

DOCUMENT RESUME

00652 - [A0751123]

Financial Disclosure System for Department of Agriculture
Employees Needs Strengthening. FPCD-77-17; B-103987; B-180228.
January 31, 1977. 17 pp. + appendices.

Report to the Congress; by Elmer B. Staats, Comptroller General.

Issue Area: Personnel Management and Compensation: Employee
Conflicts of Interest (301).

Contact: Federal Personnel and Compensation Div.

Budget Function: Agriculture (350).

Organization Concerned: Department of Agriculture.

Congressional Relevance: House Committee on Interstate and
Foreign Commerce; Senate Committee on Agriculture and
Forestry; Congress.

Authority: Agriculture Adjustment Act (7 U.S.C. 610(g); 18
U.S.C. 1903). 18 U.S.C. 208. 5 U.S.C. 53. 5 U.S.C. 3105. 7
U.S.C. 87. 5 U.S.C. 3105. Executive Order 11222. 7 C.F.R.
0.735-14.

The financial disclosure system for employees of the Department of Agriculture was reviewed to determine whether: the system is effective for revealing conflict of interest situations, all required disclosure statements were promptly and properly filed, and the financial disclosure statements were adequately reviewed and analyzed. Findings/Conclusions: The Department of Agriculture's financial disclosure system was found to be weak in the areas of: criteria for identifying positions whose incumbents should file financial disclosure statements; procedures for collecting statements; and criteria for reviewing statements. More employees should be filing statements. Most agency review officials did not adequately follow up to promptly collect statements from nonfiling employees. Review of employees financial interests was inconsistent. Recommendations: The Department should: develop more specific criteria to include employees whose jobs affect the agriculture industry, identify employees affected by statutory and regulatory prohibitions, develop procedures to insure prompt collection of statements, and develop a system for coordinating and monitoring the activities of review officials.
(RRS)

REPORT TO THE CONGRESS



*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

Financial Disclosure System For Department Of Agriculture Employees Needs Strengthening

Standards of ethical conduct for Government officials are prescribed by an Executive order of the President. In line with this order, the Department of Agriculture developed a financial disclosure system for its employees. GAO noted weaknesses in this system and recommends improved procedures for identifying employees who should be required to file financial disclosure statements, for ensuring prompt collection of statements from all employees required to file, and for reviewing financial disclosure statements.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-103987
B-180228

To the President of the Senate and the
Speaker of the House of Representatives

Executive Order 11222 prescribes standards of ethical conduct for Government officials and directs the Civil Service Commission to establish guidelines for agency financial disclosure systems. This report discusses needed improvements in the Department of Agriculture's financial disclosure system.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). Also, several Members of Congress requested that we review the effectiveness of Federal agencies' financial disclosure systems.

We did not obtain formal comments from officials of the Department of Agriculture; however, we did discuss the report informally with officials in the Department's Offices of General Counsel and Personnel who are responsible for the financial disclosure system. They stated that a closer look at the Department's regulations was needed to clarify and resolve some of the issues raised in our report.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Agriculture; and other interested parties.

A handwritten signature in black ink, reading "Luther A. Starks".

Comptroller General
of the United States

C o n t e n t s

	<u>Page</u>
DIGEST	i
CHAPTER	
1 INTRODUCTION	1
Scope of review	1.
2 FINANCIAL DISCLOSURE REQUIREMENTS AND AGENCY PROHIBITIONS	3
Prohibitions against Department, employees' financial interests	4
3 WEAKNESSES OF THE DEPARTMENT'S FINANCIAL DISCLOSURE SYSTEM	7
More employees should file statements	7
Statement collection procedures	8
Statement review criteria	9
4 REVIEW OF FINANCIAL DISCLOSURE STATEMENTS	13
5 AGENCY COMMENTS	15
6 CONCLUSIONS AND RECOMMENDATIONS	16
Conclusions	16
Recommendations	16
APPENDIX	
I Letter dated June 17, 1976, from the Acting Chief, Security and Employee Relations Division, Department of Agriculture	18
II List of Department of Agriculture agencies and a brief description of their principal responsibilities as of October 1975	20
III Miscellaneous statutory provisions in the Department of Agriculture Employee Responsibilities and Conduct Handbook as of December 2, 1976	22
IV Reports issued on agencies' financial disclosure system	25
V Principal officials of the Department of Agriculture	27

ABBREVIATIONS

CSC Civil Service Commission
GAO General Accounting Office

D I G E S T

The Department of Agriculture provides services in the areas of agricultural research, education, conservation, marketing, regulatory work, agricultural adjustment, surplus disposal, and rural development. The Department's responsibilities are numerous and varied. Assuring that Department business is done properly and that citizens' confidence in their Government is maintained are important. An effective financial disclosure system can provide such assurances.

GAO found that the Department's system had problems which weakened its ability to provide such assurances. The system was weak in the following areas:

- Criteria for indentifying positions whose incumbents should file financial disclosure statements.
- Procedures for collecting statements.
- Criteria for reviewing statements.

The Department's regulations basically require designated employees at the GS-13 level and above who have decisionmaking responsibilities to submit confidential statements of employment and financial interests. Because the criteria was not specific enough, 99 positions in which the incumbents had jobs that affected the agriculture industry were not required to file financial disclosure statements. There may be other employees who should be required to file. (See p. 7.)

The Department requires statements from employees within 30 days after appointment, with annual supplements "as of March 31." The Department's agencies inconsistently applied the March 31 filing date. The regulations should be clarified to indicate whether the March 31 date is when all statements are

due or the "as of" date for reporting financial interests held. Moreover, GAO found that not all employees had filed statements. (See p. 8.)

