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REPORT TO THE CONGRESS



UNITED STATES
GENERAL ACCOUNTING OFFICE

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Department Of The Interior Improves Its Financial Disclosure System For Employees

The Department is taking steps to improve its financial disclosure system, in line with recommendations in an earlier GAO report.

In this followup review of the financial disclosure system in other bureaus and offices of the Department, GAO found additional cases of potential conflicts of interest.

Interior is reviewing these potential conflicts and will order divestiture of any conflicting interests.

FPCD-75-167

DEC. 2. 1975

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

B-103987, 180228, 118678

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

Executive Order 11222 prescribed standards of ethical conduct for Government officials and directed the Civil Service Commission to establish guidelines for agency financial disclosure systems. This report discusses our review of the Department of the Interior's financial disclosure system and the improvements it made in the system during our review.

We made our review pursuant to several requests from Members of Congress to review the effectiveness of the financial disclosure systems of many Federal agencies. Their concerns were addressed in our reviews. We are sending this report to the Congress because of widespread congressional interest in Federal agency financial disclosure systems. Matters for consideration by the Congress are contained on page 21.

We did not obtain formal comments from Department of the Interior officials. However, we discussed the report informally with officials responsible for the financial disclosure system and they agreed with its contents.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of the Interior; interested congressional committees; other Members of Congress; and other interested parties.

A handwritten signature in black ink, appearing to read "Thomas R. Huetts".

Comptroller General
of the United States

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ABBREVIATIONS

CSC	Civil Service Commission
GAO	General Accounting Office
MESA	Mining Enforcement and Safety Administration
OCS	Outer Continental Shelf

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

DEPARTMENT OF THE INTERIOR
IMPROVES ITS FINANCIAL
DISCLOSURE SYSTEM FOR EMPLOYEES

D I G E S T

The Department of the Interior administers the resources of millions of acres of Federal land. As custodian of the Nation's resources, the Department must make sure that the highest standards of ethical conduct are maintained by its employees.

GAO reported earlier (FPCD-75-131, Mar. 3, 1975) that the Department's system was not working in the U.S. Geological Survey and made recommendations for improvements.

At the request of several Members of Congress, GAO reviewed the effectiveness of the Department's financial disclosure system in four bureaus and two offices.

GAO found:

--62 Interior employees, including the 49 Geological Survey employees in the previous report, owned potentially conflicting security holdings.

The Department is reviewing these interests and will order divestiture of any conflicting interests.

--63 employees owned questionable property interests which had not been reviewed adequately to determine whether or not they violated Department regulations.

After GAO's review, the Department examined these property interests and found that only one employee owned a property interest which created the appearance of a conflict.

--About 1,400 employees, mainly mining inspectors, have responsibilities affecting private industry. However, they had not been required to file financial disclosure statements.

FPCD-75-167

The Department has issued new guidelines on which employees should file financial disclosure statements and will require these employees, and others, to file.

In its report on the Geological Survey, GAO made recommendations to improve the Department's financial disclosure system.

The Department has

- since drafted a new employee conduct regulation,
- developed guidelines for reviewing statements,
- reemphasized conflict-of-interest regulations, and
- established procedures for monitoring the financial disclosure system.

In view of the actions the Department has taken, GAO is not making any further recommendations to the Department. It is imperative, however, that the Department give high priority to its financial disclosure system in the future.

The Congress may wish to amend 30 U.S.C. 6, which prohibits Bureau of Mines' employees from having certain interests, to include the Administrator and the employees of the Mining Enforcement and Safety Administration since the Department determined that 30 U.S.C. 6 applied only to the Bureau of Mines.

CHAPTER 1

INTRODUCTION

This is our second report on the Department of the Interior's financial disclosure system. In an earlier report, "Effectiveness of the Financial Disclosure System for Employees of the U.S. Geological Survey" (FPCD-75-131, Mar. 3, 1975), we reported that the Survey's financial disclosure system was not effective. This report discusses the Department's actions to improve its financial disclosure system and our review of this system in the Bureau of Land Management, Bureau of Mines, Mining Enforcement and Safety Administration, Office of the Assistant Secretary of Energy and Minerals, and Office of the Assistant Secretary for Land and Water Resources.

