



United States
Office of Government Ethics

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May 5, 2005

Shayla F. Simmons
Designated Agency Ethics Official
Department of the Interior
MIB, Room 4356
1849 C Street, NW.
Washington, DC 20240

Dear Ms. Simmons:

The Office of Government Ethics (OGE) recently completed a review of the ethics program at the Department of the Interior (Interior). This review focused primarily on the Office of the Secretary, the Bureau of Reclamation (BOR), the Minerals Management Service (MMS), and the United States Geological Survey (USGS).

This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Ethics Act). Our objective was to determine the ethics program's effectiveness and compliance with applicable laws and regulations. We also evaluated Interior's systems and procedures for ensuring that ethics violations do not occur. The review was conducted from November 2004 through January 2005.

HIGHLIGHTS

Interior has made positive strides toward ensuring that its ethics program is administered in an effective manner and complies with applicable ethics laws and regulations. We commend Interior's ongoing reevaluation of the status of its advisory committee members to ensure that they have been appropriately designated as either special Government employees (SGE) or representatives. We also commend Interior's efforts to ensure that the program is overseen by one cohesive office that not only serves as the administrator of the program, but also provides consistent ethics-related guidance to employees and bureau ethics officials throughout the Department. In addition, Interior's ethics training and counseling programs meet, and sometimes exceed, OGE requirements.

While it appears that Interior's ethics program is moving toward full compliance with applicable ethics laws and regulations, room for improvement exists, especially with regard to the timely review and certification of financial disclosure reports, including those filed by SGE members of certain Interior advisory committees. It is vital that financial disclosure reports be reviewed and certified in a timely manner to ensure that potential conflicts of interest are promptly identified and remedied. Protracted review and certification can put employees at risk of running afoul of the ethics rules.

Many of the deficiencies we identified in the area of financial disclosure appear to be attributable to a lack of, or a recent turnover in, ethics staff in your office and at the bureaus. With regard to the deficiencies identified in your office, we believe that your plans for increased staffing and possibly delegating some of the financial disclosure review and certification responsibilities should help to resolve these deficiencies. At the bureau level, you must ensure that sufficient ethics staffing exists and take necessary steps to ensure that gaps in staffing are promptly remedied.

I. PROGRAM STRUCTURE

You serve as Interior's Designated Agency Ethics Official (DAEO) and also as the Director of the Department's Ethics Office. The former Deputy Director of your office served as the Alternate DAEO, but that position currently is vacant. In addition to providing ethics services for the Office of the Secretary, your office provides overall direction for the administration of the ethics program Departmentwide.

Each Interior bureau head serves as an Ethics Counselor. In addition, each bureau has a Deputy Ethics Counselor and often one or more Assistant Ethics Counselors who are responsible for the day-to-day administration of the ethics program within their respective bureaus. The Deputy and Assistant Ethics Counselor duties include reviewing and certifying confidential financial disclosure reports, initially reviewing public financial disclosure reports, providing ethics training and counseling, and approving outside activity requests, as appropriate.

A. Historical Context Of Program Structure And Administration

In 1997, OGE's review of Interior's ethics program identified serious deficiencies in several program requirements relating to the public and confidential financial disclosure systems and the ethics education and training program. Consequently, we issued a Notice of Deficiency to the former DAEO. Based on the results of our subsequent six-month follow-up review of the program, the Notice was lifted in 1998.

In 1999, Interior's Office of Inspector General (OIG) conducted an evaluation of the Department's Ethics Office at the request of the former Assistant Secretary - Policy, Management and Budget. Based on this evaluation, OIG concluded that the Department's Ethics Office was underfunded, understaffed, lacked sound leadership, was devoid of a computer system, and had disorganized files with little or no documentation of actions or advice.

Following OIG's 1999 evaluation, there was some discussion of hiring a new Director of the Department's Ethics Office (and DAEO). In November 2001, you were reassigned from Interior's Congressional Affairs Office to head up the Department's Ethics Office and serve as DAEO.

In an investigative report issued in 2003, OIG identified another weakness in the ethics program, i.e., the informal bifurcation of duties between the former DAEO and a senior career

attorney in the Office of the Solicitor. According to OIG, the former DAEO stated that she made no legal decisions but instead referred all legal questions to the attorney in the Office of the Solicitor. OIG added that this compartmentalization of roles between the Department's Ethics Office and the Office of the Solicitor was never clearly communicated to the employees requesting ethics advice.

As a step toward remedying this weakness, in August 2003 the Secretary of the Interior issued Order 3247, which transferred the Department's Ethics Office and the functions and responsibilities of the DAEO from the Office of the Assistant Secretary - Policy, Management and Budget to the Office of the Solicitor. Among other things, this transfer resulted in the Department's Ethics Office assuming responsibility for administering the Office of the Solicitor's portion of Interior's ethics program.

B. Ongoing Efforts

Since the issuance of OGE's 1997 review report, significant progress, in addition to the structural changes described above, has been achieved in the administration of Interior's ethics program. Additional efforts are ongoing. As summarized in the Solicitor's February 1, 2005 letters to the Chairman and Ranking Member of the Senate Committee on Energy and Natural Resources, this progress includes the commencement of weekly meetings between you and the Chief of Staff, Deputy Chief of Staff, and Solicitor to discuss ethics issues. Also, the Secretary now ensures that you provide ethics training to Presidential appointees on various ethics-related topics at routine intervals. Further, you regularly contact the Presidential appointees to determine if there are any ethics issues on which they need assistance.

In addition to developing a more aggressive and visible presence within the Office of the Secretary, you now also meet monthly with bureau Deputy Ethics Counselors and Assistant Ethics Counselors to discuss topics of mutual concern and to provide overall direction and advice on the management of their programs. We commend these outreach efforts, as our experience with department-level programs has proved that strong leadership and oversight is vital to maintaining a viable program at large and decentralized organizations.

During our review, you stated that barring any unforeseen crises, you felt that the ethics program would continue to improve. You cautioned, however, that you had recently lost some key staff, including the Deputy Director of the Department's Ethics Office, a training coordinator, and a senior financial disclosure specialist. According to documentation you provided us, you are providing justification to fill two positions immediately and are completing a workforce and budget plan to increase the size of the the Department's Ethics Office staff by at least two more people in calendar year 2005. We encourage these efforts as we believe additional staff would enable you to further improve Interior's overall program, particularly the administration of the financial disclosure systems, which we found to be deficient.