The Department's review criteria needs clarification to assist officials in reviewing statements. The Department's regulatory and statutory prohibitions have not been interpreted so that officials know specifically how to apply the restrictions when analyzing employees' financial interests. (See p. 9.)

The Department had identified neither the employees nor the positions prohibited from having financial interests. Department regulations exempt holdings valued at less than \$5,000 and less than 1 percent of the outstanding shares of stock from being actual or potential conflicts of interest if those holdings are not specifically prohibited by statute or regulation.

Instructions for completing the financial disclosure statement ask the employee to list only financial interests prohibited by statute or regulation or those that are not exempt. The statements only list the names of the interests held. They do not show (1) which interest the employee considers prohibited by statute or regulation or (2) any data on the value of the interest or the percent of ownership.

Review officials generally applied the exemption provision to all reported financial interests and, in some cases, inconsistently applied the exemption provision. (See p. 11.)

Using the Department's criteria, any holding in an agricultural-related interest should be questionable if it is reported. On this basis, when evaluating employees' financial holdings as listed on the statements, GAO questioned any reported financial interest in (1) companies that produce or use agricultural products, (2) companies that do business with the Department, and (3) farmland, timberland, and/or undeveloped land.

GAO made a limited review of 429 employees' financial disclosure statements and considered

499 reported financial interests as questionable (191 corporate and 308 real property interests). (See p. 13.)

GAO recommends that the Secretary of Agriculture take action to correct the system's deficiencies discussed in this report. (See p. 16.)

Although Department officials did not have an opportunity to review a draft of this report and submit formal comments, GAO discussed its findings with officials responsible for the financial disclosure system in the Department's Offices of General Counsel and Personnel. They stated that a closer look at the Department's regulations was needed to clarify and resolve the issues raised in this report. They provided information on actions undertaken or planned to improve the system. Many of the Department's planned actions should help correct the system's weaknesses. (See p. 15 and app. I.)

CHAPTER 1

INTRODUCTION

The Department of Agriculture was established by the act of May 15, 1862, to acquire and disseminate useful information on agricultural subjects in the most general and comprehensive sense. Through the years, several other acts have been passed that have given the Department additional responsibilities. The Department operates in the areas of research, education, conservation, marketing, regulatory work, agricultural adjustment, surplus disposal, and rural development.

Generally, the Department's principal responsibilities are to

- improve and maintain farm income, assure maximum productivity of farm products for which there is a market demand, and develop and expand markets abroad for agricultural products;
- help curb and cure poverty, hunger, and malnutrition;
- enhance the environment and maintain our capacity to produce by helping landowners to protect soil, water, forests, and other natural resources;
- assure standards of quality in the daily food supply through inspection and grading services; and
- carry out national growth policies through rural development, credit, and conservation programs.

The Department is organized into several operating agencies and staff offices. A list of the agencies and a brief description of their principal responsibilities are included in appendix II.

Because of the diversified nature of its responsibilities and their effect on the American public, it is important that the Department maintain an effective financial disclosure system.

SCOPE OF REVIEW

Our review at Department headquarters, Washington, D.C., was made pursuant to requests from Members of Congress. Primary concerns expressed in these requests were whether:

--Federal agencies have effective financial disclosure systems for revealing conflict-of-interest situations.

--All required financial disclosure statements were promptly and properly filed.

--The financial disclosure statements were adequately reviewed and analyzed.

We selectively reviewed all financial disclosure statements filed by Department employees in 1975 and their position descriptions. We did not review all financial interests listed nor were any employees contacted regarding their actual duties or their financial holdings. The main purpose of our examination was to determine if the agency adequately reviewed the financial disclosure statements and detected and acted on any possible conflicts. The confidentiality of these statements was maintained at all times. Our working papers do not contain employee names. We used codes which are traceable to the names of employees and their questionable holdings. Lists of the employees, our code, and their questionable holdings were given to the Department at the end of our audit. We also reviewed position descriptions of 148 positions not required to file financial disclosure statements to determine whether they should be required to file because of their duties and responsibilities.

Our review did not focus on existing statutory criminal provisions concerning the activities of Federal employees affecting their personal financial interests (18 U.S.C. 208). We note, however, that the requirements of the statute are no more stringent than the requirements of the regulations we reviewed.

CHAPTER 2

FINANCIAL DISCLOSURE REQUIREMENTS

AND AGENCY PROHIBITIONS

Executive Order 11222, dated May 8, 1965, prescribed standards of ethical conduct for Government officers and employees. The prescribed standards dealt with actual and appearances of conflicts of interests. The Civil Service Commission (CSC) was directed by the Executive order to establish implementing regulations. In November 1965 CSC issued instructions requiring each agency to prepare employee conduct standards and to establish a review system for employee financial disclosure statements. Implementing regulations established by each agency were to incorporate the criminal provisions of Title 18 U.S.C. and any other restrictions that may have been imposed.

In June 1966 the Department issued regulations governing employee responsibilities and conduct, 7 C.F.R. 0.735. Amendments to these regulations were approved by CSC in September 1970 and became effective in January 1971. These regulations established the financial disclosure system for all Department employees.

The Secretary of Agriculture is not included in this system. Executive Order 11222 requires the Secretary to file his financial disclosure statement with CSC. As part of other ongoing assignments, we are reviewing CSC implementation of the Executive order and the financial disclosure system of high-ranking Federal officials. We will be reporting separately to the Congress on the results of those reviews.