FINANCIAL DISCLOSURE REQUIREMENTS

In 1965 the President issued Executive Order 11222, prescribing standards of ethical conduct for Government employees and directing the Civil Service Commission (CSC) to establish implementing regulations. In November 1965 CSC issued instructions requiring each agency to prepare standards of employee conduct and to establish a system for reviewing employee financial disclosure statements.

CSC requires each agency head to obtain statements of outside employment and financial interests from:

- Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.
- Employees classified at GS-13 or above, who are in decisionmaking positions, or have duties which could involve conflict-of-interest situations. Included are positions involving decisions or actions which have an economic impact on any non-Federal enterprise.
- Employees classified below GS-13 who occupy a position otherwise meeting the above criteria. An agency must obtain CSC approval to require the employee to file.

Statements must be filed no later than 30 days after entrance on duty and updated annually as of June 30. Interests of a spouse, minor child, or other member (blood relation) of an employee's immediate household are considered interests of the employee.

Special Government employees (experts and consultants) must also file financial disclosure statements.

DEPARTMENT'S REGULATION

The Department of the Interior's regulation (43 C.F.R. 20.735) governing its employees' responsibilities and conduct was issued pursuant to the Executive order and CSC's implementing instructions. This regulation established a financial disclosure system for the Department.

The Director, Office of Audit and Investigation, was appointed Department Counselor. He is responsible for all regulations relating to employee conduct--including the financial disclosure system--and is aided by a Deputy Counselor and a staff assistant. They are responsible for reviewing the financial disclosure statements of associate, assistant, and deputy heads of bureaus and those in higher positions.

The Counselor's decisions concerning the propriety of employees' financial interests are reviewed by the Office of the Solicitor, the Department's General Counsel. The Counselor refers conflict-of-interest cases directly to the Office when a legal review is needed before a decision can be rendered.

Cases sent to the Office are usually the result of questions raised by the personnel officers of various Department bureaus. The personnel officer in each bureau is designated bureau counselor and is responsible for the annual review of financial disclosure statements in that Bureau. These statements must be filed by June 30 and must list changes in an employee's financial interests. The personnel officers are required to review these interests to insure that they do not conflict, or appear to conflict, with the employee's official responsibilities. If they are found to conflict, remedial action, including forcing divestiture of the conflicting interest or changing the employee's duties, can be taken.

Prohibitions imposed on selected Department employees

Prohibitions affecting Department employees' financial holdings and outside employment are included in part 370, departmental manual 735, "Regulations Governing Responsibilities and Conduct of Employees" (43 C.F.R. 20-735) and in various statutes affecting individual bureaus.

Specific Department prohibitions on financial interests are:

"An employee shall not:

1. Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or
2. Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment."

The Department's regulation also states that a conflict of interest may arise when a Federal employee's private interest, usually economic, conflicts or raises a reasonable question of conflict with his public duties. The potential conflict is of concern whether it is real or only apparent.

The regulation (43 C.F.R. 7) also states that employees and their spouses are prohibited from acquiring voluntarily or retaining an interest in any lands or resources administered by the Bureau of Land Management, unless specifically excepted or authorized. An employee may own securities traded on the open market in companies having an interest in Bureau of Land Management lands, provided the securities do not interfere with proper performance of his official duties.

Statutory restrictions are imposed on employees of the Bureau of Land Management, Geological Survey, and Bureau of Mines. 1/

--43 U.S.C. 11 states that,

"The officers, clerks, and employees in the Bureau of Land Management are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land; and any person who violates this section shall forthwith be removed from his office."

--43 U.S.C. 31 states that,

"The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations."

1/See discussion on pp. 17 and 18 concerning the applicability of statutory prohibitions of 30 U.S.C. 6 to MESA employees.

--30 U.S.C. 6 states that,

"* * * neither the director nor any members of the Bureau of Mines shall have any personal or private interest in any mine or the products of any mine under investigation."

Because of the Department's regulatory responsibilities and the economic impact of its bureaus on the energy field and on the Nation, maintenance of unusually high standards of conduct is essential.

BUREAU RESPONSIBILITIES

The U.S. Geological Survey conducts diversified research programs which aid in managing the mineral, energy, and water resources of the United States and the adjacent Outer Continental Shelf (OCS). The Survey is responsible for supervising the operations of private businesses working on mining, oil, or gas leases on Federal lands, Indian lands, and the OCS.

