



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

July 29, 2002

The Honorable Jeffrey Rush, Jr.  
Inspector General  
Department of the Treasury  
1500 Pennsylvania Avenue, NW.  
Washington, DC 20220

Dear Mr. Rush:

As part of our Agency monitoring activities, we have completed a review of the ethics program at the Department of the Treasury, focusing on the following components: Departmental Offices; the U.S. Mint; the Bureau of Alcohol, Tobacco, and Firearms; and the Financial Management Service. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the program's effectiveness, measured largely by its compliance with applicable laws and regulations.

I have enclosed a copy of the report for your information. Please contact Ilene Cranisky at 202-208-8000, extension 1218, if you wish to discuss this report.

Sincerely,

A handwritten signature in cursive script that reads "Jack Covaleski".

Jack Covaleski  
Deputy Director  
Office of Agency Programs

Enclosure



United States  
**Office of Government Ethics**

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

July 29, 2002

Mr. Kenneth R. Schmalzbach  
Assistant General Counsel  
Department of the Treasury  
1500 Pennsylvania Avenue, NW.  
Washington, DC 20220

Dear Mr. Smalzbach:

The Office of Government Ethics has completed its review of the ethics program at the Department of the Treasury (Treasury), focusing on the following components: Departmental Offices; the U.S. Mint; the Bureau of Alcohol, Tobacco, and Firearms; and the Financial Management Service. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the program's effectiveness, measured largely by its compliance with applicable laws and regulations.

The enclosed report highlights the many program improvements that we found had been implemented throughout Treasury. Of particular note, we were impressed by the dedication and commitment displayed by all ethics officials with whom we met toward building and maintaining strong and viable programs within their components. Also noteworthy were the strides made in using computer technology to: (1) establish ethics Web sites, (2) track financial disclosure report submission and review, (3) provide ethics training, and (4) dispense ethics advice.

In closing, I would like to thank you for all of your efforts on behalf of the ethics program. No six-month follow-up review is necessary in view of the fact that we have no recommendations for improving your program at this time. We are sending a copy of this report to the Treasury Inspector General. Please contact Ilene Cranisky at 202-208-8000, extension 1218, if we can be of further assistance.

Sincerely,

Handwritten signature of Jack Covaleski in cursive script.

Jack Covaleski  
Deputy Director  
Office of Agency Programs

Enclosure

REVIEW OF THE ETHICS PROGRAM  
DEPARTMENT OF THE TREASURY

JULY 2002

PREPARED BY

U.S. OFFICE OF GOVERNMENT ETHICS  
OFFICE OF AGENCY PROGRAMS

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Abbreviations

ADAE0	Alternate Designated Agency Ethics Official
ATF	Bureau of Alcohol, Tobacco, and Firearms
CBT	Computer-Based Training
DAEO	Designated Agency Ethics Official
DO	Departmental Offices
FMS	Financial Management Service
GSA	General Services Administration
HRD	Human Resources Division
IRS	Internal Revenue Service
OGC	Office of the General Counsel
OGE	Office of Government Ethics
OIG	Office of the Inspector General
PAS	Presidentially-appointed, Senate-confirmed

## CHAPTER 1 BACKGROUND

The Department of the Treasury (Treasury) operates under the direction of the Secretary of the Treasury and consists of headquarters and approximately 12 semi-autonomous bureaus (or components). In total, Treasury has about 154,000 employees. Of this total, about 1,500 employees are located in Treasury headquarters, which is commonly known as Departmental Offices (DO).

This report focuses, specifically, on the administration of the ethics program within four Treasury components, including DO and three bureaus--the Financial Management Service (FMS), the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the U.S. Mint (Mint).

### Overall Management Of Treasury's Ethics Program

Treasury's Assistant General Counsel (General Law and Ethics) is the Designated Agency Ethics Official (DAEO) and the Senior Counsel for Ethics is the Alternate DAEO (ADAEO). The DAEO has served since June 1999. In the last year and a half, in addition to substantial changes among top-level Treasury officials, which occurred as a result of the Presidential transition, significant changes also occurred among key headquarters ethics staff. The previous long-serving ADAEO retired in February 2001, followed by the retirement of the Ethics Program Specialist in April 2001. The current Ethics Program Specialist and ADAEO assumed their positions in April and June 2001, respectively.

We recognize the significant "learning curve" that needed to be overcome by these new ethics officials, who, at the time of our work in DO, had served in their positions for about one year. In addition, we noted that they actively worked on clearing a backlog of public reports and quickly began instituting new processes and procedures. It was evident that they had already made notable strides to strengthen the overall ethics program--especially in trying to rely, to a greater extent, on "computer technology" to accomplish ethics program-related tasks--during their relatively short tenures.

Treasury's Office of the General Counsel (OGC) consists of four Assistant General Counsels. The main "Ethics Office" is housed within the Office of the Assistant General Counsel (General Law and Ethics). The Ethics Office primarily consists of the DAEO, the ADAEO, the Ethics Program Specialist, an administrative staff member, and one other attorney. In addition, other attorneys who report to the Assistant General Counsel (General Law and Ethics) also provide support, including reviewing public reports.<sup>1</sup>

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<sup>1</sup>For writing convenience, we refer to these employees as ethics officials and their office subpart as the Ethics Office.

Furthermore, other attorneys from the three remaining Assistant General Counsel offices, such as Banking, also provide support.

In addition to key ethics officials within DO, at the Treasury bureau level, each bureau's Chief Counsel is designated as a Deputy Ethics Official and is responsible for administering the semi-autonomous ethics program within its respective bureau. Generally, Chief Counsels have appointed senior attorneys to perform many of the bureau's day-to-day ethics-related duties.<sup>2</sup>

Within the components we visited, it was clear to us that agency heads are helping to support the goals of the ethics program. This support, in addition to having well-staffed ethics offices, is paramount for running a successful ethics program. We advocate continued senior management support for the program. We also encourage that, on a routine basis, ethics program staffing levels throughout Treasury be evaluated to ensure that program objectives can continue to be met.