The General Counsel was designated the Department Counselor to administer regulations governing employee responsibility and conduct and to serve as the Department's representative to CSC. He is responsible for coordinating the Department's counseling and advisory service, assuring that advice and interpretations are available to Deputy Counselors and Assistant Deputy Counselors on questions concerning conflicts of interest, and resolving conflicts which are not resolved by deputy counselors. If the Department Counselor cannot resolve a conflict, pertinent information is forwarded to the Secretary of Agriculture for his determination.

The Director of Personnel and the Chief, Security and Employee Conduct Division, Office of Personnel, are designated as Department Deputy Counselors. The Director of

Personnel is responsible for the review of and determinations on the financial disclosure statements of (1) employees in the immediate staff and offices of the Office of the Secretary, (2) agency's Administrators, Associates, Deputies, and Assistants, (3) noncareer executive or schedule C employees, and (4) those forwarded to him for resolution by the agency Deputy Counselors. The responsibility for an initial review and determination has been delegated to the Chief, Security and Employee Conduct Division, Office of Personnel, and staff members of that Division. Final determinations in cases involving substantial conflict questions for the above employees must be made only by the Director of Personnel. If resolution cannot be obtained, they are referred to the Department Counselor for review.

In addition, agency Deputy Counselors have delegated the responsibility to initially review statements of agency employees to subordinate officials. At the time of our review, there were approximately 280 review officials in the Department.

Occupants of designated positions in the Department must file financial disclosure statements within 30 days after entrance on duty and update them annually as of March 31. If the financial interests listed on these statements conflict or appear to conflict with the employee's official responsibilities, remedial action, including divestiture of the conflicting interest, disqualification from particular assignments, or reassignment to a different position, can be taken.

PROHIBITIONS AGAINST DEPARTMENT EMPLOYEES' FINANCIAL INTERESTS

Department regulations require that each employee be given a copy of the Department's regulations governing employee responsibilities and conduct. Each agency which has supplemented the Department's regulation is also required to provide copies of any supplemental regulation to its employees. Departmental regulations governing employees' financial interests predominantly appear in 7 C.F.R. 0.735-14, which is titled "Conflict of Interest." These regulations state, among other things, that an employee may not:

1. Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his responsibilities and duties as a Federal employee.

2. Engage in, directly or indirectly, a financial transaction relying on information obtained through his employment.
3. Participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his duties or bring discredit on the Department.
4. Directly or indirectly speculate in any agricultural commodity if he is concerned in any way with the administration of acts regulating trading in commodities for future delivery, programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities.
5. Participate in his Government capacity, personally and substantially, in any matter in which to his knowledge financial interests are held by him; his spouse; his minor children; his partner; an organization in which he is serving as an officer, director, trustee, partner, or employee; or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment. (18 U.S.C. 208.)

The following financial interests are exempt from this prohibition because the Department, by regulation, considers them too remote or too inconsequential to affect the employee's integrity (18 U.S.C. 208):

- A holding in a widely held mutual fund or regulated investment company which does not specialize in a particular industry or commodity.
- A holding which is less than \$5,000 (aggregate value) and is less than 1 percent of the organization's total outstanding stock shares.
- A holding whereby the employee has no managerial control or directorship of the organization or company.

These exemptions, however, do not apply if the financial interests are otherwise prohibited by statute or departmental regulation.

Financial interest regulations are also established for employees on foreign assignments. Generally, such employees may not have financial interest in any business enterprise or engage in a profession in any country to which assigned; or speculate in foreign real estate, bonds, shares, stocks, and currencies. These employees also must adhere to the State Department's regulations.

In addition, several statutory prohibitions are imposed on Department employees which contain absolute restrictions on certain financial interests. For example:

- Persons licensed to inspect or grade grain or employed by the Department to carry out the provisions of the Grain Standards Act are prohibited from being financially or otherwise interested in a grain elevator or employed by a grain elevator or warehouse. (7 U.S.C. 87)
- Persons administering the Federal Crop Insurance Act are prohibited against speculating in agriculture commodities to which the act applies or to contracts relating thereto, or in stocks or membership interests of corporations or associations handling such commodities. (18 U.S.C. 1903)

(See app. III for a complete listing of the statutory prohibitions affecting Department employees.)

CHAPTER 3

WEAKNESSES OF THE DEPARTMENT'S

FINANCIAL DISCLOSURE SYSTEM

The Department's financial disclosure system was approved in September 1970 as conforming to Civil Service Commission published guidelines. During our review of the system we noted a need for improved

- criteria for identifying positions whose incumbents should file financial disclosure statements,
- procedures for collecting statements, and
- criteria for reviewing statements.

MORE EMPLOYEES SHOULD FILE STATEMENTS

Department regulations require the following employees in designated positions to file financial disclosure statements.

1. Employees paid at a level of the Executive Schedule in subchapter II of 5 U.S.C. 53.
2. Employees appointed as Hearings Examiners under 5 U.S.C. 3105.
3. Employees classified at GS-13 or above, or at a comparable pay level, if they are responsible for making a decision or taking a Government action in regard to contracting or procurement, administering or monitoring grants or subsidies, regulating or auditing private or other non-Federal enterprises or other activities where the decision or action has an economic impact on the interest of any non-Federal enterprise.
4. Other employees at, above, or below GS-13 or at a comparable pay level if their duties and responsibilities are such that a possible conflict-of-interest situation could arise.

Each agency is responsible for determining which employees are in positions that meet the above criteria.