The Bureau of Land Management is responsible for classifying, managing, developing, and sustaining the yield of millions of acres of public lands and their related resources. It also leases onshore and OCS lands to industry for production of oil, gas, and other minerals.

The Bureau of Mines conducts research to stimulate private industry to produce minerals and fuels in a manner that best protects the public interest. Its functions include (1) surveying and evaluating the industrial and commercial outlook for mineral and fuel deposits; (2) collecting, evaluating, and publishing mineral industry statistics; and (3) conducting research on mining practices.

The Mining Enforcement and Safety Administration (MESA), formerly within the Bureau of Mines, was established separately within the Department of the Interior pursuant to Order Number 2953 of the Secretary of the Interior, July 10, 1973, 38 F.R. 18695. MESA (1) conducts investigations of metal, nonmetal, and coal mines to reduce hazards; (2) formulates and revises procedures for mine operations; and (3) sets standards for mine equipment, health, and safety matters.

The Office of the Assistant Secretary of Energy and Minerals has direct responsibility for Department programs associated with energy conservation, energy and mineral resource matters, mine health and safety, oil and gas activities, and development of ocean mineral resources. This office directs and supervises the Geological Survey, Bureau of Mines, and MESA, among others.

The Office of the Assistant Secretary of Land and Water Resources has direct responsibility for programs associated with land use and water planning; public land management; water resource research; hydroelectric power projects; and construction and operation of dams and water distribution facilities. This office supervises the Bureau of Land Management, Bureau of Reclamation, and other offices.

CHAPTER 2

FINANCIAL INTERESTS

Employees are required to list their financial and real property interests, outside employment, and debts on form DI-212--Confidential Statement of Employment and Financial Interests. Special Government employees (experts and consultants) list their financial interests and Federal and non-Federal employment on form DI-213. (See apps. I and II.) The purpose of the statements is to prevent conflict-of-interest situations.

The Department's forms are based on CSC's model form. Employees must list (1) the name of the company and their interest (but not the number of shares owned); (2) creditors (but not the amount owed); and (3) property interests (but not its value). The Department does not verify any information the employees list on their statements; however, falsification of information is punishable by law.

OUR REVIEW OF FINANCIAL DISCLOSURE STATEMENTS

The following table shows, by bureau or office, the number of (1) financial disclosure statements required to be filed by employees (including special Government employees) in 1974; (2) statements missing; (3) employees with potentially conflicting security holdings; and (4) property interests which violate regulations.

Several employees listed outside employment and creditors which we felt did not conflict with their official duties.

<u>Bureau or Office</u>	<u>Statements required to be filed</u>	<u>Missing statements.</u>	<u>Number of employees with</u>	
			<u>potentially conflicting security holdings</u>	<u>property interests which violate regulations</u>
Geological Survey	223	-	a/49	-
Bureau of Land Management	151	-	4	1
Bureau of Mines	40	19	5	-
MESA	39	1	3	-
Assistant Secretary Energy and Minerals	11	-	1	-
Assistant Secretary Land and Water Resources	<u>13</u>	<u>1</u>	<u>--</u>	<u>--</u>
Total	<u>477</u>	<u>21</u>	<u>62</u>	<u>1</u>

a/Included in our report on the Geological Survey (FPCD-75-131, Mar. 3, 1975).

Missing statements

Twenty-one employees failed to file the required financial disclosure statements for 1974--8 employees in the Bureau of Mines, 11 members of Mines' 2 advisory committees, 1 MESA employee, and 1 employee in the Office of the Assistant Secretary for Land and Water Resources.

Seven of the eight missing Bureau of Mines' employees' statements were to have been collected by the Bureau and forwarded to the Department for review; however, confusion as to who was collecting the statements resulted in their not being collected. Another employee was in the process of divesting certain securities and did not file until he had completed this transaction. During our review, all eight statements were filed, and one employee listed two securities in mining companies.

Seven members of the Coal Mine Safety Research Advisory Committee failed to file financial disclosure statements in 1974. It is stipulated in 30 U.S.C. 812(a)(3) that the Chairman of the Committee and a majority of the persons appointed to the Committee by the Secretary of the Interior pursuant to 30 U.S.C. 812(a)(1)(D) should have no economic interests in the coal mining industry. Since 7 of the 11 members did not file, we could not determine whether this statute had been violated; however, 3 of the 4 persons filing listed interests in mining companies.