#### Outside Entities Covered By Treasury's Ethics Program

In addition to managing the Treasury-wide ethics program, DO officials also provide ethics-related services to Presidentially-appointed, Senate-confirmed (PAS) employees at various international financial institutions (Institutions).<sup>3</sup> These Institutions include the World Bank, the International Monetary Fund, and the Inter-American Development Bank. As to the respective PAS employees at these Institutions, Treasury ethics officials review and certify their respective public reports. In addition, they provide initial ethics orientation and annual training to these PAS employees and dispense advice to them, as requested.<sup>4</sup>

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<sup>2</sup>Further discussion about the staffing and management of each bureau ethics program is included within the report chapter on the respective bureau.

<sup>3</sup>Treasury's oversight responsibility concerning these Institutions is an outgrowth of Executive Order No. 11269, National Advisory Council on International Monetary and Financial Policies, which was issued in 1965.

<sup>4</sup>For reporting purposes, discussion (and the counting) of public reports filed by Treasury PAS employees and ethics training provided to them includes the PAS employees at these Institutions.

## Treasury Standards Of Conduct

Treasury's supplemental regulation, at 5 C.F.R. part 3101, to the executive branchwide standards of conduct contains additional rules for employees of some of its bureaus, such as ATF. The supplemental regulation also contains a general requirement for all Treasury employees to obtain prior written approval before engaging in certain employment or business activities. Each component is responsible for issuing its own instructions governing the submission of requests for approval of outside employment or business activities and for designating officials to act on such requests.<sup>5</sup>

## Prior OGE Reviews

OGE has issued several prior reports which assessed Treasury's ethics programs at one or more components since 1990. For the components currently under review, we last issued reports covering DO, FMS, ATF, and the Mint in January 1997, November 1995, January 1997, and May 1993, respectively. In these reports, we recommended improvements predominantly to various aspects of each component's confidential financial disclosure system. We are pleased to report that our current review found well-run confidential systems at all components visited.

## Objectives, Scope, And Methodology

Our review was performed pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to determine the ethics program's effectiveness, measured largely by its compliance with applicable laws and regulations. To meet our objectives, we examined the following elements: the administration of the ethics program, the public and confidential financial disclosure systems, the ethics education and training program, the counseling and advice services, the acceptance of gifts of travel from non-Federal sources, and the relationship with the Office of the Inspector General (OIG) or other internal investigative units. We performed work from March through June 2002.

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<sup>5</sup>Further discussion about the outside employment or business activity approval process is included within the report chapter on each component.

CHAPTER 2  
PUBLIC FINANCIAL DISCLOSURE SYSTEM

In accordance with Treasury Directive 61-01, Ethics Office officials centrally administer the Treasury-wide public financial disclosure system. Overall, we found that the system is admirably managed. We were pleased to observe that officials have improved upon the earlier version of the public disclosure tracking system. Also, in addition to now having a better ability to track the status of public reports throughout Treasury, ethics officials have instituted improved methods to help to ensure that filers are notified of reporting requirements and that reports are submitted and reviewed timely.

With assistance from DO's Office of Personnel Resources (Personnel), all Treasury<sup>6</sup> new entrant, annual, and termination public filers are individually notified of their filing responsibilities. Bureau ethics officials and personnel offices assist in the filer notification process.

It was noticeable that Treasury ethics officials have improved upon previous techniques to keep track of the large number of employees who enter into or terminate from public filing positions. In addition to the informal communication methods of learning about public filer movements, we were informed that Personnel routinely (on a monthly basis) provides accession and separation information. This information, in addition to ethics officials' independent knowledge, helps to assure that newly covered or terminating employees are timely notified about filing public reports.

Filers are advised to submit their public reports directly to the Ethics Office where, upon submission, officials enter on the reports the date that they were received. In addition, officials record the submission date into a computerized spreadsheet. After recording the receipt of reports, the SF 278s are subsequently distributed to initial reviewers. In general, public reports filed by bureau employees are initially reviewed by bureau ethics officials, whereas reports filed by DO employees are initially reviewed by either Ethics Office officials or by other attorneys within OGC.

Overall, we found a well-operating and thorough public report review process. Initial reviewers sign the public reports after completing their review and they note the resolution of any technical deficiencies or the existence of any conflicts of interest issues on either the report or on the attached review

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<sup>6</sup>Treasury's centralized management of the public system includes all Treasury bureaus except for the Internal Revenue Service's (IRS) non-PAS filers.

cover sheet. For additional thoroughness, reports are generally subsequently screened by the Ethics Program Specialist before being forwarded to the ADAEO. All public reports, except for those from PAS employees which are reviewed and certified by the DAEO, are reviewed and certified by the ADAEO. As the report moves toward final review and certification, Ethics Office officials record date information into their tracking system.

PAS Employees' Public Reports  
Examined During Review

In total, Treasury (including the bureaus and the Institutions) has about 40 PAS positions, which include the Secretary of the Treasury, the General Counsel, members of the IRS Oversight Board, and the U.S. Executive Director of the World Bank. During the Presidential transition year of 2001, employees filling the majority of these PAS positions changed; but some did not, such as the Inspector General and the Commissioner of IRS.

As stated in 5 C.F.R. § 2634.602(c)(1), agencies are required to transmit to OGE the reports filed by both PAS employees and the DAEO. As part of our review, we examined all of the 2001 annual and termination public reports that were required to be forwarded to our Office.<sup>7</sup> Our examination of these reports was limited to checking the timeliness of employees filing their reports with the Ethics Office and the timeliness of forwarding them to OGE.

We found that approximately 30 annual and termination reports (from PAS employees and the DAEO) were required to be forwarded to our Office in 2001. Of these 30, 1 report had not yet been submitted to the Ethics Office. At the close of our review, ethics officials were continuing to follow up with this filer in an effort to collect his report. When submitted, this filer will be subject to the \$200 late filing fee. Of the remaining reports submitted to the Ethics Office, all but about five were submitted timely. We confirmed that the five late filers either paid the \$200 late filing fee or that the payment of the late fee was waived by our Office.