To determine the adequacy of the Department's criteria for identifying positions whose incumbents should file financial disclosure statements, we reviewed 148 position descriptions of which 71 were GS-13s or above that currently do

not file statements because the Department determined they do not meet the existing criteria. In our opinion, employees in 99 of these positions could have an effect on the agriculture industry and should file statements because they perform duties, such as recommending or developing Department policy, making important contributions and decisions on research and development activities, approving or disapproving various industry activities, conducting meetings with industry officials, and enforcing Department policy through participation in inspections or investigations. We also believe there may be other employees who should be required to file.

On the basis of our review of these position descriptions, we believe the Department should develop more specific criteria to include employees who have duties and responsibilities such as those mentioned above.

Department officials said they would review these position descriptions in greater detail to determine whether the incumbents of these positions should be required to file statements. However, review officials in the agencies subordinate to the Department generally did not agree that the incumbents of the 99 positions should file because of the amount of supervision they receive and, in some cases, their limited amount of authority. As indicated by the above examples, however, the individuals performed duties which, in our opinion, affect the agriculture industry enough to warrant the filing of a statement.

On the basis of past actions, the Department and at least one of its subordinate agencies believed that additional employees should be required to file. In 1971 the Department unsuccessfully requested CSC for approval to require additional filings. We were told that this request was denied apparently because the Department did not fully justify or document its request; that is, the Department did not show that additional filings were the only way to prevent conflicts of interest for those employees. Department officials said they had made additional requests of CSC to have more employees file statements on individual cases and that in some cases CSC approved the request.

STATEMENT COLLECTION PROCEDURES

Department regulations require employees entering into positions meeting the filing requirement to submit financial disclosure statements within 30 days of appointment to that position. Submission of the initial statements may be made before appointment. Changes in or additions to their

financial interests are to be reported in an annual supplemental statement as of March 31. If no changes or additions have occurred since the filing of the previous statement, a report so stating is required.

Each agency is responsible for annually determining and identifying those employees required to file. Such employees are to be specifically identified in the personnel records system. A list of such employees is to be maintained by the agencies.

During our review of the various agencies, we noted that 127 employees required to file statements in 7 agencies had not filed in accordance with the above procedures. We immediately informed each agency's review official of this matter and 42 of the missing statements were later collected from employees in 5 agencies. At the close of our review, review officials were in the process of collecting the remaining statements.

Most agency review officials had not adequately followed up to promptly collect statements from employees who had not filed. In one agency, the review official did not try to collect statements until 6 months after the statements were required. Employees can have potential or apparent conflicts of interest which will not be identified and resolved in a timely manner if the statements are not collected and reviewed. Enforcement of collection procedures is necessary to insure protection of the employee, the agency, and the public.

We also noted that the review officials inconsistently applied the "as of March 31" date for filing supplemental statements. The regulations are not clear whether this means the statements should reflect the financial interests held on this date or the statements should be submitted by this date. As a result, we noted inconsistencies in procedures used for collecting statements. Six agencies required their employees to submit their financial disclosure statements by or no later than March 31 while nine required their employees to reflect their financial interests held on this date. In fact, one agency collected statements the previous December to insure that the March 31 requirement for collecting statements would be met. We believe the regulations should clearly state that financial interests held as of a certain date will be reported by Department employees by a certain date. As a suggestion, employees could be required to report financial interests held as of March 31 and the statements be required to be submitted no later than April 30 each year.

STATEMENT REVIEW CRITERIA

The Department's regulations provide broad criteria on what financial interests are prohibited either administratively or by statute. We noted, however, that review officials inconsistently applied the prohibitions when reviewing financial disclosure statements.

For example, one of the regulatory prohibitions precludes employees from directly or indirectly speculating in any agricultural commodity if the employee is concerned in any way with the administration of acts regulating trading in commodities for future delivery, programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities. Several officials responsible for reviewing statements of employees involved in the above type programs, however, were not certain on how to apply the terms "directly or indirectly speculating in any agricultural commodity" when analyzing the financial interests of the employees. For instance, does owning farmland, as one high agency official does, and growing commodities thereon when the agency provides marketing services for that product constitute speculation?

Review officials were also inconsistent in applying the statutory prohibitions. Prohibitions on employees who administer activities concerned with cotton option contracts and commodity benefits as provided by the Agriculture Adjustment Act are contained in 7 U.S.C. 610(g). These employees are prohibited from speculating in agricultural commodities or products to which such contracts or benefits apply, or in contracts relating thereto, or in the stock or membership interest or any association or corporation handling such commodities or products. Review officials of two agencies that administer activities provided by the Agriculture Adjustment Act were not sure how to apply this prohibition, and they had not identified the specific employees affected by this prohibition.

We also noted that the review of employees' financial interests was inconsistent. For example, we interviewed 15 officials responsible for reviewing financial disclosure statements and found that:

--Most officials did not use any of the readily available standard reference materials in their review of financial disclosure statements. They relied solely

on their knowledge of the stock market and their judgment when making a determination. Our analysis revealed that those determinations, made only on the basis of the officials' judgment, did not necessarily include subsidiary corporations which might be prohibited.