II. OFFICE OF THE SECRETARY

As previously mentioned, in addition to providing overall direction for the management of Interior's ethics program, your office is responsible for the immediate administration of the Office of the Secretary's ethics program, which includes the Office of the Solicitor.

Based on our review, we conclude that the ethics program complies with many of OGE's requirements. However, the administration of the financial disclosure systems requires improvement.

Your office has made significant strides in ensuring that advisory committee members are properly designated as either SGEs or representatives. In addition, new employees are provided with initial ethics orientation as required and efforts have been undertaken to ensure that all covered employees receive annual ethics training. However, the timeliness of review and certification of public and confidential reports filed by regular employees requires improvement. In addition, the filing of confidential reports by SGE advisory committee members has not been consistent.

A. Advisory Committee Issues

In November 2002, OGE conducted a single-issue review to evaluate agencies' management of their Federal advisory committees. Interior was included in the review. A significant finding of this review was that all of Interior's committee members were considered to be serving in a representative capacity, rather than being designated as SGEs.

At the time of the review, you stated that Interior's committee management officials informed you that Interior generally tries to structure and manage its advisory committees (through drafting charters and appointment letters that reflect that the members would represent a certain constituency) **to avoid** having the members be considered SGEs. You admitted to being a little surprised to learn this, especially given that Interior had more than 100 advisory committees at the time, and that you were somewhat concerned that the approach used may not have always accurately identified those persons who should be considered SGEs. You added that, although your office had regularly worked to assist in making the appropriate designation determination, your office generally had not been included in the final clearance process for creating or renewing advisory committees or appointing the members. As a result, you planned to begin having discussions with the appropriate offices and to take a closer look at this issue to develop a systematic way to review all advisory committees and determine who among their members should be treated as SGEs.

During our current review, you stated that since OGE's 2002 single-issue review, you have met with committee management officials and other relevant officials to discuss the need to be more diligent in appropriately making committee member status designations. Your office is now routinely involved in the bi-annual charter renewal process, as each charter coming up for renewal is provided to your office for reevaluation of, among other things, member status. To date, your

office has reevaluated approximately one third of Interior's 100-plus committees and made determinations regarding committee members' status.

To evaluate your office's determinations regarding the status of advisory committee members, we examined a sample of 12 of the committees from throughout the Department that your office has already reevaluated.¹ Our evaluation consisted of discussions with officials from your office and other officials involved in the management of Interior's advisory committees and an examination of committee charters, their establishing authorities, and other relevant documentation provided to us by your office.

In total, the sample of 12 committees we examined consist of 126 members. We found that of these 126 members, 23 (18 percent) have been re-designated from representatives to SGEs based on your office's reevaluation of their status. This number represents the entire membership of 3 of the 12 committees we examined, a 25 percent change. We are gratified to see these changes and view them as tangible evidence that Interior is following through with its commitment to be more diligent in making status designations.

While the changes described above may not seem remarkable, it should be noted that our concerns stemming from the single-issue review were in large part focused on your admission that Interior generally tried to structure and manage its advisory committees to avoid having the members be considered SGEs. We were not necessarily asserting that committee members' designations as representatives were incorrect, nor did we possess evidence to support such an assertion at the time. We were primarily concerned that Interior's policies and procedures for making status designations were insufficient. Based on our current review, we are satisfied that Interior now has proper policies and procedures in place for making appropriate SGE or representative designations.

Moreover, we conclude that Interior is making competent and well-informed designations and appears to be considering the relevant factors and criteria, including guidance provided by OGE in DAEOgram DO-04-022, in making these designations. Based our examination of the of the designations and discussions with Interior officials, correct designations appear to have been made in each case.

B. Public Financial Disclosure System

Your office is responsible for the final review and certification of all public financial disclosure reports filed by Interior employees Departmentwide, including all public reports filed by Presidential appointees requiring Senate confirmation (PAS). It is also responsible for initially reviewing the public reports filed by the Office of the Secretary employees, including filers from the Office of the Solicitor.

¹We also evaluated the status of advisory committee members from committees administered by MMS and USGS (the USGS Deputy Ethics Counselor is actually reevaluating USGS' four committees). BOR has no advisory committees. A discussion of these reevaluations follows in the MMS and USGS sections of this report.

To evaluate your office's administration of Interior's public system, we examined a sample of the public reports filed by the Office of the Secretary (including Office of the Solicitor) employees, as well as a sample of reports filed by BOR, MMS, and USGS employees. Although the reports we examined were filed in a timely manner and reviewed, many reports were not reviewed and/or certified in a timely manner. You advised us that the untimely review and certification were due to some disruption attendant to the August 2004 transfer of responsibility to your office for the review and certification of the Office of the Solicitor's reports and the distraction of other issues (including, with regard to the untimely certification of the Office of the Secretary's non-Office of the Solicitor reports, your office's review and certification of reports filed by employees assigned to other Interior bureaus).

While 5 C.F.R. § 2634.605 allows final certification of reports to exceed the 60-day review requirement where additional information is being sought, many reports did not appear to require any follow-up by the reviewer (e.g., nothing was reported on the form), or any required follow-up was not initiated until several months after the initial review.

While timely review of both public and confidential financial disclosure reports is necessary to promptly identify and remedy potential conflicts, it is especially important to ensure that public reports are reviewed and certified in a timely manner because of the highly visible nature of the positions that public filers can hold. The breadth of these employees' responsibilities and the decision-making authority inherent in their positions also may increase the potential for conflicts.

To help ensure that future public reports are reviewed and certified timely, you are considering delegating the authority to certify public reports to the Deputy Ethics Counselors and Assistant Ethics Counselors at the individual bureaus, thus easing the workload on your office. However, you would maintain responsibility for reviewing and certifying those reports filed by Office of the Secretary and Office of the Solicitor employees. We believe the contemplated delegations would be appropriate, provided you ensure that the reviewers in the individual bureaus are adequately trained on how to review a public form. OGE offers such training from time to time. Moreover, you should ensure that the bureaus' staffing is sufficient to accommodate this added responsibility so that the reports will be reviewed and certified in a timely manner.

1. Office Of The Secretary And Office
Of the Solicitor Public Reports

We examined 41 of the 113 non-PAS public reports required to be filed by Office of the Secretary and Office of the Solicitor employees in 2004, consisting of 16 Office of the Solicitor reports and 25 reports from Office of the Secretary employees outside of the Office of the Solicitor. All 41 reports were filed in a timely manner. However, only 32 reports appeared to be reviewed timely.