Concerning annual and termination reports filed and transmitted to our Office, we found that almost all were transmitted shortly after certification by the DAEO. According to ethics officials, most delays in OGE's receipt of reports were due to mail delivery problems caused by recent events. Ethics officials advised us that they strive to promptly transmit certified reports to our Office. For example, on May 15, 2002, OGE

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<sup>7</sup>Many of the reports from employees terminating from their respective positions were not required to be forwarded to OGE because those employees moved to non-PAS public filing positions.

received the annual report for the Secretary of the Treasury which was certified by the DAEO on May 14, 2002.

At the close of our review, in addition to the one report not yet submitted to the Ethics Office, two other reports required to be filed in 2001 had not yet been forwarded to our Office. Ethics officials advised us that they are working with filers to obtain additional information in order to certify the reports.

Non-PAS Employees' Public Reports  
Examined During Review

In 2001, approximately 675 public reports were required to be filed by career and non-career members of the Senior Executive Service and Schedule C employees Treasury-wide, excluding IRS employees. Concerning these reports, Treasury-wide, according to ethics officials (and as reflected in the tracking system) all but one of the public reports due in 2001 were filed. Ethics Officials had referred this one non-filer to the Department of Justice.

In 2001, within DO, FMS, ATF, and the Mint, approximately 300 public reports were required to be filed. We examined a sample of 60 of these, which included 46 incumbent, 10 new entrant, and 4 termination reports. The following chart shows, by component, the number of reports required to be filed and the number of reports that we examined.

Treasury Component	Number of Public Reports Required to be Filed in 2001 (Excluding PAS Reports)	Number of Public Reports Examined by OGE
DO	236	25
FMS	21	10
Mint	8	5
ATF	41	20
Total	306	60

We found that all 60 reports were filed and almost all were initially reviewed timely. However, final certification was protracted for most reports. While the ADAEO did have follow-up questions concerning some reports, she told us that the delay in certifying reports was primarily due to the pressing demands of her other work, including the time that she spent processing nominee reports and overcoming her learning curve. She expects that the review and certification of public reports for the now ongoing 2002 incumbent cycle should proceed more timely and smoothly.

We found that the public reports that we examined contained no substantive deficiencies. Overall, we were impressed with the thoroughness of the review process as evidenced by the many notations and corrections made on the reports by initial and final reviewers.

Based on discussions with ethics officials from FMS, ATF, and the Mint and by examining public reports from these bureaus, we believe that sound and thorough initial reviews are being conducted prior to forwarding those reports to the Ethics Office. In addition to their respective in-depth knowledge of agency-specific issues, bureau ethics officials use review tools such as active agency contracts lists (and at ATF, a listing of regulated and licensed entities) to flag potential conflicts.

In accordance with 5 C.F.R. § 3101.105, "...no employees of ATF, or spouse or minor child of an ATF employee, shall have, directly or indirectly, any financial interest, including compensated employment, in the alcohol, tobacco, firearms or explosives industries." In accordance with § 3101.105(b), ATF ethics officials are permitted to grant written waivers to the prohibited financial interests when they determine that the financial interest will not create an appearance of misuse of position or loss of impartiality, or call into question the impartiality and objectivity with which AFT's programs are administered. Our examination of 20 ATF public reports filed in 2001 found that ATF regulatory waivers were appropriately granted by ethics officials to 8 filers.

### CHAPTER 3 DEPARTMENTAL OFFICES

In addition to administering the day-to-day operations of the ethics program Treasury-wide, the ADAEO is responsible for much of the functioning of DO's internal ethics program which covers approximately 1,500 employees. This chapter focuses on those DO ethics program elements, other than public disclosure, including the administration of its confidential system, ethics education and training, counseling and advice services, and acceptance of gifts of travel.

Overall, we found that these elements of the program are well-managed. We commend the ADAEO's and Ethics Program Specialist's efforts to strengthen all program elements. Though we did find a problem in completely satisfying the 2001 annual ethics training requirement for many DO public filers, we were pleased to find that, recently, almost all of those employees had been given verbal ethics training (to meet the 2002 ethics training requirement).

#### Confidential System

When we last reviewed the confidential system within DO, it was administered by Personnel. Shortly thereafter, based on some of the identified problems, the Ethics Office assumed control over managing the system. Now, the Ethics Office primarily relies on Personnel to provide basic administrative support. This includes assisting the Ethics Office to identify DO new entrant filers, distributing notification memorandums, and providing OGE Forms 450 to them. Pertaining to the review of confidential reports, as had been done in the past, only filers' supervisors review (and sign as the certifying official) the OGE Forms 450. Now, rather than Personnel being responsible for the collection and maintenance of the reports, the Ethics Office ensures that all reports are filed and accounted for. In addition, the Ethics Office maintains all of the reports.

It was apparent that more tightened controls have been put into place for running DO's confidential system, which overall, we found was well-run. By memorandum (signed by the ADAEO) distributed by Personnel, covered employees are notified about their filing responsibilities. Filers are advised to submit their completed reports to supervisors for review and are told that reports should be returned to the Ethics Office (and they are provided return envelopes). Ethics officials maintain a confidential report tracking (computerized spreadsheet) system to help them ensure that all reports are accounted for. Similar to the public report tracking system, the confidential report tracking system documents the dates of supervisory review and receipt of the report in the Ethics Office. Based on documentation that we examined, which included e-mail to employees and supervisors, we

noted that ethics officials are conscientiously tracking the submission of reports.

To assist in ensuring that newly covered DO employees are advised of their confidential filing requirement, ethics officials have instituted what appears to be a reliable process. On a monthly basis, Personnel advises them of DO employee accessions and separations, which ethics officials check against their tracking system. As necessary, ethics officials confer with filers and/or supervisors when questions arise about filing status. A tickler system helps ethics officials ensure that new entrant reports are received timely.

#### DO Confidential Reports Examined During Review

In 2001, approximately 620 confidential reports were required to be filed by DO employees. By the close of our review, based on our examination of the Ethics Office tracking system and according to ethics officials, all but one of the required reports from 2001 were submitted as required. Actions were continuing to collect the report from the one filer, who is on extended leave.