- Several officials said they generally used some type of followup to gain additional information regarding questionable holdings, while other officials did not. If the followup showed an appearance or a potential conflict of interest, some officials failed to take corrective action. One official said he was unaware of what action to take in the event that an appearance or a potential conflict of interest occurred.
- Almost half of the officials did not review holdings in farmland, timberland, and undeveloped land. They said that they did not think such holdings could result in apparent or potential conflicts of interest. The other officials believe that farmland holdings constitute at least questionable investments when the employee's duties and responsibilities could affect the holdings and vice versa.
- Several review officials did not sign and date the financial disclosure statements and did not indicate whether the financial interests listed were conflicts of interest; however, most review officials did perform these functions.
- Most review officials said that a holding of either less than \$5,000 or less than 1 percent of the outstanding stock of a company did not need to be reported. However, the regulations require the holdings to meet both conditions before they need not be reported.
- Most review officials told us that they did not analyze financial interests against absolute statutory or administrative prohibitions but applied the less than \$5,000 or less than 1 percent exemption provision to all holdings.

Several of the above inconsistencies have resulted because (1) the Department has not provided specific interpretations of the regulatory and statutory prohibitions and (2) the agencies have not identified the employees or the jobs affected by statutory prohibitions. Consequently, these

absolute restrictions are difficult to enforce when officials review employees' financial disclosure statements. Both are needed to insure adequate reviews of employees' financial interests.

Some agencies have supplemented the Department's regulations and are more specific on prohibitions particular to the agency's own employees; however, other agencies have not done so. We believe that the Department should provide the agencies with specific interpretations of prohibitions and how they affect each particular agency. When this is done, each agency should supplement the Department's regulations to provide specified details to its own employees with particular attention to the statutory and administrative prohibitions involved.

CHAPTER 4

REVIEW OF FINANCIAL DISCLOSURE STATEMENTS

The Department used a definition that ownership of securities having a value of less than \$5,000 and less than 1 percent of the corporation's outstanding stock could not constitute a conflict of interest. However, the financial disclosure statements filed by employees show only the enterprises in which the employees have a financial interest and do not include either the number or percent of shares owned or the dollar value of the holding.

There are several statutes which impose absolute prohibitions on certain employees holding specific financial interests, but neither employees nor the jobs affected by these absolute prohibitions have been identified to insure enforcement. Instructions to employees for completing the financial disclosure statements ask the employee to list financial interests prohibited by statute or regulation and/or those which exceed the \$5,000 and 1 percent stock exemption.

Any reported financial interest therefore would be viewed as meeting either or both of the above criteria. The statements, however, do not require the employee to indicate which interests reported were considered prohibited by statute or regulation or were those which exceeded the exemption provision. We believe that management should determine what constitutes a prohibited interest; employees should not unilaterally make such determinations.

Using the Department's criteria, any holding in an agricultural-related interest should be questionable if it is reported. On this basis, when evaluating employees' financial holdings as listed on the statements, we questioned any reported financial interest in (1) companies that produce or use agricultural products, (2) companies that do business with the Department, and (3) farmland, timberland, and/or undeveloped land. An additional but important element which we included was the employee's duties and responsibilities as listed on the job description. We made a limited review of 429 employees' financial disclosure statements and found that:

--126 employees reported 191 interests in companies that produce or use agricultural products or do business with the Department. In some cases, the holdings could be in violation of regulatory or statutory prohibitions. We could not make a complete evaluation of these interests because of the lack of

(1) interpretation of the prohibitions, (2) identification of affected employees, and (3) identification of companies affected by the prohibitions.

--245 employees reported 308 interests in timberland, farmland, and/or undeveloped land; however, information was not readily available on what use was made of the land holdings and, if used for profitable purposes, what types of businesses were conducted and with what companies the employees had contracted. In some cases, employees may have been in positions to have knowledge of the Department's proposed land acquisitions or they may have been involved in the acquisition process. Also, all records were not readily available for our use due to some decentralized statement review activities. As a result, we could not completely evaluate these holdings, but we included them so that a complete followup can be made.

The review officials did not agree that most of the 191 corporate holdings were questionable; however, they said that more detailed information should be obtained on 72 companies. We were told that the 119 holdings were less than \$5,000 and represented less than 1 percent of outstanding stock and/or did not conflict with the employees' duties and responsibilities. We were also told that if the holdings met the less than \$5,000 and less than 1 percent exemption criteria, the employees' duties and responsibilities were not reviewed. Generally, the officials said these financial interests were not such that the employees could benefit from any official action they might take. The employees in some cases reported all holdings because they did not understand the criteria.

We recognize that review officials have to use existing criteria when analyzing employees' financial interests. As pointed out on page 9, it is uncertain whether the financial interests are adequately reviewed because of the Department's failure to establish a clear, precise review criteria.

Also, some review officials agreed that additional information should have been obtained on the real property holdings to insure a thorough review of these interests. At the close of our review, these officials were in the process of obtaining the information necessary to make such a determination.

CHAPTER 5

AGENCY COMMENTS

The Department has not been given an opportunity to formally comment on this report. However, on June 17, 1976, we informally discussed our findings with officials responsible for implementing the financial disclosure system in the Department's Offices of General Counsel and Personnel.

Generally, these officials stated that a closer look at the Department's regulations was needed to clarify and resolve some of the issues raised in the report. They also commented that a review of the capabilities, training, and knowledge of the regulations by the various review officials is needed to insure that qualified personnel are reviewing statements and making determinations on employees' holdings.

After our meeting with these officials, the Acting Chief, Security and Employee Relations Division, Office of Personnel, informed us in a June 17, 1976, memorandum of recent actions the Department had taken to strengthen its conflict-of-interest program. We were informed that a task force was convened to review the Department's regulations in an effort to strengthen enforcement and adherence to such regulations. The task force recommended several changes to insure employee adherence. (See app. I.)