In addition, four of the six members of the Lignite Advisory Committee did not file financial disclosure statements in 1974. Several statements from the Lignite Advisory Committee and the Coal Mine Safety Research Committee had not been filed in previous years. Because both these advisory boards were terminated as of January 5, 1975, the boards were not requested to file the missing statements.

One MESA employee had not filed a financial disclosure statement for 1974. His 1973 statement listed four securities in companies with mining interests. Subsequent to our review, this employee filed an updated statement showing that he had divested of two of the four securities.

One employee in the Office of the Assistant Secretary for Land and Water Resources failed to file a statement. Subsequent to our review, his statement was collected by the Department; it showed no interests in conflict with his duties.

Potentially conflicting financial interests

We found that 62 employees in the bureaus and offices we reviewed (including 49 from our earlier Geological Survey review) owned securities in apparent or potential con-

flict of interest with their duties. Thirteen employees in three other bureaus and one office also listed securities in apparent or potential conflict of interest, including:

- A Bureau of Land Management employee, responsible for appraising Federal land and its mineral value, who owned securities in a company which holds Federal oil and gas leases in his district.
- Three MESA employees, responsible for administering mine health and safety laws, who owned five securities in companies with major mining interests.
- An employee, responsible for administering and approving Bureau of Mines' contracts, who negotiated a contract with Island Creek Coal Company, a subsidiary of a company, Occidental Petroleum, in which he later bought stock.
- An employee, responsible for administering Federal coal policies, who owned seven securities in companies with major coal-mining interests.

During our review, we brought these potentially conflicting interests to the Department's attention. The Department is reviewing these interests and will order employees to divest of any conflicting interests.

Questionable property interests

Employees are required to list interests in real property or rights in lands, other than property occupied as a personal residence. Department employees and their spouses are prohibited from acquiring voluntarily, or retaining an interest in, any lands or resources administered by the Bureau of Land Management. Nor can an employee engage in a financial transaction as a result of, or primarily relying on, information obtained through Government employment.

Many employees in the four bureaus have interests in real property. Some of these holdings were in recreational property or apartment houses; however, 91 employees, mainly in the Bureau of Land Management and Geological Survey, listed interests in timberland, farmland, and undeveloped land. Sixty-three interests were in Western States where most Bureau of Land Management lands are located.

The Counselor's staff assistant said that he reviewed property interests listed on the statements; however, bureau counselors generally did not question these interests unless they appeared obviously improper. There were no definitive guidelines on how to evaluate such interests and the statement requires little specific information concerning the property's location, acreage, and date of acquisition.

We found no indication that any of the 63 property interests mentioned above had been reviewed or that reviewing officials had obtained any further information. After informing Department officials of our findings, the Department ordered a review of these interests. Most were found not to violate any Department or bureau regulations; however, one Bureau of Land Management employee's interest created what the Department felt was the appearance of a conflict as it was adjacent to Federal lands in a district in which he was employed.

DEPARTMENT'S ACTION

Subsequent to our Geological Survey report, the Director of the Survey ordered employees to divest of all oil and gas interests. We are currently reviewing the Survey's divestiture effort.

During our review of the other bureaus, apparent or potential conflicts were discussed with bureau and Department officials. The Department is reviewing these interests and will order divestiture of any conflicting interests. Several employees have already divested of their conflicting interests.

A Bureau of Land Management employee accepted reassignment to another district office to resolve an apparent conflict between his official duties and his property interest in the district in which he had been employed.

CONCLUSIONS

Because of the lack of definitive review guidelines, reviewing officials could not adequately evaluate employees' financial interests. The Department recently issued definitive guidelines instructing review officials on how to evaluate all types of employee interests, including securities and property interests. (See ch. 4.) These guidelines should result in a more effective review of financial disclosure statements and prevent apparent and potential conflicts.