To ensure compliance with our confidential system regulation, we examined 50 confidential reports, which consisted of 32 filed by incumbents and 18 by new entrants, and found that most were filed and reviewed timely. In addition, we found that the reports contained no substantive deficiencies. For the most part, reports appeared to be thoroughly reviewed, as indicated by notations or corrections made on the reports. Overall, the system seems to operate well. We did, however, find two relatively minor compliance-related deficiencies: first, supervisors are not routinely indicating on the report the date it is received and, second, most reviewing officials are not certifying reports in the correct signature box. Ethics officials agreed to highlight these regulatory requirements in the next annual notification letter sent to reviewing officials.

#### Ethics Education And Training Program

Ethics officials have an active ethics education and training program in place for DO employees. Generally, the requirements of OGE's training regulation have been satisfied, except for the annual training of all DO public filers in calendar year 2001. We confirmed that ethics training plans have routinely been documented as required by our regulation.

#### Initial Ethics Orientation

During in-processing through Personnel, all new DO employees receive the required initial ethics orientation materials. This includes being given a copy of the standards of conduct, the

Treasury supplement to the standards, and information about ethics officials. In addition, when about seven or eight new DO employees begin work at the same time, ethics officials also provide an in-person ethics orientation session to them, as part of Personnel's full-day orientation process. Ethics officials indicated that they have routinely provided these in-person orientation overviews during the past year.

In addition to distribution of required ethics orientation materials, for new PAS and other new non-career employees throughout Treasury, ethics officials provide specially-designed in-person ethics orientation overview sessions for them. Attendance at these sessions is tracked by the ADAEO. At the time of our on-site work in April 2002, we confirmed that all new PAS employees who have come on board since January 2001 attended in-person ethics orientation sessions.

#### Annual Ethics Training

According to tracking records that we examined, all DO covered employees (other than public filers) completed computer-based ethics training (CBT) in 2001.<sup>8</sup> While ethics officials had intended to provide in-person training to DO public filers in calendar year 2001, due to repairs being made within the main Treasury building, suitable large meeting space was not available during the year. In lieu of distributing written ethics materials to these filers or having all complete CBT, ethics officials, instead, decided to wait until meeting space became available, which occurred in early 2002. However, we were told that many of the public filers had, in fact, either received some personal ethics counseling or had received other ethics-related training during 2001.

The ADAEO has been conscientiously tracking public filers' attendance at 2002 annual ethics training. By the time of the close of our review, based on the attendance roster that we examined and ethics officials' attestations, all but about 10 public filers (including PAS employees) required to receive ethics training had been trained. The Secretary of the Treasury and other PAS employees received personalized training sessions in 2002.

Most public filers attended one of the four large group training sessions held in February. Training for public filers consisted of a detailed presentation given by the ADAEO and the Ethics Program Specialist, including information on conflicting financial interests, impartiality in performing official duties, gifts, and financial disclosure.

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<sup>8</sup>Ethics officials advised us that some public filers also completed CBT.

Also in 2002, the ADAEO plans to provide in-person training to all other covered DO employees, except for those employees located outside of Washington, DC, who will receive written materials.

### Counseling And Advice Services

Treasury's counseling and advice services consist of providing one-on-one advice to employees, either orally or in writing, on a variety of topics. Therefore, the counseling and advice services meets the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). According to ethic officials, both written and oral advice is provided to DO employees, as necessary, although most advice is orally dispensed. During the transition time frame, the majority of the DAEO's and ADAEO's time had been spent providing oral advice to incoming senior Treasury officials during their nomination and appointment process.

We examined about 35 written determinations provided by ethics officials to DO employees from 2001 to the present and found that the advice was accurate, consistent with applicable laws and regulations, and appeared to meet employees' needs. The advice dispensed included responding to questions concerning gift acceptance, post employment, and outside activities. According to ethics officials, senior officials routinely are given post-employment written information and out-briefings.

We confirmed that our Office was consulted on the 5 18 U.S.C. § 208(b)(1) waivers issued in the past approximately 18 months. We found that all but one of the waivers were forwarded to OGE, in accordance with 5 C.F.R. § 2640.303.

### Outside Activity Approval

DO Directive-611, implementing 5 C.F.R. § 3101.104, dated June 11, 2001, establishes the procedures for obtaining approval of outside employment or business activities (outside activity) by DO employees.<sup>9</sup> Generally, an employee seeking approval of an outside activity is required to submit a DOF 90.09 to his or her immediate supervisor. After approval is given by the supervisor and the form is signed, a copy is forwarded to Personnel for inclusion in the employee's official personnel folder. If either the employee or the supervisor has questions about the proposed outside activity, they may contact ethics officials at any time.

Based on our examination of selected confidential reports, we found that required outside activity approvals were appropriately sought and granted. In addition, as requested, ethics officials provided outside activity advice. Ethics officials indicated that

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<sup>9</sup>A separate directive outlines the procedures for attorneys within OGC.

the prior approval process is one of the areas that they plan to focus attention on through proactive advice dispensing and training.

#### New Ethics Web Site

We commend ethics officials on recently launching an Intranet ethics Web site geared for use by DO employees. We believe that DO employees will benefit from having easily retrievable ethics-related information available to them. As they indicated they plan to do, we encourage ethics officials to routinely post new and updated ethics-related information to keep employees ethically aware.

#### Gifts Of Travel Payments

On occasion, DO accepts payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel under the authority of the General Services Administration's (GSA) Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353.

We examined all 24 of the DO acceptances reported on Treasury's last two semiannual travel reports to OGE of payments of more than \$250 (covering the periods from October 1, 2000 through September 30, 2001).

We found that OGC officials conducted thorough conflicts of interest analyses and that acceptances were appropriately approved. In accordance with agency procedures, delineated in Treasury Directive 12-24, requests for the acceptance of travel payments are processed through OGC. In addition, we found that the last two semiannual travel reports included the relevant information required to be reported.

#### Relationship With The OIG

Officials from the Ethics Office and OIG advised us that they have a good working relationship with one another concerning ethics issues, as matters arise. In general, ethics officials within the bureaus have infrequent contact with the OIG. Rather, they told us that they have good working relationships, as necessary, with officials from their respective internal investigative units. This includes ATF's Investigation Division, FMS' Security Branch, and the Mint Police's Economic Crimes Unit.