More notably, none of the 16 Office of the Solicitor reports had been certified at the time of our review. You explained that with the transfer of ethics responsibilities from Office of the Assistant Secretary - Policy, Management and Budget to the Office of the Solicitor, your office had only taken over responsibility for reviewing and certifying Office of the Solicitor public reports in August 2004. You added that the Office of the Solicitor official formerly responsible for reviewing and certifying the Office of the Solicitor public reports essentially stopped doing so upon learning of the intended transfer of responsibility.

Despite this explanation regarding the Office of the Solicitor reports, we noted that 16 of the 25 non-Office of the Solicitor Office of the Secretary reports had not been certified until 3 to 8 months after undergoing an initial review (although 23 of the 25 had been certified at the time of our review).

You stated that this late certification was primarily due to your focus on other pressing issues, including review of public reports filed by employees from other Interior bureaus.

2. BOR, MMS, And USGS Public Reports

To evaluate your office's certification of public reports filed by employees at the other bureaus included in our review, we examined a sample of 63 of the 97 public reports required to be filed by employees from BOR, MMS, and USGS in 2004.² Consistent with the findings of our review of Office of the Secretary and Office of the Solicitor public reports, only 1 of the 63 reports was certified timely by your office. The vast majority of the reports were certified between September 2004 and January 2005.

3. Public Reports From PAS Filers

We also examined a sample of 11 of the 18 annual and termination PAS public reports required to be filed in 2004. As with the non-PAS reports we examined, certification of the PAS reports was often protracted, taking place 3 to 8 months after initial review for 7 of the 11 reports we examined. However, after being certified by your office, all 11 of the reports were forwarded to OGE in a timely manner.

C. Confidential Financial Disclosure System

Your office is responsible for the collection, review, and certification of all confidential reports filed by employees in the Office of the Secretary (including the Office of the Solicitor), as

²We also evaluated the timeliness of filing and the timeliness and quality of initial review of these reports. However, as the collection and initial review of these reports is the responsibility of the Deputy Ethics Counselors and Assistant Ethics Counselors at the individual bureaus, we will discuss our findings relative to these elements later in this report in the sections dealing with our review of BOR, MMS, and USGS.

well as those filed by the SGE members of the one Federal advisory committee for which the Office of the Secretary has responsibility. To evaluate your office's administration of the Office of the Secretary's confidential system, we examined a sample of the confidential reports filed by regular employees and all of the reports filed by SGEs. Although the reports filed by regular employees were filed in a timely manner and reviewed, many reports were not reviewed timely and most of the reports had not been certified by the time of our review. As with the public reports, you advised that the untimely review and certification were due to some disruption attendant to the August 2004 transfer of responsibility to your office for the review and certification of the Office of the Solicitor's reports. Finally, as discussed below, you had mistakenly advised advisory committee SGEs not to file reports in 2004.

1. Regular Employees

To evaluate the confidential system for regular (non-SGE) employees within the Office of the Secretary, we examined a sample of 87 of the 449 confidential reports required to be filed in 2004. This sample consisted of 38 from the Office of the Solicitor and 49 from all of the Office of the Secretary filers.

All of the non-Office of the Solicitor reports were filed, reviewed, and certified timely and all of the Office of the Solicitor reports were filed timely. However, only 32 of the Office of the Solicitor reports were reviewed timely and, more notably, only 28 had been certified at the time of our review. To account for the late review and lack of certification of some of the Office of the Solicitor reports, you explained that, as with the public reports, when the Office of the Solicitor official responsible for reviewing and certifying the Office of the Solicitor confidential reports learned of the intended transfer of responsibilities to your office, she essentially stopped reviewing and certifying the reports.

2. Advisory Committee SGEs

To evaluate your office's administration of the confidential financial disclosure system for SGEs on the one committee for which it is immediately responsible, the Indian Arts and Crafts Board (IACB), we examined all four of the reports required to be filed in 2003 by its four members who are all SGEs. Three of the four reports were filed, reviewed, and certified timely. However, the fourth report, although filed timely, had not yet been certified. Apparently, this filer had erroneously filed his report directly with IACB, which in turn erroneously thought it had provided your office a copy for review and certification, which it had not done.

SGE members of IACB did not file confidential reports in 2004. You stated that you were under the impression that SGE advisory committee members were required to file only a new entrant report upon initial appointment (and any subsequent reappointment). We explained that according to 5 C.F.R. § 2634.903(b) and guidance provided by OGE in a DAEogram dated April 11, 1995, SGE committee members appointed to serve terms of more than one year (like SGE members of

IACB) are required not only to file a new entrant confidential report upon initial appointment, but also upon each anniversary of this appointment. To ease the administrative burden of tracking the anniversaries of each SGE's appointment, the DAEOgram states that OGE has no objection if an agency wishes to collect follow-on new entrant reports simultaneously once each year for all its term SGEs or for groups of term SGEs, such as specific advisory committees. We provided you with a copy of the April 11, 1995 DAEOgram.

D. Outside Activities

In accordance with 5 C.F.R. § 3501.105(b)(1) of Interior's supplemental standards of conduct regulation (supplemental regulation), an Interior employee must obtain written approval from his ethics counselor or other agency designee before engaging in outside employment with a prohibited source.

To evaluate your office's compliance with the supplemental regulation, we examined the 11 outside employment activities reported on our sample of Office of the Secretary/Office of the Solicitor confidential financial disclosure reports. We also examined the three outside employment activities reported on the sample of Office of the Secretary/Office of the Solicitor public financial disclosure reports we reviewed. According to the DAEO, however, none of these 14 activities required approval as they did not involve employment with a prohibited source.

E. Ethics Education And Training

Your office is responsible for ensuring that appropriate Office of the Secretary (and Office of the Solicitor) employees receive initial ethics orientation and annual ethics training. In addition, your office routinely distributes ethics-related materials to Interior employees and bureau ethics officials and maintains a Web site which contains a variety of ethics training materials, notices, and other guidance.

1. Initial Ethics Orientation

New Office of the Secretary (and Office of the Solicitor) employees are provided a copy of the "Ethics Guide for Employees of the Department of the Interior" (Guide) which summarizes the ethics laws and regulations, including Interior's supplemental regulation and the 14 principles, as part of their entry-on-duty package. They are provided one hour of official-duty time to review the information.

As noted later in this report, one of the bureaus included in our review directs employees to its ethics Web-site as part of their initial ethics orientation so that employees may access additional information, such as the full texts of the ethics laws and regulations. We commend this practice and suggest that you encourage employees to take similar advantage of the array of information available on your Web-site.

