

November 22, 1994

Memo to File

From: Sheryl Walter

Statutory and regulatory authority for the ethics rules are found at 18 U.S.C. 203 et seq. and 5 CFR 2634 et seq.

1. Financial disclosure requirements.

Financial reporting, where required, is based on a calendar year and the filing date for reports is May 15. The extent of financial reporting required depends on the pay level and responsibilities of the employee. Some are required to file public disclosures; others need file only confidential ones (which are also shorter and simpler). Standard form 278, which can be obtained from GPO or maybe from OGE, is the designate form. All SES and Preidential appointees need to do financial disclosures. Detailed regs are found at 5 CFR 2634. Manuals are available on this, including a public financial disclosure reviewers guide and a confidential disclosure guide. Schedule Cs also have to file public disclosures, as does the procuring/contracting officer.

2. Training.

This is governed in part by executive order and in part by OGE regulations, found at 5 CFR 2638. All new employees and appointees need ethics training (which should take about one hour). All report filers need training as well. There is an annual training requirement for financial report disclosure filers (which is also estimated at about one hour).

If the board members work less than 60 days for the federal government, they are considered speical government employees.

3. Counseling.

I'll be responsible for answering ethics questions that may arise. The applicable regs are at 5 CFR 2635, -- Rules for Standards of Ethical Conduct. If a special situation arises we can publish supplemental rules, but they must be approved by OGE before publishing.

4. Criminal provisions.

Applicable criminal provisions are found at 18 USC sections 203/205/207/208/209; the definition is at 202 and the penalty provisions at 216.

5. Publications

We need to get the CFR volumes and USC cites. Also the set of written informal opinions, which we may be able to get an extra copy of from OGE. We need the financial disclosure review guide, the SF 450 review guide, and two summary books "Do It Right" and "Take the High Road".

6. Other

Re pro bono activities, Rick said that generally the ethics rules do not bar charitable work or even representing parties before state court. There is a prohibition against representing parties in federal court in cases where the government has a pecuniary interest.

Rick mentioned a council of small/micro agencies' ethics officers, which meet regularly to brainstorm and problem-solve on ethics issues. I am to ask the desk officer about this. Ask her also about start up in general, and about getting copies of forms and publications. Also, there is a set of written informal opinions in 2 volumes --one published in 1988 and a supplement. It's called "Informal advisory letters and memos and formal opinions of OGE and supplement."

Nov. 28 -- call to Cheryl Piasecki. She would be happy to act as our contact person but needs to be formally assigned to us. She will talk to her supervisor and request to be assigned to us (he's out of the office today but will be back tomorrow; she'll call then). They can do some of the training and will brief me on what we need to know.

-- conversations with Miriam re who to contact on other regs, etc that we need to issue. She called Maya Bernstein at OMB/OIRA; will call back when she has more info.

Nov. 29 -- call from Miriam Nisbet. Best person to contact is Gary Edles, GC at Administrative Office of the U.S. Courts re what we need to do. She can put me in contact with the regs people at NARA for help in issuing our regs and notices. Call from Cheryl Piasecki -- she will be our desk officer, will come over to do initial briefing.

Nov. 30 -- Meeting with Cheryl Piasecki.. Need to send designation letter to Stephen Potts, Director of OGE. Need to figure out who has to file public financial disclosure forms. (Generally, those at 120 % of a GS 15, which is 79,000. Need to look at pay rates and scales to determine analogy with GS levels since we're not covered by regular civil service rules.) The time limits are 30 days after coming on board; a 45 day extension can be granted, and the due date before a fine of \$200 is levied is 30 days more. A waiver of the fine can be granted in special circumstances. She may be able to take care of our initial ethics briefing of the board since we are just getting started. I need to call CKP to find out whether to send a letter seeking an

extension of the time for filing disclosures for everyone here.

December 5 -- Call from Gary Edles re promulgating rules

Need to publish basic institutional rules -- make them simple; look at rules of administrative conference, US courts, at 1 CFR 301

For FOIA, Gov Sunshine, Privacy Act regs, check index to CFR pg. 273

For model regs of agency with part time board and full time staff, check the regs issued by the Board for International Broadcasting. Another model is the Federal Retirement Thrift Investment Board. See regs at 5 CFR 1632

Check with DoJ's OIP. Edles offered to review the Gov in the Sunshine Act regs since they have advisory authority over that statute

GenCounsel for Board for International Broadcasting is John Lindburg, 254-8040.

Re promulgating regs -- publish on an interim basis, indicate are doing so for startup purposes, so can get started. General time frame for notice and comment is 30 days. Nothing in the APA states a time frame but that's a standard.

There's a handbook., somewhat outdated now, called the "Complete General Counsel". Was published during the Reagan years by OPM; they may have a copy.

Call Lorraine Lewis, GenCounsel at OPM 606-1700

Also can call Rhoda Lawrence, staffing expert -- 606-1701

RE drug free workplace -- HHS administers; at Admin Conf only chairman needs to be tested and no one else. May depend on level of security clearances, etc. who He will find out from the Adconf exec dir what the deal is

12/22/94 -- conversation with CKP

1. Re whether board members are on government business on travel days for which they do not receive compensation. There is no written policy in the federal government about this; she consulted with Karen Santora at HHS, who said they treat their advisory committee members as not being on government business on days that they are not paid.

2. She's still checking on whether borrowing materials is an unauthorized-augmentation-of-appropriation issue

3. RE public v. confidential filings -- key is salary level: 120 per cent of GS 15 base pay

1/13/95 -- re disclosure forms -- only one we need to send to OGE is mine; need to send letter

requesting waiver of penalty fees for all.