For the components covered in our review, we confirmed that no conflict of interest violations have been referred to the Department of Justice for several years.

## CHAPTER 4 FINANCIAL MANAGEMENT SERVICE

Since our last review, in 1997, FMS has centralized control of the ethics program within its Office of Chief Counsel. We found a sound and well-run ethics program in place and a program well-suited for the agency's organizational structure. We commend ethics officials' conscientious efforts to administer a meaningful program by actively involving FMS Assistant Commissioners to ensure that their respective employees file confidential reports timely and receive annual ethics training.

### Administration Of The Ethics Program

For the approximately 2,100 FMS employees,<sup>10</sup> who are located in headquarters, Washington, DC and in 4 regional financial centers, the agency has a centralized ethics program which is managed by the Chief Counsel. For the last two years, day-to-day responsibility for the program has rested with an attorney-advisor, who, in addition to his other legal duties ably serves as the bureau's "Ethics Attorney." On an intermittent basis, other Office of Chief Counsel attorneys assist in accomplishing the bureau's ethics functions, including participation from the Chief Counsel and Deputy Chief Counsel. The program is also supported by an administrative staff member who maintains the bureau's confidential system (computerized spreadsheet) data base.

### Confidential System

Similar to DO, when we last reviewed FMS, the confidential system was administered by the Human Resources Division (HRD). Now, HRD primarily provides administrative support, such as assisting in identifying covered employees. As outlined in FMS' confidential procedures, the Ethics Attorney currently ensures that employees and supervisors are notified of their respective filing and report collection responsibilities. Whereas in the past supervisors were responsible for reviewing OGE Forms 450, now, ethics officials, but primarily the Ethics Attorney, review and certify reports.

Overall, we found that FMS' confidential system was well-run. As of the 2001 incumbent filing cycle, reports were either submitted to the Office of Chief Counsel directly from the individual filer or collected by Assistant Commissioners--who are responsible for accounting for all reports--and then forwarded to the Office of Chief Counsel. The Ethics Attorney told us that having a choice of submission methods worked well for the individual office heads.

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<sup>10</sup>All FMS employees, including the FMS Commissioner, are career civil servants.

While the timely collection of new entrant reports was problematic through the 2001 time frame, the Ethics Attorney advised us that newly instituted procedures should aid in more easily identifying those who enter covered positions and help to ensure that they are timely notified of their filing responsibilities. We were assured that efforts are continuing to collect reports from newly covered filers when they enter those positions.

#### FMS Confidential Reports Examined During Review

In 2001, approximately 295 confidential reports were required to be filed by FMS employees. The Ethics Attorney stated (and the tracking system showed) that all reports were accounted for. We examined 62 reports, which consisted of 54 filed by incumbents and 8 filed by new entrants, and found that most were filed and reviewed timely. In addition, we found that the reports contained no substantive deficiencies. It appeared that thorough reviews were conducted based on notations and corrections that we found on the reports that we examined. To aid in screening reports for potential conflicts, the Ethics Attorney checks employees' reported holdings against recent lists of vendors and financial institutions doing business with FMS.

#### Ethics Education And Training Program

We found that the ethics education and training requirements are being met at FMS, including annually documenting the ethics training plan. In addition to developing an agency Intranet ethics Web site, ethics officials rely on the Assistant Commissioners to help ensure that those required to receive annual ethics training do so.

#### Initial Ethics Orientation

During in-processing through HRD, all new FMS employees receive the required initial ethics orientation. This includes being given a copy of OGE's pamphlet entitled "A Brief Wrap on Ethics." In addition, employees receive a welcome letter from the FMS Commissioner which directs employees to FMS' Intranet ethics Web site for copies of other required reading. Moreover, employees are given ethics officials' contact information. During the overall agency orientation process, employees view OGE's video entitled "Ethics: Know the Code."

#### Annual Ethics Training

We found that all employees who were required to receive annual ethics training in 2001 did so. Based on the Ethics Attorney's attestation and according to the tracking records that we examined, all those required to complete CBT did so. In 2001,

these covered employees were required to complete various modules offered by the Department of Agriculture's ethics Web site. The completion of training was tracked by each employee's Assistant Commissioner, who reported completion to the Ethics Attorney. In-person training was provided to public filers in December 2001. We confirmed that all public filers received verbal ethics training in 2001. Most attended the detailed overview provided in person by ethics officials. For the few who did not attend, they instead fulfilled the verbal ethics training requirement by using the Department of Agriculture's CBT (and had direct and immediate access to FMS ethics officials).

For 2002, ethics officials plan to train all covered employees in person, including those in regional offices.

#### Counseling And Advice Services

FMS' counseling and advice services meet the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). The Ethics Attorney provides most of the ethics counseling and advice provided to employees. Most frequently, the advice dispensed is oral. As necessary, however, advice is provided in written form, which is usually by e-mail.

We examined all 11 of the written determinations provided to FMS employees from 2001 to the present and found that they were accurate, consistent with applicable laws and regulations, and appeared to meet employees' needs. The advice covered outside activities, gift acceptance, and potential conflicting interests.

Additionally, we found that FMS' Intranet ethics Web site, which includes "summary papers" on various ethics topics (such as gifts between employees and outside activities), to be a valuable tool in keeping employees ethically aware.

#### Outside Activity Approval

FMS' Manual of Administration, Chapter 735-03.85, implementing 5 C.F.R. § 3101.104, provides guidance for obtaining approval of outside activities by FMS employees. Employees are required to submit an FMS Form 5414 to their supervisor for approval. The completed form is forwarded to HRD for placement in the employees' official personnel folder. If either the employee or the supervisor has questions about the proposed outside activity, he/she may contact ethics officials at any time.

Based on our examination of selected confidential reports, we found that the required eight outside activity approvals were appropriately sought and granted. However, ethics officials indicated that the prior approval process is an area that they plan to reevaluate.

### Gifts Of Travel Payments

On occasion, FMS accepts payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel under the authority of GSA's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353.