2. Annual Ethics Training

According to documentation you provided us, in 2003, your office trained 526 of the 730 covered Office of the Secretary employees for which it was responsible. In 2004, training coverage improved significantly as your office trained 913 of the Office of the Secretary's 937 covered employees.³ All Presidential appointees were trained in both years.

To meet the annual ethics training requirement in 2004, your office utilized a combination of live briefings, satellite broadcasts, and computer-based training modules.

With regard to the live briefings, officials from your office traveled throughout the country providing numerous live training sessions for a variety of audiences, including Interior bureaus, offices, and advisory committees. These sessions were tailored to the particular audience. Attendance at these briefings was tracked through the use of sign-in sheets.

Your office also made available to covered employees various computer-based training modules which focused on a variety of ethics-related topics, including outside employment activities, gift acceptance, and misuse of Government resources. To track receipt of this method of training, employees were required to complete an on-line certification upon finishing one of the modules.

You did not require that computer-based training for public filers (for those who chose this method) be completed during normal business hours to ensure that a qualified instructor would be available to answer any questions during and immediately after the training, as required by 5 C.F.R. § 2638.704(d). You explained that public filers were allowed to complete the computer-based training at any time to accommodate their busy schedules and, in particular, to accommodate public filers working in offices located in other time zones, such as Guam, Hawaii, Alaska, or the Northern Mariana Islands.

III. BUREAU OF RECLAMATION

Unlike MMS and USGS, BOR's ethics program is somewhat decentralized. At the time of our fieldwork, the BOR Deputy Ethics Counselor was located at Interior headquarters in Washington, DC. She was responsible for administering the ethics program only for Washington Office employees, e.g., reviewing their financial disclosure reports, providing them with ethics training, etc. She also had oversight responsibility for the Assistant Ethics Counselors who administered BOR's ethics program at the regional level.

In June 2004, a decision was made by BOR leadership to relocate the BOR Deputy Ethics Counselor from Interior headquarters to the BOR Human Resources Division in Denver, Colorado.

³The increase in the number of covered employees from 2003 to 2004 was due to your office's assumption of the ethics responsibilities for the Office of the Solicitor.

This move initially was to be effective September 2004 but was delayed to January 2005 to accommodate our review. Despite your desire and that of the BOR Deputy Ethics Counselor that BOR maintain an ethics program presence in Washington, DC, the relocation went ahead as planned. Notwithstanding this relocation, the BOR Deputy Ethics Counselor maintains her oversight responsibility for the regional Assistant Ethics Counselors.

Based on our review, which focused primarily on the Washington Office, BOR's ethics program is managed effectively by the BOR Deputy Ethics Counselor. Financial disclosure reports are filed, reviewed, and in the case of confidential reports, certified in a timely manner. In addition, outside employment activities performed by BOR employees in their personal capacities or service in outside organizations performed in their official capacities are done so in compliance with Interior's supplemental regulation and other internal policies. Finally, initial ethics orientation and annual ethics training are appropriately provided to covered employees.

A. Advisory Committee Issues

According to the BOR Deputy Ethics Counselor, BOR is not directly responsible for administering any Federal advisory committees.

B. Public Financial Disclosure System

To evaluate BOR's collection and review of public financial disclosure reports, we examined 14 of the 19 public reports required to be filed by BOR employees in 2004. All of the reports were filed and reviewed by the BOR Deputy Ethics Counselor in a timely manner.

C. Confidential Financial Disclosure System

At the time of our review, the BOR Deputy Ethics Counselor was responsible only for reviewing and certifying confidential reports filed by Washington Office employees. All other BOR confidential reports were reviewed and certified by BOR's various regional Assistant Ethics Counselors.

To evaluate BOR's confidential system, we examined all 14 of the confidential reports filed in 2004 by Washington Office employees. All 14 of the reports were filed, reviewed, and certified in a timely manner.

D. Outside Activities

At the time of our review, the BOR Deputy Ethics Counselor was responsible for approving outside employment activity requests only for Washington Office employees. Requests from regional employees typically were approved by the regional Assistant Ethics Counselors, although she sometimes assisted these Assistant Ethics Counselors in evaluating complex requests.

To evaluate BOR's compliance with the supplemental regulation, we examined the two outside employment activities reported on the Washington Office confidential financial disclosure reports we reviewed. Because neither activity was with a prohibited source, no approval was necessary.

We also examined the five outside employment activities reported on the BOR public financial disclosure reports we reviewed at your office. Prior approval had been granted for three of the activities.

The remaining two activities were actually performed as official duty activities, not outside employment activities.⁴ While not covered by the Interior supplemental regulation's prior approval requirements, Interior employees requesting to serve as officers or directors of outside organizations as part of their official duties are required to execute a memorandum of understanding (MOU) between the relevant Interior bureau and the outside organization. In the MOU, the employee, on behalf of the Bureau, certifies that he will perform the duties of his outside office within the scope of all applicable Federal ethics laws and regulations, as well as any applicable Interior or Bureau policies. Employees must also be granted a waiver under 18 U.S.C. § 208(b)(1). MOUs and waivers were on file for both activities.

E. Ethics Education And Training

At the time of our review, the BOR Deputy Ethics Counselor was responsible for providing initial ethics orientation and annual ethics training only to Washington Office employees. BOR's regional Assistant Ethics Counselors performed these functions for their respective employees.

1. Initial Ethics Orientation

The BOR Deputy Ethics Counselor and regional Assistant Ethics Counselors are responsible for identifying new employees and ensuring that they receive initial ethics orientation. At a minimum, new employees are provided a copy of the Guide and given one hour of official duty time to review it. After reviewing the Guide, employees are required to complete a certification document and return it to the BOR Deputy Ethics Counselor or a regional Assistant Ethics Counselor, as appropriate.

In addition to providing a copy of the Guide, one BOR region presents an ethics training module at a formal employee orientation program that is conducted twice a year. Some other regions also conduct similar in-person orientation sessions on a less structured schedule.

⁴Accordingly, the positions under which these official duties are carried out are not required to be disclosed on the filers' financial disclosure reports. However, later in this report there is a discussion of the USGS Deputy Ethics Counselor's perceived need to collect this information from filers.

2. Annual Ethics Training

According to the BOR Deputy Ethics Counselor, all covered BOR employees in the Washington Office and the regions received annual training in 2004. This training mostly consisted of written materials, in-person briefings (including satellite broadcasts put on by your office), and computer-based training. Receipt of annual training was tracked through the collection of certifications from covered employees that they had received it.

Public filers choosing to complete computer-based training were required to complete the training module(s) during normal business hours to ensure that a qualified instructor would be available to answer any questions during and immediately after the training, as required by 5 C.F.R. § 2638.704(d).