In addition, we were told that the Department had established, as one of its objectives in fiscal year 1977, a review of the administration of the conflict-of-interest program. A task force will be appointed to look at

- positions to determine whether employees not currently filing should do so;
- financial disclosure statements to determine the appropriateness of raising, lowering, or eliminating the \$5,000 or 1 percent holding exemption;
- personnel assigned as deputy counselors; and
- followup procedures.

In September 1976 an official in the Department's Office of Audit told us that they were beginning an integrity auditing program which would involve reviews of the Department's standards of conduct regulations and the program's administration.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

The Department must maintain an effective financial disclosure system to protect its employees, itself, and the public. The Department does not have:

- Adequate criteria to insure that all employees whose jobs affect the agriculture industry are required to file financial disclosure statements. As a result, incumbents of at least 99 positions had not been required to file statements, although we believe their duties indicated that they should.
- Adequate procedures for collecting financial disclosure statements.
- Specific criteria for reviewing financial disclosure statements and clear interpretations of administrative or statutory prohibitions for use by employees and review officials.

We believe the Department's actions, as stated on page 15, should improve its financial disclosure system. Further we believe that the Department's task force, when conducting its review, should incorporate the following recommendations.

RECOMMENDATIONS

To improve the effectiveness of the Department's financial disclosure system, we recommend that the Secretary:

- Develop more specific criteria to determine which employees should file statements and apply these criteria to all Department positions.
- Clearly interpret the Department's regulations and statutory prohibitions and provide them to employees and review officials.
- Identify employees affected by statutory and regulatory prohibitions.
- Review all the questionable interests we identified (companies that produce or use agricultural products; companies that do business with the Department; and

farmland, timberland, and/or undeveloped land), in accordance with the matters mentioned above.

- Develop procedures to insure prompt collection of employees' statements.
- Develop procedures to require the review officials to sign and date the statements and indicate that the financial interests listed were not conflicts of interest.
- Develop a system for coordinating and monitoring the activities of review officials to insure that consistent and adequate reviews of employees' holdings are being made.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

OFFICE OF PERSONNEL

June 17, 1976

SUBJECT: USDA Ethics and Conflict of Interest Program

TO: Ms. Katrina Reese
General Accounting Office
Washington, D.C.

This is in reply to your telephone call of June 16, 1976, in which you requested information as to what this Department had done recently to strengthen enforcement of, and adherence to our conduct and conflict of interest regulations.

In the fall of 1975, we convened a task force which had the responsibility of reviewing our regulations in the above areas. This task force recommended several changes which were adopted and published in the Federal Register June 15, 1976, (41 FR 116 Pages 24107, 24108 and 24109). The changes included:

1. Specific identification of the Assistant General Counsel, Legislation, Litigation, Research and Operations as the Department Ethics Counselor.
2. The requirement that the regulations be discussed with each employee annually and that the employee certify, on their performance evaluation form, the fact that the discussion took place.
3. Supervisors must become familiar with the regulations and must apply them to themselves as well as their employees.
4. With limited exceptions, approval to engage in outside employment, will have to be obtained in advance.
5. The purchase of any product or the reception of any service by an employee from any person having official business dealings with that employee will be conditioned on the following:
 - a. The proximity of other outlets;
 - b. The number of retail outlets in the commuting area;
 - c. Whether the item or service is being sold at the prevailing price; and
 - d. Whether the outlet is open to the general public.

In addition to the above, the Department has established as one of its objectives for fiscal year 1977 the review of the administration of the Department's conflict of interest program. The task force, to be appointed, will look at the positions that are filing statements of financial interest and whether there are any others in the Department that should be filing. They will also be looking at the statement of financial interest (AD-392) with its supporting regulation to determine the appropriateness of raising, lowering, or eliminating the \$5000.00 or 1% holding exemption. In addition, they will look at Department and Agency implementation of the program as it relates to personnel assigned as deputy counselors, follow up procedure, etc. To assist them, the Department has already received a computerized run of all people presently required to file.

I hope this answers your questions. If there is anything else I can assist you with, please feel free to contact me.

William J. Riley, Jr.

WILLIAM J. RILEY JR.
Acting Chief
Security and Employee
Relations Division

LIST OF DEPARTMENT OF AGRICULTURE AGENCIESAND A BRIEF DESCRIPTIONOF THEIR PRINCIPAL RESPONSIBILITIESAS OF OCTOBER 1975

Farmers Home Administration (FmHA) - provides financial assistance for those in rural America for farming, conservation, home construction, public works, and business and industrial development.

Rural Development Service (RDS) - provides coordination, leadership, and information assistance to Government offices at all levels and to community groups throughout rural America.

Rural Electrification Administration (REA) - provides financial and technical assistance for public and cooperative electric and telephone facilities in rural areas.

Agricultural Marketing Service (AMS) - administers broad standardization, grading, voluntary and mandatory inspection, market news, regulatory and related programs.

Animal and Plant Health Inspection Service (APHIS) - conducts regulatory and control programs to protect the health and quality of animals and plants for human consumption.

Food and Nutrition Service (FNS) - administers the food assistance programs, such as Food Stamp, Food Distribution, and Child Nutrition programs.

Packers and Stockyards Administration (PSA) - helps to maintain free and open competition in the marketing of livestock, poultry, and meat production.

Agricultural Stabilization and Conservation Service (ASCS) - administers specified commodity and related land use programs designed for voluntary production; adjustment; resource protection; and price, market, and farm stabilization.

Federal Crop Insurance Corporation (FCIC) - promotes the general welfare by providing crop insurance against loss from unavoidable causes, such as weather, insects, and disease.