We examined all 14 of the FMS' acceptances from October 1, 2000 up to the time frame of our on-site review work. We found that ethics officials conducted thorough conflicts of interest analyses and that acceptances were appropriately approved.

CHAPTER 5  
BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

We found a vastly improved ethics program operating at ATF since our last review in 1996. We commend ethics officials on centralizing and overhauling the program and instituting the many processes and procedures that aid in running its successful ethics program. In particular, we were impressed by ATF's Intranet ethics Web site, confidential report (computerized spreadsheet) tracking system, CBT used for annual training, and its computerized ethics advice tracking system. We believe that many processes developed by ATF may be suitable for implementation in other ethics offices throughout Treasury.

Administration Of The Ethics Program

For the approximately 5,100 ATF employees<sup>11</sup> who are located in Washington, DC and in 23 field locations, the agency has a centralized ethics program which is managed by the Chief Counsel. In addition to the Chief Counsel, an Associate Chief Counsel (Administration and Ethics) contributes to supervising the program. Running of the day-to-day program rests with an "Ethics Attorney." In addition to her other legal duties, the Ethics Attorney, skillfully administers the confidential system, provides advice, and conducts ethics training.

Confidential System

First and foremost, we confirmed that all of the prior confidential system deficiencies that we found during our 1996 review had been eliminated. In fact, our current review found an overhauled and greatly improved system.

Similar to what we found at other Treasury components, ethics officials' reliance on personnel staff to aid in managing the confidential system has significantly changed at ATF. While ethics officials now rely on the Personnel Division to some extent, we were told that this reliance will be reduced even further in the current year. For example, a new ATF Order removes confidential report certification responsibilities from the Employee Labor Relations Team (ELRT), which was formerly known as the Employee Labor Relations Branch. Now, ELRT's primary responsibility is to provide to ethics officials listings of employees occupying covered positions.

We believe that the new method for managing the confidential system makes the most sense, considering ATF's organizational structure. As had been done in the past, supervisors will continue

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<sup>11</sup>All ATF employees, including the ATF Director, are career civil servants.

to initially review reports (and sign them as the intermediate reviewer). Now, however, ethics officials will review reports and certify them. Previously, through the 2001 filing cycle, ELRT and ethics officials had "shared" final review responsibility and both signed the reports as certifying officials.

Considering the large number of confidential report filers at ATF, we commend having office heads involved in assuring that all required reports are accounted for. While the Ethics Attorney, overall, tracks the submission of all reports, Assistant Directors are responsible for inputting into a computerized spreadsheet the date that the confidential report is submitted to them. This data is subsequently incorporated into the overall confidential report tracking system.

To assist in ensuring that newly covered ATF employees are advised of their confidential filing requirements, ELRT advises the Ethics Attorney of employee accessions and terminations. Based on this information, if the Ethics Attorney determines that an employee is occupying a covered position, she notifies the employee about filing responsibilities.

#### ATF Confidential Reports Examined During Review

In 2001, approximately 780 confidential reports were required to be filed by ATF employees. Based on our examination of the confidential report tracking system and according to ethics officials, all of the required reports were submitted. We examined 78 reports, which consisted of 70 filed by incumbents and 8 filed by new entrants, and found that almost all were filed timely and were timely initially reviewed (and signed) by supervisors. Due to mail delivery problems in 2001 caused by recent events, many reports were delayed in reaching the ATF headquarters building; therefore, certification was protracted. Notwithstanding mail delivery delays, all reports were ultimately certified by the Chief, ELRT by April 2002.

We found that the reports contained no substantive deficiencies. Based on the number of notations and corrections made on the reports, it was evident that supervisors and the Ethics Attorney thoroughly reviewed reports. Supervisors were required to complete a "Checklist for ATF Supervisor's Review of OGE Form 450" cover sheet. Also, supervisors were advised to check filers' reported financial holdings against ATF's listing of companies that may be regulated/licensed by ATF or those that are ATF contractors. These listings are easily accessible on ATF's Intranet ethics Web site.

In addition to supervisor notations, we found that additional report corrections were made and that follow-up with filers was conducted by the Ethics Attorney, as necessary. In our sample of

78 reports, we found that ATF ethics officials appropriately granted waivers to 13 filers, in accordance with 5 C.F.R. § 3101.105(b).

#### Use Of The OGE Optional Form 450-A

In 2001, ethics officials permitted filers to use the OGE Optional Form 450-A (OGE Form 450-A) for those who met the filing requirements. Again, we commend ethics officials on instituting a method to assure appropriate use of and thorough review of this alternative filing. Supervisors were advised to check that filers had a copy of their previous OGE Form 450 (for 2000) and also ensure that filers did not have a change in their financial circumstances. In order to tighten control of the review process, ethics officials attached a signature sheet to the OGE Form 450-A, whereby supervisors, ethics officials, and the head of ELRT were required to attest to the completion of their review. In our sample of 78 reports, we found that 6 filers used the OGE Form 450-A. We confirmed that all had filed an OGE Form 450 in 2000.

#### Ethics Education And Training Program

ATF ethics officials have an active ethics education and training program in place, which exceeds our training regulation requirements. We found that the initial ethics requirement is being satisfied and that ethics officials routinely document their ethics training plan. In fact, ATF's 2001-2003 training schedule was posted on the agency's Intranet ethics Web site to advise offices/employees, well in advance, of when they are slated to receive in-person training. Concerning annual ethics training, ATF has a longstanding policy to provide yearly training to all employees.

#### Initial Ethics Orientation

During in-processing through the Personnel Division, all new ATF headquarters employees receive the required initial ethics orientation materials. This includes being given a copy of ATF's Handbook entitled "Standards of Ethical Conduct for Employees of ATF," which, alone, satisfies OGE's initial ethics orientation requirement. In addition to receiving other written materials, new employees also view OGE's video entitled "Ethics Inquiry." For new field employees, Division Directors are responsible for ensuring that materials are provided to them and that they view OGE's video. To assure field compliance with the initial ethics orientation requirement, the Chief Counsel now requires that Division Directors report to him, on a yearly basis, on when each new employee receives initial ethics orientation.