IV. MINERALS MANAGEMENT SERVICE

The MMS ethics program is centrally managed out of the Office of the Associate Director for Administration and Budget by the MMS Ethics Office. Unlike BOR, MMS has no regional Assistant Ethics Counselors. Thus, the MMS Ethics Office is responsible for, among other things, collecting and reviewing financial disclosure reports from, providing training and counseling to, and approving outside employment activities for, MMS employees nationwide.

While several aspects of MMS' program meet or exceed OGE requirements, room for improvement exists. Although all of the public reports we examined were filed timely, several did not appear to be reviewed timely. Moreover, while the confidential reports for regular employees were filed, reviewed, and certified in timely manner, those from SGE members of one advisory committee did not appear to be filed or certified in a timely manner (although they did receive a timely initial review). Additionally, MMS' prior approval policy for outside employment activities is broader than the requirements found in Interior's supplemental regulation. Finally, MMS provides appropriate initial ethics orientation to new employees and exceeds OGE's requirement by providing annual ethics training for **all** employees.

A. Advisory Committee Issues

MMS is responsible for three advisory committees, one of which, the Outer Continental Shelf Advisory Committee (OCSAC), has members who are considered SGEs. According to the MMS Assistant Ethics Counselor, members of this committee used to be considered representatives but after a reevaluation by your office in 2004, they were re-designated as SGEs.⁵

⁵You office's reevaluation of the other two MMS advisory committees did not result in a change in their members' representative status.

B. Public Financial Disclosure System

To evaluate MMS' collection and review of public financial disclosure reports, we examined all 15 of the public reports required to be filed by MMS employees in 2004. All of the reports were filed in a timely manner. However, based on the dates the reports were signed by the MMS Deputy Ethics Counselor as the intermediate reviewer, 7 reports appeared to have been reviewed late (6 were signed more than 60 days after being filed and the remaining report was not signed or dated). In a discussion with the MMS Assistant Ethics Counselor regarding these reports, she assured me that all six of the reports that appeared to have been reviewed late had in fact undergone an initial review upon receipt but were not signed until outstanding issues or questions were resolved. She added that the unsigned and undated report had also received a timely initial review, but through an administrative error, had not been signed or dated.

C. Confidential Financial Disclosure System

All MMS confidential filers, including those in regional and field offices, file their reports directly with the MMS Ethics Office, where they are reviewed and certified.

1. Regular Employees

To evaluate the confidential system for regular employees at MMS, we examined a sample of 83 of the approximately 1,450 MMS reports required to be filed in 2004. All 83 reports were reviewed timely and 81 were certified timely (the remaining two reports had not yet been certified). At the time of our review, the two uncertified reports required additional information from the filers in order for the MMS Assistant Ethics Counselor to certify them. Since the reports have already been reviewed and the MMS Assistant Ethics Counselor is in the process of collecting the required information, we do not consider them to be late in being certified.

During our review, we asked the MMS Assistant Ethics Counselor if MMS ever considered revisiting its determination as to who should file a confidential report considering the large percentage of employees who are currently required to file (1,450 of approximately 1,700 employees or 85 percent). She stated that MMS has revisited this issue in the past but, considering the regulatory nature of MMS, the number of filers has remained high. However, she added that she is not fundamentally opposed to paring down the number of filers and may reassess the filing designations again sometime in the future.

2. Advisory Committee SGEs

To evaluate MMS' administration of the confidential financial disclosure system for the one MMS committee whose members are considered SGEs, OCSAC, we examined all 11 of the

available confidential reports required to be filed by committee members in 2004.⁶ During this examination, we noted that although committee members were appointed as SGEs on March 30, 2004 and the committee held its first meetings from April 21 through April 23, 2004, many of the members' first OGE Forms 450 were not filed until after these initial meetings. The MMS Assistant Ethics Counselor believed that the late filing may have been due to the narrow window between the March 30, 2004 appointment date and the dates of the first meetings.

In addition to the late filing, we noted that only 3 of the 11 reports had been certified at the time of our review (although all appeared to have undergone an initial review) and only 1 of these 3 had been certified prior to the initial committee meetings. According to the MMS Assistant Ethics Counselor's annotations on the reports, the protracted or lack of certification of the reports was due to the need to follow up with the filers to collect additional information or to clarify certain entries listed on their reports.

As previously noted, it is vital that financial disclosure reports be filed, reviewed, and certified in a timely manner. For SGE advisory committee members, reports should be filed, reviewed, and certified prior to the committee meeting to ensure that no conflicts of interests exist with regard to the matters to be covered during the meeting.

D. Outside Activities

As previously noted, Interior's supplemental regulation requires an Interior employee (including an MMS employee) to obtain written approval from his ethics counselor or other agency designee before engaging in outside employment with a prohibited source. However, MMS has a long-standing internal written policy requiring employees to obtain prior written approval for any outside employment. The MMS Assistant Ethics Counselor believes this inconsistency stems from a previous lack of communication and coordination with the Department's Ethics Office because, although the MMS policy was brought to the Department's Ethics Office's attention during the drafting of Interior's supplemental regulation, it was not included in the final version.

If you and MMS believe the requirement that MMS employees receive prior written approval for any outside employment activity is warranted, you should amend Interior's supplemental regulation to include the blanket approval requirement. We would be happy to work with you on an expedited basis to get this revision published. If upon examining the issue, you decide the broader prior approval requirement is not necessary, MMS should eliminate the policy.

To evaluate MMS' compliance with the supplemental regulation, we examined the three outside employment activities reported on our sample of MMS confidential financial disclosure reports. One of these activities was properly approved. However, the remaining two activities, neither of which involved a prohibited source, were not approved in accordance with the MMS internal policy.

⁶We did not examine the four additional committee members' reports because they were either filed after the completion of our fieldwork at MMS or have not yet been filed.

We also examined the five outside employment activities reported on the MMS public financial disclosure reports we reviewed. Three of these activities had been appropriately approved.

One of the remaining reported activities, in which the employee serves as the treasurer of a homeowners association, was approved by the MMS Assistant Ethics Counselor in conjunction with her review of the filer's most recent public report. While this is not the type of activity that would generally require approval under Interior's supplemental regulation, when identifying such an activity during her review of financial disclosure reports, the MMS Assistant Ethics Counselor now sends filers an e-mail reminding them of the restrictions on the use of Government title, time, and resources; making representations back to the Government; use of appropriated funds for lobbying activities; and fundraising while participating in the activity. We commend the MMS Assistant Ethics Counselor for taking this additional step to remind employees of these restrictions.