CHAPTER 3

MANY OTHER EMPLOYEES SHOULD BE REQUIRED

TO FILE FINANCIAL DISCLOSURE STATEMENTS

Each year the Department asks its bureaus to identify positions for which they believe the incumbents should be required to file financial disclosure statements, using CSC criteria discussed on page 1 of this report. The Department gave the bureaus no instructions or guidelines concerning the use of these criteria. Unless a reorganization occurred during the year, bureau officials usually made only minor adjustments, or no adjustments, to the previous year's list.

Our review of position descriptions and responsibilities for the four bureaus involved in administering the OCS Lands Act, Federal Coal Mine Health and Safety Act of 1969, and Federal Metal and Nonmetallic Mine Safety Act (Mine Safety Acts) disclosed the following:

	<u>Employees involved with the statutes</u>	<u>Employees required to file</u>	<u>Additional employees who should be filing</u>
OCS Lands Act:			
Geological Survey Bureau of Land Management	187 81	58 3	55 30
Mine Safety Acts:			
Bureau of Mines MESA	13 <u>2,700</u>	0 <u>25</u>	13 <u>1,337</u>
Total	<u>2,981</u>	<u>86</u>	<u>1,435</u>

Of the 1,435 employees who should be filing statements, 1,164 are below GS-13. The Department must obtain CSC approval before requiring these employees to file.

OCS POSITIONS

We reviewed 268 positions in the Geological Survey and Bureau of Land Management involved in OCS operations. Incumbents of 61 of these positions file financial disclosure statements; however, incumbents of 85 other positions should also be required to file.

In the Geological Survey incumbents of 55 other positions should be filing statements, including 28 petroleum engineers and 1 electrical and 1 mechanical engineer; 14 geophysicists; and 11 geologists.

The petroleum, mechanical, and electrical engineers whose positions we reviewed visit leased lands to insure that private industry installations are operated in accordance with OCS requirements, review industry proposals for installations, and appear in court as expert witnesses on complex petroleum issues. Much reliance is placed on their conclusions and recommendations. In some cases, they may recommend closing industry operations.

Geological Survey geophysicists identify specific OCS areas for additional mineral analysis, prepare environmental impact statements, and direct geological programs concerning tract selection, lease evaluation, and lease management programs. Survey geologists conduct studies necessary for leasing-policy decisions, perform technical review of appeals concerning offshore evaluations, provide expert testimony in legal proceedings, and furnish geologic advice on leasing of OCS lands.

In the Bureau of Land Management, incumbents of 30 other positions should be filing statements. These positions have responsibilities affecting OCS mineral, oil, and gas leasing programs and include natural resource managers and specialists, mineral leasing specialists, petroleum engineers, economists, environmental specialists, and various other positions.

Mineral leasing specialists recommend changes in regulatory policies and are involved in OCS sales. Some natural resource managers make recommendations concerning OCS tracts to be placed in nomination or on sale. Environmental specialists are responsible for preparing environmental impact statements and drawing up specifications for contract studies. Economists perform studies affecting the leasing program; they also give advice on OCS policy matters.

MINE SAFETY POSITIONS

Incumbents of 13 Bureau of Mines' positions have responsibilities concerning mine health and safety research and are not required to file financial disclosure statements. These officials recommend the initiation, discontinuance, or redirection of mining research work vital to private industry and also provide technical advice to private industry on mining matters. As these employees have duties affecting private industry, they should be required to file financial disclosure statements.

We reviewed 51 other positions on the Bureau of Mines' organizational chart and determined that incumbents of 40 of these positions should also be required to file statements. Most of these were division chiefs, research laboratory chiefs, and research directors who recommend the initiation, discontinuance, or redirection of research work vital to private industry.

As all positions in MESA are involved in administering mine safety statutes, we selected for review key offices in two major operational divisions primarily involved in mine investigations--Coal Mine Health and Safety and Metal and Nonmetal Health and Safety. We reviewed 102 positions representing approximately 1,600 MESA employees and determined that, although incumbents of 25 positions file statements, incumbents of 70 other positions (about 1,300 employees) should be filing statements.

The positions involve mainly mining inspectors and engineers responsible for mine inspections. At the GS-11 level and above, the inspector's decisions have a profound impact on the mine operators, owners, and employees. Notices of violations can result in heavy penalties and orders to withdraw from the mine and may have a permanent adverse effect on the company. Therefore, it is vital that the Department know the interests of these employees to determine if they have any interests in conflict with their duties.