Foreign Agricultural Service (FAS) - administers foreign programs in the interest of U.S. agriculture, with special emphasis on market promotion abroad.

Agricultural Research Service (ARS) - carries out research on crops, livestock, soil and water conservation, energy conservation, agricultural engineering, control of insects and other pests, human nutrition, and consumer and food economics.

Cooperative State Research Service (CSRS) - administers Federal grant funds for research in agriculture, agricultural marketing and rural development, and for cooperative forestry research and research facilities.

Extension Service (ES) - helps the public learn about and apply new research findings and technological developments to everyday activities.

Forest Service (FS) - provides national leadership in forest management, protection, and utilization.

National Agricultural Library (NAL) - collects and maintains worldwide publications in the agricultural, biological, and chemical sciences.

Soil Conservation Service (SCS) - develops and carries out a national soil and water conservation program.

Economic Research Service (ERS) - analyzes factors affecting farm production and their relationship to the environment, prices and income, and the outlook for various commodities.

Farmer Cooperative Service (FCS) - provides technical assistance to cooperative enterprises processing and marketing farm products and to other cooperatively owned, rural-based industries.

Statistical Reporting Service (SRS) - prepares estimates and reports of production, supply, and price and keeps statistical methods used by USDA accurate and responsive to changing needs.

Office of the General Sales Manager (OGSM) - administers export programs that facilitate exports of commodities in ample supply in the United States.

MISCELLANEOUS STATUTORY PROVISIONS IN THE
DEPARTMENT OF AGRICULTURE EMPLOYEE RESPONSIBILITIES
AND CONDUCT HANDBOOK AS OF DECEMBER 2, 1976

§ 0.735-24 Miscellaneous statutory provisions.

(a) Each employee has a positive duty to acquaint himself with each statute that relates to his ethical and other conduct as an employee of his Agency, of the Department, and of the Government. The attention of each employee is directed to the following statutory provisions:

- (1) House Concurrent Resolution 175, 85th Congress, second session, 72A Stat. B12, the "Code of Ethics for Government Service."
- (2) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest.
- (3) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).
- (4) The prohibitions against disloyalty and striking (Executive Order 10450, 5 U.S.C. 7311, 18 U.S.C. 1918).
- (5) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).
- (6) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).
- (7) The prohibition against the disclosure of confidential information (18 U.S.C. 1905).
- (8) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).
- (9) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a).
- (10) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).
- (11) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).
- (12) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).
- (13) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).
- (14) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).
- (15) The prohibition against embezzlement of Government money or property (18 U.S.C. 641).
- (16) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).
- (17) The prohibition against failing to account for public money (18 U.S.C. 643).
- (18) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).
- (19) The prohibition against proscribed political activities (5 U.S.C. 7324, and 18 U.S.C. 602, 603, 607, and 608).
- (20) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).
- (21) The prohibition against the employment of a person convicted of a felony for participating in or promoting a riot or civil disorder (5 U.S.C. 7313).
- (22) The prohibition against the publication of data and information obtained pursuant to the Commodity Exchange Act which would disclose the business transactions of any person, trade secrets or customer names (7 U.S.C. 12).
- (23) The prohibition against using or revealing information relative to formulas of products acquired by the Secretary incident to the registration of economic poisons, with intent to defraud (7 U.S.C. 135f(c)).
- (24) The prohibition against the unauthorized release of information, in the Packers and Stockyards Act (7 U.S.C. 222).
- (25) The prohibition against the release of information in an employee's possession concerning cotton standards, estimates, tests, and analyses unless authorized by the Secretary (7 U.S.C. 472).
- (26) The prohibitions against the release of information acquired from parties to any marketing agreement, and handlers subject to marketing agreement orders, except as authorized by the Secretary for the purposes of suit or administrative hearings (7 U.S.C. 608d(3)).
- (27) The prohibition against the unauthorized prediction as to cotton prices in a governmental publication (12 U.S.C. 1141j(d)).

(28) The prohibition against the making of false statements or reports, or wilfully overvaluing land, property or security to influence action in connection with agricultural loans (18 U.S.C. 1014).

(29) The prohibition against the willful disclosure of official information which might influence or affect the market value of crops prior to authorized publication. An employee acquiring by reason of his employment, information as to the market value of agricultural crops, which information is required to be withheld, is prohibited from speculating in such product (18 U.S.C. 1902).

(30) Limitations on the use or availability of information furnished in connection with marketing agreements and orders (7 U.S.C. 610(i)).

(31) The availability of information furnished in connection with marketing agreements and orders, applicable to marketing agreements and orders, applicable to marketing agreements for anti-hog-cholera serum and hog-cholera virus is restricted (7 U.S.C. 855).

(32) Information furnished in connection with collection of peanut statistics shall be used only for statistical purposes for which supplied. No publication shall be made where the data furnished by any establishment can be identified (7 U.S.C. 955).

(33) Information with respect to individual operations of processor, producer, or laborer will not be made public in connection with recommendations with respect to producer-processor and producer-labor contracts (7 U.S.C. 1159).

(34) Information furnished in connection with the establishment and adjustment of farm marketing quotas shall be disclosed only as authorized by the Secretary for the purpose of suit or administrative hearing (7 U.S.C. 1373(c)).

(35) The prohibition against a person licensed to inspect or grade grain, or employed by the Department to carry out the provisions of the Grain Standards Act being financially or otherwise interested in a grain elevator or employed by a grain elevator or warehouse (7 U.S.C. 87).