The final activity was conducted as part of the employee's official duties. An MOU and an 18 U.S.C. § 208(b)(1) waiver were executed for this activity. However, as noted above, such activities undertaken as part of an employee's official duties are not required to be reported on either a public or confidential form.

E. Ethics Training

The MMS Assistant Ethics Counselor is responsible for ensuring that appropriate employees receive initial ethics orientation and annual ethics training MMS-wide.

1. Initial Ethics Orientation

New MMS employees are provided a copy of the Guide and informed that the complete texts of OGE's Standards of Ethical Conduct for Employees of the Executive Branch, Interior's supplemental regulation, and the 14 principles are available in the MMS Ethics Office. Employees are given one hour of official duty time to review the Guide and then must certify that they have been informed of (1) their obligations under the ethics laws and regulations, (2) the prohibition against MMS employees having direct or indirect personal or private interests in Federal lands or the mineral wealth of such lands (5 C.F.R. § 3501.103(b)) and the need to attest that to the best of their knowledge they do not have any such interests, and (3) the names and locations of the MMS ethics counselors. Once completed, the certifications are filed with the MMS Ethics Office.

2. Annual Ethics Training

All MMS employees are required to receive annual ethics training. To meet the 2004 annual ethics training requirement, most MMS employees, including confidential filers, viewed an interactive satellite broadcast of a training session conducted by your office and the Department of Defense's Standards of Conduct Office covering the seeking-employment and post-employment rules, or viewed a videotape of this broadcast.

According to the MMS Assistant Ethics Counselor, public filers traditionally receive in-person training each year, usually in the fall. In 2004, this in-person training for public filers was conducted during one or more of the many meetings attended by these senior employees during the year.

Receipt of annual training is tracked through the use of sign-in sheets and various certifications of completion (certification forms, e-mails, etc.). These documents are forwarded through supervisors (who are responsible for ensuring their employees receive the training) to the MMS Ethics Office where the information is entered into a database tracking system.

At the time of our review, approximately 10 percent of MMS employees had yet to receive the 2004 annual training. Subsequent to the completion of our fieldwork, the MMS Assistant Ethics Counselor stated that most of those employees required by OGE to receive annual training (i.e., financial disclosure filers) had received it, although she was still awaiting certifications from a couple of MMS field locations. She added that anyone who had not complied with the training requirement by December 31, 2004 would be required to view a videotape of the satellite broadcast. In addition, appropriate administrative action may be recommended.

V. UNITED STATES GEOLOGICAL SURVEY

The USGS ethics program is centrally administered by the USGS Ethics Office which is headed up by the USGS Deputy Ethics Counselor. The current USGS Deputy Ethics Counselor assumed this position on January 26, 2004.

As with MMS, several aspects of the USGS program comply with OGE requirements; however, improvement is needed. The public financial disclosure reports we examined were filed and reviewed in a timely manner. In addition, the confidential reports for regular employees were filed and reviewed in a timely manner. However, many were certified late. According to the USGS Deputy Ethics Counselor, this late certification was in large part due to a six-month gap between the departure of her predecessor and her entering on duty, as well as to her attending to other duties, including preparation for our review. As with the regular employee confidential reports, all of the confidential reports we examined from SGE members of one USGS advisory committee were filed and reviewed in a timely manner; however, most had not been certified at the time of our review and several additional required reports had not yet been filed.

On the positive side, the USGS Deputy Ethics Counselor has taken it upon herself, in coordination with you, to reevaluate the status of members of USGS' four advisory committees to ensure that members have been properly designated as either representatives or SGEs. In addition, our examination of a sample of outside employment activities performed by USGS employees revealed that they generally complied with Interior's supplemental regulation and other internal policies. Finally, initial ethics orientation and annual ethics training are provided to new and covered employees, as appropriate.

A. Advisory Committee Issues

USGS has four Federal advisory committees. According to the USGS Deputy Ethics Counselor, she has begun evaluating the status of the members of these committees, but has only completed her evaluation of one, the Scientific Earthquake Studies Advisory Committee.⁷

1. Scientific Earthquake Studies Advisory Committee

The USGS Deputy Ethics Counselor stated that during the course of her evaluation of the Scientific Earthquake Studies Advisory Committee (SESAC), she initially met with the SESAC Designated Federal Officer (DFO) to obtain his opinion on the status of committee members. Specifically, she asked the DFO to explain what groups the members were representing. She stated that the DFO's responses were sometimes rather vague and overly-broad, characterizing such groups as 'academia', which she found unsatisfactory. Moreover, nothing in the most recent SESAC charter makes any mention of members representing any particular groups or even serving in any type of representative capacity. Based on her evaluation and discussions with you, the USGS Deputy Ethics Counselor determined that SESAC members had been improperly designated as representatives and subsequently designated them as SGEs.

B. Public Financial Disclosure System

To evaluate USGS' collection and review of public financial disclosure reports, we examined 34 of the 63 public reports required to be filed by USGS employees in 2004. Thirty two of these reports were filed in a timely manner. Upon entering on duty, the two late filers, both Intergovernmental Personnel Act employees, were not initially identified as public filers nor notified of the new entrant public filing requirement by the USGS Ethics Office in a timely manner. Upon recognizing this oversight, the USGS Ethics Office notified the employees of the requirement to file a new entrant report. Subsequently, one filer submitted his report within 30 days of being notified, as required, and the other submitted his report more than 30, but less than 60 days after being notified. Because the USGS Ethics Office did not notify these employees of the new entrant filing requirement in a timely manner, the \$200 late filing fee was waived for both filers.

C. Confidential Financial Disclosure System

All USGS confidential reports are reviewed and certified by the USGS Ethics Office.

1. Regular Employees

To evaluate the USGS confidential system for regular employees, we examined a sample of 100 of the approximately 2,000 USGS confidential reports required to be filed in 2003 and 2004.

⁷Unlike the MMS committees where the determination regarding members' status was based on evaluations by your office, the USGS Deputy Ethics Counselor has taken it upon herself (in coordination with you) to make the determinations for USGS advisory committees, as she has some degree of familiarity with advisory committee issues from her previous positions at other agencies.

Unlike our practice at the other Interior bureaus we reviewed, we included reports filed in 2003 in our sample because, as discussed below, the vast majority of the 2004 reports had not been certified at the time of our review, thus limiting our ability to select a sufficient sample using only 2004 reports.