## Annual Ethics Training

By ATF policy, all ATF employees are required to receive ethics training. Ethics officials have established a three-year rotation policy whereby approximately one-third of all ATF employees receives verbal (in-person) training in a given year. However, in compliance with our training regulation, all public filers receive verbal training annually.

In 2001, ethics officials provided in-person training at a variety of conference locations, including at "all hands" meetings in Dallas, Nashville, and San Francisco; ATF retirement conferences; and at mid-level management conferences. For those who did not attend an in-person training session, employees were required to complete CBT, which was accessible on ATF's Intranet ethics Web site.

In addition to posting its long-range in-person ethics training schedule, ethics officials conscientiously tracked employees' completion of required training. The computerized training completion tracking system showed that all employees did, in fact, complete training. We applaud ethics officials' oversight of training completion, including occasionally advising Assistant Directors of those employees in their offices who had not completed training. In addition, ethics officials developed a tracking method whereby all employees could view completion information, by employee, on the ethics Web site.

We commend ATF ethics officials on developing an innovative and informative CBT "package" for use by its employees. We recognize that this package was adapted by Ethics Office officials so that it was suitable for DO employees' use. We encourage creative efforts such as these to aid in providing ethics training to employees. We also found that the presentation which was given to employees who received in-person training was comprehensive and instructional.

The current ethics training schedule shows that all of the approximately 1,300 headquarters employees will be in-person trained in 2003. But, as required, all headquarters employees who are public filers will receive verbal (in-person) training in 2002.

## Counseling And Advice Services

In addition to having an informative ethics Web site for use by its employees, ATF's counseling and advice services meet the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). While ethics officials stated that, often, ethics advice is dispensed orally, more frequently, advice is provided in written format, usually by e-mail. Over the last few years, ethics officials stated that the amount of written advice dispensed concerning ethics matters has more than tripled. In fact, the Chief Counsel's advice tracking

system shows that the Ethics Attorney responded to more 300 ethics inquiries in 2001.

We examined about 30 written determinations provided to ATF employees from 1999 to the present and found that they were accurate, consistent with applicable laws and regulations, and appeared to meet employees' needs. The advice covered outside activities, gift acceptance, and potential conflicting interests. We also confirmed that post-employment information is dispensed to departing employees and that personalized counseling is available, as requested.

#### Outside Activity Approval

Ethics officials have recently drafted new outside activity approval guidance, implementing 5 C.F.R. § 3101.104, which they expect to issue shortly. This new draft Order (2131.1) is to replace ATF Order 2735-1. Under the previous outside activity approval process, employees were required to submit an ATF Form 2735.1 to their supervisors for approval. The completed form was then forwarded to ELRT for additional approval and for placement in the employees' official personnel folder. In the past, when asked by either the employee or the supervisor, ethics officials provided advice concerning the proposed activity.

The proposed new approval process requires employees to obtain approval from both his/her immediate and second line supervisors, in addition to routing the request through the cognizant Assistant Director. The request will then be forwarded to the Office of Chief Counsel for a conflict of interest determination and final approval, as appropriate.

To assure compliance with the then-current outside activity approval process, based on our examination of selected confidential reports, we found that the required four outside activity approvals were appropriately sought and granted.

#### Gifts Of Travel Payments

On occasion, ATF accepts payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel under the authority of the GSA's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353.

We examined the two ATF acceptances reported on Treasury's last two semiannual travel reports to OGE of payments of more than \$250 (covering the periods from October 1, 2000 through September 30, 2001). We found that ethics officials conducted thorough conflicts of interest analyses and that acceptances were appropriately approved in accordance with ATF procedures.

CHAPTER 6  
UNITED STATES MINT

As we reported in May 1993, when we last reviewed the Mint, it continues to run a centralized ethics program. Overall, we found a sound and well-run program which is appropriately suited to the Mint's organizational structure. We commend ethics officials on recently creating an ethics data base which centrally maintains ethics-related information on employees, including the dates of their financial disclosure filings, ethics training attended, and counseling received. We also praise the fact that in 2001 ethics officials provided in-depth (two-hour) ethics training to all covered employees (and to others).

Administration Of The Ethics Program

For the approximately 2,800 Mint employees<sup>12</sup> who are located in Washington, DC and in 5 regional locations, the agency has a centralized ethics program which is managed by the Chief Counsel. In September 2000, the Chief Counsel formally delegated his day-to-day ethics duties to a senior attorney, who is known as the agency's "Ethics Counsel." In addition to his other legal duties, the Ethics Counsel capably administers the confidential system, dispenses ethics advice, and conducts ethics training. Other attorneys with the Office of Chief Counsel serve as back-up ethics officials on an occasional basis. In addition, an administrative assistant provides intermittent administrative support for the ethics program, including data base record entry.

Confidential System

Overall, we found that the Mint's confidential system is well run. It was evident that the Ethics Counsel devoted significant time to improving the tracking of when reports are submitted and ensuring that appropriate employees are filing confidential reports. He told us that he intends to make further refinements to the newly created data base, which was implemented in 2001, in the current year.

As outlined in the Mint's confidential procedures, the Ethics Counsel ensures that employees are notified of their filing responsibilities. Employees are advised to submit their reports directly to the Office of Chief Counsel for review and certification. Almost all reports are reviewed and certified by the Ethics Counsel.

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<sup>12</sup>All Mint employees, except for two, are career civil servants. The Mint Director is a PAS employee. In addition, there is one non-career Senior Executive Service employee.

To assist in ensuring that new entrant Mint employees are timely advised of their confidential filing requirements, the Ethics Counsel told us that newly instituted procedures should aid in more easily identifying those employees. Now, on a monthly basis, Human Resources staff provides ethics officials a list of employee accessions and terminations. The Ethics Counsel, rather than Human Resources, determines whether any new employee has entered a covered position and he personally notifies the employee about filing responsibilities.

