



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,¹ 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

¹ 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,² 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
Totals	1,348	172	15/4	2	193

² 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.

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