Of the 100 reports we examined, 98 were filed timely and 99 were initially reviewed timely. However, only 64 reports were certified timely.

a. 2003 Confidential Reports

As just mentioned, many of the 2003 confidential reports we examined were certified late. In many cases, reports that were certified late either did not appear to require any significant follow-up on the part of the reviewer or any necessary follow-up was not initiated until well after (several months) the initial review was conducted. The USGS Deputy Ethics Counselor explained that her predecessor left USGS in July 2003 and she did not come on board until late-January 2004, thus leaving a six-month period during which the position was unfilled. Moreover, the previous Deputy Ethics Counselor was the sole certifying official for the confidential reports while her counterpart at the time administered other portions of the program. Therefore, when the previous Deputy Ethics Counselor left, neither the counterpart nor anyone else certified the reports.

b. 2004 Confidential Reports

Despite the explanation regarding the 2003 confidential reports, at the time of our fieldwork in January 2005, only about 200 of the approximately 900 USGS confidential reports required to be filed in 2004 had been certified, although all had been initially reviewed. The USGS Deputy Ethics Counselor stated that she and the Assistant Ethics Counselor are now sharing the certification responsibility, rather than having one person with certification responsibility. She added that other pressing issues, most notably the preparation for OGE's review, contributed to the fact that the majority of the reports had not yet been certified. Finally, she stated that she is working on paring down the number of confidential filers at USGS and that the number of employees required to file in 2004 had been reduced by approximately 150 from 2003.

2. Advisory Committee SGEs

To evaluate USGS' administration of the confidential financial disclosure system for the one USGS committee whose members are considered SGEs, SESAC, we examined all six of the available confidential reports recently required to be filed by committee members in 2004.⁸ All six of the reports we examined were filed and reviewed timely. However, only one report had been certified at the time of our review.

⁸The three remaining reports had not yet been filed at the time of our review.

D. Outside Activities

In accordance with 5 C.F.R. § 3501.105(b)(1)(ii)(A) of Interior's supplemental regulation, a USGS employee, other than an SGE, shall obtain written approval from the USGS Deputy Ethics Counselor before engaging in **any** (emphasis added) outside activity. However, according to § 3501.105(b)(1)(ii)(B), USGS may issue instructions exempting categories of employment from the prior approval requirement based on a determination that the employment within those categories would generally be approved and are not likely to involve conduct prohibited by statute or regulation, including 5 C.F.R. parts 2635 and 3501.

USGS has developed instructions which state that where outside work or interest is obviously unrelated to USGS' program responsibilities, prior approval is not required. However, an employee must inform his/her supervisor when he/she engages or plans to engage in such an activity.

We are concerned that the instructions are too vague and do not provide employees with sufficient information to determine if the proposed outside activity is "obviously unrelated to USGS' program responsibilities." USGS should expand the instructions to include a list of the types of outside activities that do not require prior approval. We would be happy to share examples of such lists prepared by other agencies with similar instructions. The instructions should also direct employees, as necessary, to contact the USGS Ethics Office, or other appropriate office, to assist them in determining whether or not a proposed activity requires prior approval.

To evaluate USGS' compliance with the supplemental regulation, we examined the eight outside employment activities reported on our sample of USGS confidential financial disclosure reports. Based on our examination of USGS outside employment activity files and discussions with the USGS Deputy Ethics Counselor, we concluded that five of the reported activities did not require prior approval because they were unrelated to USGS' program responsibilities.

Of the remaining three activities, one, involving a filer teaching a course at a local university, was appropriately approved prior to taking place. The two remaining activities involved one employee's service on the boards of two different organizations. Our examination of the USGS outside employment activity files did not reveal approvals for either position. After researching the matter, the USGS Deputy Ethics Counselor explained that both positions were held in the filer's official capacity. While her records showed that requests to the filer to execute MOUs and obtain 18 U.S.C. § 208(b)(1) waivers had been sent, the filer had never done so. The filer no longer holds either position.

We informed the USGS Deputy Ethics Counselor that since the positions were held as part of the filer's official duties, they should not be reported on her financial disclosure report. She responded that USGS personnel should continue to report all of their positions with outside organizations, whether or not they are filled in an official or personal capacity, to enable the USGS Ethics Office to maintain awareness of all such activities in which employees are engaged. This

contemplated use of the financial disclosure form is inconsistent with the purpose of the form. Employees should not be required to report activities undertaken in an official capacity on an SF 278 or an OGE Form 450.

We also examined the 21 outside activities reported on the sample of USGS public financial disclosure reports. Of these, 15 turned out to be positions the filers held as part of their official USGS duties.⁹ Of the remaining six, all outside activities, two were held prior to the employees entering on duty at USGS and are no longer held, one did not require prior approval as it is unrelated to the filer's official duties, one was appropriately approved as an outside activity, and two were not approved as required.

E. Ethics Education And Training

The USGS Deputy Ethics Counselor, in coordination with servicing personnel offices, is responsible for ensuring that appropriate USGS employees bureauwide receive initial ethics orientation and annual ethics training.

1. Initial Ethics Orientation

According to the USGS Deputy Ethics Counselor, the appropriate servicing personnel office provides all new employees with copies of the Guide, the 14 principles, President Bush's 2001 memorandum regarding standards of official conduct, and the USGS Ethics Office contact list. Additionally, the USGS Ethics Office Web site contains the full texts of applicable ethics laws and regulations and employees can get hard copies of these texts from their servicing personnel offices.

Upon reviewing the orientation materials, new employees must complete a certification form and return it to the USGS Ethics Office. By submitting this form, employees certify that: they have received the orientation materials and have been given one hour of official duty time to review them; they have been informed of the statutory restrictions contained in 43 U.S.C. § 31(a) which provides that employees of USGS shall have no personal or private interest in lands or mineral wealth under survey, and shall execute no surveys or examinations for private parties or corporations; to the best of their knowledge they do not have any personal or private interest, direct or indirect, in Federal lands as defined in 5 C.F.R. § 3501.103(a)(2); and to the best of their knowledge they do not have any substantial personal or private interest, direct or indirect, in any private mining activities, as defined in 5 C.F.R. § 3501.104, doing business in the United States, except where the USGS Director has authorized them to have such an interest.

⁹MOUs and 18 U.S.C. § 208(b)(1) waivers were executed for six of these activities in which the filers were serving as officers or board members of an outside organization and an MOU and waiver were nearly finalized for a seventh activity. MOUs and waivers were not required for the remaining eight activities, as they did not involve service as an officer or board member.