#### Mint Confidential Reports Examined During Review

In 2001, approximately 355 confidential reports were required to be filed by Mint employees. Based on our examination of the confidential system data base and according to ethics officials, all of the required reports were submitted. We examined 70 reports, which consisted of 53 filed by incumbents and 17 filed by new entrants, and found that most were filed and reviewed timely. In addition, we found that the reports contained no substantive deficiencies.

Generally, reports were thoroughly reviewed. To aid in screening reports for potential conflicts, the Ethics Counsel checks employees' reported holdings against a recent list of contractors doing business with the Mint. We discussed the fact that when report entries need clarification or technical corrections, ethics officials should regularly annotate the reports (or the data base) in some way to reflect those updates, which they agreed to do.

#### Use Of The OGE Form 450-A

Due to a misinterpretation of our confidential disclosure regulation, we found that the Mint is off track in permitting employees to use the OGE Form 450-A because they allowed employees to use this alternative filing for the past several years. To easily get back on track, ethics officials need to require that all filers submit OGE Forms 450 in 2002. We discussed the fact that ethics officials can then allow employees to use the OGE Form 450-A in 2003. However, due to the filing restrictions imposed by our regulation on when the OGE Form 450-A can be used, the OGE Form 450 must be filed, at a minimum, again in 2004.

In our sample of 70 reports, we found that 8 filers used the OGE Form 450-A. Of these eight, five had filed OGE Forms 450 in 2000 and three employees had last filed OGE Forms 450 in 1999.

#### Ethics Education And Training Program

Mint ethics officials have an active ethics education and training program in place. In addition to annually documenting the

ethics training plan and satisfying the initial ethics orientation requirement, in 2001, the Ethics Counsel conducted in-depth ethics training for more than covered employees.

#### Initial Ethics Orientation

Human Resources officials assist in fulfilling the initial ethics orientation requirement. Upon entering on duty, new Mint employees are given copies of required written materials and are advised to review the Mint's ethics Web site, which contains a variety of ethics-related information.

According to the Ethics Counsel, while in-person ethics orientation sessions have been provided to all new Mint employees in the past, this practice stopped during 2001, but will likely begin again after Human Resources reorganizes. The Ethics Counsel, did, however, confirm that he and the Chief Counsel provided an in-person ethics orientation briefing to the Mint Director shortly after her appointment.

#### Annual Ethics Training

We were impressed that, in 2001, the Mint initiated a new, more in-depth, ethics training program for covered employees (and others). According to ethics officials, they decided to conduct widespread training when they determined that too many Mint employees did not have a rudimentary understanding of the ethics rules.

Based on the Ethics Counsel's attestation and according to the tracking records that we examined, all covered employees attended a two-hour ethics training session, which consisted of a detailed presentation. Additionally, we confirmed that the Mint Director also received in-person training. For those actions taken in the past year, we commend the Ethics Counsel efforts in (1) tailoring his ethics training presentations to the various employee audiences, (2) conscientiously tracking employee attendance and inputting date of attendance data into the newly created computerized data base system, and (3) surveying employees who attended training to obtain information on various factors surrounding the ethics program.

According to ethics officials, in 2002, all public filers will receive verbal training and other covered employees will receive written training materials. The Ethics Counsel plans to use the results of the survey as a tool in planning for this year's training.

#### Counseling And Advice Services

In addition to having an informative ethics Web site for use by its employees, the Mint's counseling and advice services meet

the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). Ethics advice is provided by the Chief Counsel, the Ethics Counsel, or other attorneys. While advice is most often provided orally, as necessary, it is also provided in written form, which is usually by e-mail. We were impressed with the fact that Mint's newly implemented computerized data base record system could display brief descriptive information on any ethics advice recently provided to individual employees.

We examined all of the approximately 20 written determinations provided to Mint employees from 2001 to the present and found that, generally, they were accurate, and appeared to meet employees' needs. The advice included the areas of outside activities and gift acceptances. We also confirmed that post-employment information is readily available on the Mint's ethics Web site.

Although we found that most of the written determinations that we examined were consistent with applicable laws and regulations, there were three opinions that we questioned. These opinions involved the authorities under which the Mint allowed employees to accept a waiver of attendance fees or accept travel expenses in connection with their participation in meetings or speaking engagements in their official capacities. Specifically, the opinions involved using the exception to the gift prohibition for widely attended gatherings, at 5 C.F.R. § 2635.204(g)(2), and the teaching, speaking, and writing provision, at 5 C.F.R. § 2635.807.

For these opinions, while we did not find prohibited or inappropriate acceptance of the gifts of attendance and travel, rather, we concluded that GSA's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353, was the most appropriate authority for the Mint to use in connection with the official activities contemplated in these opinions. Though the Mint has a longstanding (unwritten) policy not to accept gifts of travel from non-Federal sources, at our meeting, Mint officials indicated that they intended to further explore using this authority.

#### Outside Activity Approval

Ethics officials have recently updated the Mint's outside activity guidance. Mint-wide Policy Memo HR-02, implementing 5 C.F.R. § 3101.104, requires employees to submit Mint Form 8926 through their immediate supervisor for approval by the cognizant Assistant Director, Plant Manager, or the Officer-in-Charge, as applicable. Upon approval or disapproval, the form is forwarded to Human Resources, where it is placed in the employee's official personnel file. Ethics officials provide advice concerning the proposed activity, when requested, but also receive copies of all processed requests from Human Resources. Ethics officials subsequently keep track of the outside activity in their data base system.

To assure compliance with the outside activity approval process, based on our examination of selected confidential reports, we found that the required five outside activity approvals were appropriately sought and granted.

## CHAPTER 7 CONCLUSIONS

We are pleased to report that Treasury's ethics program is in compliance with applicable laws and regulations and that the program has several strong points, including its well-managed public financial disclosure system. Within each component, we found that the ethics training programs were well-suited to the components' mission. In addition, the separately managed confidential financial disclosure systems are operating well. Overall, the advice dispensed by ethics officials reflects careful analysis and it is consistent with applicable laws and regulations.

We commend ethics officials on the operational improvements put into place since we last conducted reviews at DO, FMS, Mint, and ATF. In addition, we praise the Treasury-wide use of "computer technology" to help run meaningful ethics programs within the components that we reviewed.