(36) The prohibition against persons administering the Sugar Act of 1948, from investing or speculating in sugar or liquid sugar, contracts relating thereto, or stock or membership interests of any association or corporation engaged in sugar production (7 U.S.C. 1157).

(37) The prohibition against persons administering activities concerned with cotton option contracts and commodity benefits as provided by the Agriculture Adjustment Act speculating in agricultural commodities or products to which

such contracts or benefits apply, or in contracts relating thereto, or in the stock or membership interests of any association or corporation handling such commodities or products (7 U.S.C. 610(g)).

(38) The prohibition against an officer or employee being the beneficiary of or receiving any fee, commission or gift for or in connection with any transaction or business under the Consolidated Farmers Home Administration Act of 1961, other than such salary, fee or compensation as he may receive as an officer or employee. Members of a FHA County Committee making any certification with respect to a loan to purchase any land in which they or any person related to them have any financial interest (7 U.S.C. 1986).

(39) The prohibition against the making of false statements in connection with activities of the Commodity Credit Corporation or embezzlement or conversion of anything of value belonging or pledged to the Corporation, or conspiring to commit such acts (15 U.S.C. 714m).

(40) The prohibition against the acceptance of any fee, gift, or other consideration for compromise, adjustment, or cancellation of farm indebtedness (18 U.S.C. 217).

(41) The prohibition against the embezzlement of money or property of the Federal Crop Insurance Corporation and the Farmers Home Administration, and of pledged or entrusted property (18 U.S.C. 657).

(42) The prohibition against the conversion of property mortgaged or pledged to the Farmers Home Administration and the Federal Crop Insurance Corporation, with intent to defraud (18 U.S.C. 658).

(43) The prohibition against the making of false entries, or participation in any benefit through any transaction in connection with Departmental activities concerned with agricultural loans (18 U.S.C. 1006).

(44) The prohibition against speculation in agricultural commodities to which the Federal Crop Insurance Act applies or to contracts relating thereto, or stock or membership interests of corporations or associations handling such commodities by any person administering such law (18 U.S.C. 1903).

(45) The prohibition against the compilation or issuance of false crop reports (18 U.S.C. 2072).

(46) The prohibition against the acceptance by an employee of money or other things of value given with intent to influence a decision in connection with the performance of duties under the Federal Meat Inspection Act, or when re-

ceived from a person or firm engaged in commerce given for any purpose whatever (21 U.S.C. 622).

(47) The prohibition against any person using to his own advantage or improperly revealing information concerning trade secrets acquired under the Poultry Products Inspection Act (21 U.S.C. 458).

(48) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(49) The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above or a comparable pay level) who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his sale to or purchase of property from, a private foundation.

(b) This section does not purport to enumerate or paraphrase all statutory restrictions imposed on employees. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

REPORTS ISSUED ON AGENCIES'FINANCIAL DISCLOSURE SYSTEM

<u>Agency</u>	<u>Report title, number, and issue date</u>
Federal Power Commission	Need for Improving the Regulation of the Natural Gas Industry and Management of Internal Operations, B-180228, 9/13/74.
Department of the Interior	Effectiveness of the Financial Disclosure System for Employees of the U.S. Geological Survey, FPCD-75-131, 3/3/75.
Civil Aeronautics Board	Effectiveness of the Financial Disclosure System for Civil Aeronautics Board Employees Needs Improvements, FPCD-76-6, 9/16/75.
Federal Maritime Commission	Improvements Needed In the Federal Maritime Commission's Financial Disclosure System For Employees, FPCD-76-16, 10/22/75.
U.S. Railway Association	Improvements Needed In Procurement and Financial Disclosure Activities of the U.S. Railway Association, RED-76-41, 11/5/75.
Department of the Interior	Department of the Interior Improves Its Financial Disclosure System For Employees, FPCD-75-167, 12/2/75.
Department of Health, Education, and Welfare	Financial Disclosure System for Employees of the Food and Drug Administration Needs Tightening, FPCD-76-21, 1/19/76.
Department of the Interior	Letter report to Congressman John Moss on U.S. Geological Survey Employees' Divestiture, FPCD-76-37, 2/2/76.

<u>Agency</u>	<u>Report title, number, and issue date</u>
Inter-American Foundation	Inter-American Foundation's Financial Disclosure System for Employees and Its Procurement Practices, ID-76-69, 6/30/76.
Department of Transportation	Problems with the Financial Disclosure System, Federal Aviation Administration, FPCD-76-50, 8/4/76.
Department of Commerce	Problems Found In The Financial Disclosure System For Department Of Commerce Employees, FPCD-76-55, 8/10/76.
Small Business Administration	Management Control Functions Of The Small Business Administration--Improvements Are Needed, GGD-76-74, 8/23/76.
Export-Import Bank	Export-Import Bank's Financial Disclosure System For Employees And Its Procurement Practice, ID-76-81, 10/4/76.
Federal Communications Commission	Actions Needed to Improve the Federal Communications Commission Financial Disclosure System, FPCD-76-51, 12/21/76.
Tennessee Valley Authority (Restricted)	Tennessee Valley Authority: Information on Certain Contracting and Personnel Management Activities, CED-77-4, 12/29/76.

PRINCIPAL OFFICIALS OF THE
DEPARTMENT OF AGRICULTURE

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
SECRETARY OF AGRICULTURE:		
John A. Knebel	Oct. 1976	Present
Earl L. Butz	Dec. 1971	Oct. 1976
Clifford M. Hardin	Jan. 1969	Nov. 1971