In addition to ensuring that written initial ethics orientation materials are provided to new employees, the USGS Deputy Ethics Counselor also conducts quarterly live briefings for new employees. These briefings are conducted as part of a larger overall orientation program for new employees.

2. Annual Ethics Training

Annual ethics training at USGS typically is provided using a variety of methods. To meet the 2004 annual ethics training requirement, both public and confidential filers were provided a computerized slide presentation prepared by the USGS Deputy Ethics Counselor. Additionally, many of the USGS public filers received training from the Interior DAEO when she attended the "USGS Managers' Meeting" in May 2004 and met with the Executive Leadership Team.

Those filers who had not completed training as of November 2004 were provided the opportunity to attend one of two live training sessions conducted by the USGS Deputy Ethics Counselor on December 6 and 16, 2004. The live training was available to both public and confidential filers.

To monitor completion of the computerized slide presentation, covered employees were to e-mail the USGS Ethics Office certifying that they had viewed the presentation. Sign-in sheets were used to track attendance at live training sessions. The information contained in the e-mails and sign-in sheets is compiled and entered into a database for tracking purposes.

Public filers were not required to complete the computerized slide presentation during normal business hours. However, the presentation did contain contact information for all of the USGS Ethics Office officials should public (and of course confidential) filers have any questions.

According to the USGS Deputy Ethics Counselor, as of January 26, 2005, 3 public filers and 11 confidential filers (2 of whom are on extended sick leave) had yet to receive the 2004 annual ethics training.

VI. ENFORCEMENT

Based on our discussions with Interior OIG and Department Ethics Office officials, a working relationship appears to exist between your offices. In addition, while there were no recent referrals to the Department of Justice of alleged violations of the criminal conflict-of-interest laws involving employees at any of the Bureaus we reviewed, Interior's Deputy Inspector General is aware of the requirement at 5 C.F.R. § 2638.603 to concurrently notify OGE of any such referral and its subsequent disposition.

A. Office Of The Secretary Enforcement

In 2004, there was one ethics-related case dating back to mid-2002 involving an investigation of an Office of the Secretary employee (the then Deputy Secretary of Interior). OIG asked OGE to comment on its report of this investigation.

B. BOR Enforcement

According to the BOR Deputy Ethics Counselor, there were no allegations of violations of the criminal conflict of interest laws or the standards of conduct regarding BOR employees from 2004 to date.

C. MMS Enforcement

At MMS, we were provided documentation of five actions taken against MMS employees for ethics-related misconduct, all of which involved misuse of Government property or Government charge cards. The actions ranged from issuing letters of reprimand to termination of employment.

D. USGS Enforcement

According to the USGS Deputy Ethics Counselor, one case involving allegations that a USGS employee submitted grant proposals in his personal capacity is still ongoing. An administrative review of the allegations was conducted by the Director of the Center where the employee works. Subsequently, in November 2004, the Center Director and Deputy Director delivered a letter to the employee which outlined the findings of the review and proposed remedial actions. According to the USGS Deputy Ethics Counselor, in early January 2005, the Center Director advised her that all of the actions required by the letter had been achieved. Nonetheless, the USGS Deputy Ethics Counselor plans to provide OIG with a written report explaining the details of the case for possible further investigation.

Another case involving allegations of a potential violation of 18 U.S.C. §§ 205 and 208 by a USGS employee was referred to the attention of the USGS Deputy Ethics Counselor in June 2004. According to the referral information provided to us by the USGS Deputy Ethics Counselor, the case involved an employee who submitted a grant application on behalf of an outside organization for which she serves as treasurer in her official USGS capacity. USGS plans to refer this case to DOJ for its review.

To help ensure that similar incidences do not occur in the future, the USGS Deputy Ethics Counselor has updated and improved training materials for USGS personnel who serve as officers of outside organizations in their official capacities.

VII. ETHICS COUNSELING

To evaluate Interior's provision of ethics-related counseling to employees, we examined approximately 315 pieces of written counseling rendered by you, the Alternate DAEO, the Deputy Ethics Counselors, and the Assistant Ethics Counselors from 2001 through 2004. This counseling covered a wide variety of ethics-related issues, including gift acceptance, impartiality, conflicts of interest, misuse of position, endorsements, outside employment, post- and seeking-employment rules, fundraising, and other general ethics topics. Based on our examination, we concluded that the counseling provided was consistent with the relevant ethics laws and regulations and sufficiently addressed employees' concerns.

RECOMMENDATIONS

To bring Interior's ethics program into full compliance with applicable laws and regulations, we recommend that you:

1. Ensure that sufficient ethics staffing exists at all Interior bureaus and take necessary steps to ensure that gaps in staffing, such as existed at USGS, are promptly remedied.
2. Continue efforts to evaluate advisory committee membership to determine whether committee members are representatives or SGEs.
3. Certify all outstanding public reports filed in 2004 and ensure that future public reports are reviewed and certified in a timely manner.
4. Immediately collect current confidential reports from SGE members of IACB and ensure that future new entrant confidential reports are collected from term-appointed members upon appointment, and annually thereafter upon each anniversary of their original appointment, or, to ease the administrative burden of tracking the anniversaries of each member's appointment, simultaneously once each year.
5. Ensure that all outstanding confidential reports from MMS OCSAC members are filed and certified and that future reports are filed and certified in a timely manner.
6. Consider whether the requirement that MMS employees receive prior written approval for any outside employment activity is warranted, and, if so, amend Interior's supplemental regulation to include the blanket approval requirement. Otherwise, ensure that MMS brings its internal policies into conformance with the supplemental regulation.
7. Ensure that all outstanding USGS confidential reports filed by regular employees in 2004 are certified and that future reports are certified in a timely manner.
8. Ensure that all outstanding confidential reports from SGE members of SESAC are filed and certified and that future reports are filed and certified in a timely manner.

9. Ensure that USGS expands its outside activity instructions to include a list of the types of outside activities that do not require prior approval. Also, ensure that the instructions direct employees, as necessary, to contact the USGS Ethics Office, or other appropriate office, to assist them in determining whether or not a proposed activity requires prior approval.
10. Ensure that official duty activities are not reported on filers' confidential or public financial disclosure reports.

In closing, I would like to thank you for your efforts on behalf of the ethics program. Please advise me within 60 days of the specific actions Interior has taken or plans to take on our recommendations. A 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 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 actions to implement our recommendations. A copy of this letter is being forwarded to the Interior Inspector General via transmittal letter. Please contact Dale Christopher at 202-482-9224, if we may be of further assistance.

Sincerely,



Jack Covaleski
Deputy Director
Office of Agency Programs