in the USPS's own salary schedule should file confidential reports.

The alternate DAEO stated, and we concurred, that a number of revisions need to be made to the code of conduct regulations, especially to the confidential reporting criteria. The USPS has not generally required the filing of confidential reports for the last two years because one of the filing criteria was considered unrealistic (i.e., the \$30,000 salary criterion covers many more employees below the GS-13 equivalent level than should reasonably be covered). Accordingly, the regulation needs to be revised to require confidential reports from each employee who is in a pay grade EAS-24 (which is very roughly equivalent to a GS-13) or above; is a member of the PCES who is not required to file a public financial disclosure report; or is involved in contracting or procurement, auditing, or other activities in which his/her decisions may have an economic impact on the interests of any enterprise other than the USPS.

The alternate DAEO explained his rationale for including all members of the PCES under some form of financial reporting, even though the minimum PCES salary level of \$25,000 is below the \$29,413 salary of an EAS-24. It was that, by definition, anyone who enters the PCES is considered to be an executive and in a sensitive enough position to require some form of disclosure. In a practical sense, no more than eight members of the PCES have salaries falling below \$29,413 - all of whom are probably sectional center managers having as many as a couple hundred post offices under them.

We also agreed that the following revisions or additions to the regulations need to be made:

- the regulations need to be changed to reflect the subject matter contained in the OGE regulations published pursuant to Titles II and IV of the Ethics in Government Act of 1978, as amended;

- a list of the positions required to file confidential reports should be indicated in the regulations, or an indication of where such a list is located at the USPS; and
- post-employment regulations need to be published pursuant to Title V of the Act.

### CONCLUSIONS

The control list used by the alternate DAEO in administering the public financial disclosure system is incomplete and outdated. The alternate DAEO receives no periodic updates of new reporting individuals or covered employees who have terminated. Almost all of the statements not on file were termination reports. The control list had not been revised since May. We identified the common discrepancies with the reports on file such as valuation of income or property missing, etc. Many reports had not been signed or dated by a reviewing official or were not accompanied by a position description. The alternate DAEO's review procedures were not effective. He made no use of an available list of USPS contractors and considers items of property having a value of \$5,000 or less to be de minimus holdings.

The alternate DAEO has not enforced compliance with the confidential filing requirements since 1980, because he believed the filing criteria were unrealistic. As a result virtually no covered employees filed reports in 1980 and 1981 except for the Board of Governors and employees in the Law Department and the Central Region. The full extent of non-compliance is unknown because the alternate DAEO does not receive lists of covered employees in each department and region nor a status report on annual filings. The Board of Governors have SF 278 reports on file that are being treated in a confidential manner. None of those reports were complete.

The review of the position descriptions in the three major USPS Departments identified many positions which USPS should consider requiring to file confidential statements, all of which were below the EAS-24 level.

USPS has not conducted any formal ethics-related education programs. All of the responsible officials agreed that such education and training would be of value. The Assistant Postmaster General for Procurement and Supply expressed an interest in developing a training program in conjunction with our agency relations staff and has already had an initial meeting to explore such possibilities.

The filing requirements for confidential disclosure may be outdated, unrealistic and in need of revision because the current filing threshold of \$30,000 may no longer be equivalent to the GS-13 level, this results in the automatic inclusion of many, who otherwise would not be required to file.

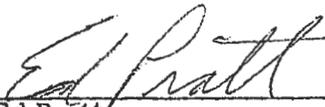
## RECOMMENDATIONS

We recommend that the following actions be taken by the USPS to address the deficiencies noted in the report:

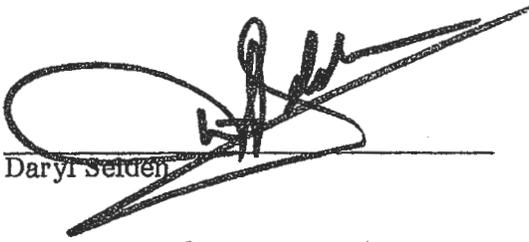
- The alternate DAEO needs to develop an up-to-date control list of officials required to file public reports by having the Employee Relations Department provide timely notification of new entrants, pay increases, and terminations. Efforts should then be made to obtain reports which have not been filed. The alternate DAEO also needs to strengthen his reviews of the reports by insuring that the data reported on all reports is complete and accurate, and by making use of all review tools, including a list of USPS contractors, in determining whether conflicts exist.
- The alternate DAEO should insure that all organizational elements within the USPS review their positions to determine whether all employees are covered who should be covered by the confidential filing requirements, and should insure that the covered individuals actually file the reports. Also, beginning with the next filing, the members of the Board of Governors should use the confidential disclosure form (in lieu of the SF 278).
- The alternate DAEO needs to develop some type of formal ethics training program for USPS employees and/or encourage efforts like those of the Assistant Postmaster General for Procurement and Supply in developing a training program for her employees with the aide of our Agency Relations Branch.

- The standards of conduct regulations should be revised to include (1) the changes to the confidential reporting criteria; (2) the subject matter relevant to the OGE regulations published pursuant to Titles II, IV, and V of the Act; and (3) either a list or the location of a list of positions covered by the confidential disclosure system.

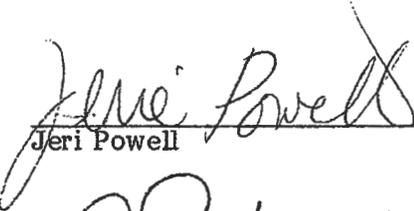
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Ed Pratt

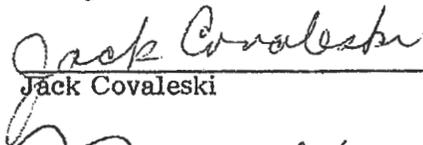
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Daryl Seiden

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Jeri Powell

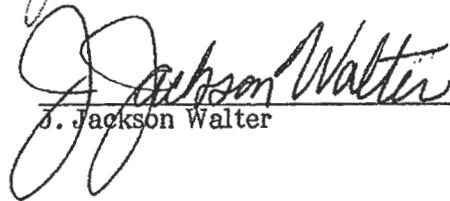
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Jack Covaleski

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Jim Pont

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J. Jackson Walter