LACK OF DEFINITIVE GUIDELINES REGARDING WHO SHOULD FILE A STATEMENT

In each bureau we reviewed, officials had no systematic procedures for determining which employees should be required to file statements. In most cases, if analysis was done, bureau officials reviewed only GS-13 positions or above, as written justification is necessary to obtain approval for employees below GS-13 to file.

We also noted that members of many bureau advisory boards were not required to file financial disclosure statements. Although several advisory boards were terminated as of January 5, 1975, many of these boards had responsibilities which could have involved conflict-of-interest situations and their members should have filed statements.

DEPARTMENT'S ACTION

We discussed with Department and bureau officials the many other positions the incumbents of which we believe should be required to file financial disclosure statements. These officials, with the exception of MESA officials, agreed with our position. MESA officials believed that requiring 1,337 other officials to file statements would create an overwhelming administrative task. However, MESA could develop a decentralized review process, as now exists in the Bureau of Land Management, with certain officials in district offices responsible for the annual review of statements.

To insure that each bureau adequately identifies those employees who should be filing statements, the Department has listed guidelines in its new employee conduct regulation (see p. 16) outlining the types of duties which warrant the filing of a statement. As listed below, these guidelines are an extension of CSC's filing criteria.

Employees who should file are those at the GS-13 level or above and who are involved in making a Government decision or action which could result in an actual conflict of interest, such as

- appraising or acquiring real estate for the Government;
- regulating, auditing, or inspecting a private or other non-Federal enterprise; or
- recommending policy for a non-Federal enterprise.

Employees at the GS-13 level or above whose duties may create the appearance of a conflict of interest should also be required to file. Examples of such duties are

- researching areas that may directly benefit private enterprise;
- planning or developing activities that may affect private enterprise; and

--gathering or analyzing economic or other data relating, or of potential value, to private enterprise.

It is emphasized that employees below GS-13, in positions meeting the above criteria for positions at GS-13 or above, should also be required to file if they function with a minimum of supervision.

The Department has also revised its administrative manual concerning bureau advisory boards. As new advisory boards are chartered, the Department has directed each bureau to closely review advisory board responsibilities to determine whether their members should be required to file disclosure statements.

Each Department bureau is evaluating its positions in light of the new guidelines. Indications are that many employees in several bureaus not filing statements, including those discussed in this report, will be required to do so in the future. Once all these positions have been identified, the Department will obtain CSC permission to require statements from certain employees below GS-13. All of these positions will be listed in the "Federal Register," and the employees affected will be required to file annual statements.

CONCLUSIONS

The Department has not required many employees to file financial disclosure statements although their positions warranted the filing of such statements. This was mainly because the Department did not give the bureaus sufficient guidance concerning the type of positions which should be required to file.

In conjunction with development of a new employee conduct regulation, the Department has outlined for the bureaus the types of duties which require the filing of a statement. Since the Department has issued these regulations and is identifying other positions which should file disclosure statements, we are not making further recommendations at this time.

CHAPTER 4

OTHER DEPARTMENT ACTIONS TO STRENGTHEN THE FINANCIAL DISCLOSURE SYSTEM

In our report on the Geological Survey financial disclosure system (FPCD-75-131, Mar. 3, 1975) we found that many officials had financial interests conflicting with their official duties. Many deficiencies which existed in the Survey's disclosure system were Department-wide. To improve the effectiveness of the Survey's system, and the overall Department system, we recommended that the Secretary of the Interior:

- Review, and take remedial action on, the financial interests of Survey officials which raise conflict-of-interest possibilities or violate the Organic Act of 1879, 43 U.S.C. 31.
- Prepare, keep current, and issue to Survey personnel specific guidelines, including a list of prohibited securities, concerning financial interests which may violate the Organic Act.
- Require the bureau counselor to strictly adhere to the restrictions imposed on Survey employees by the Organic Act.
- Insure that adequately trained and experienced personnel, who are knowledgeable of employees' duties and potential conflicts of interest, are appointed to counsel employees and review financial disclosure statements.
- Insure that officials responsible for reviewing financial disclosure statements are given specific guidelines and reference manuals to enable them to adequately evaluate the statements.
- Require reviewing officers to sign and date the financial disclosure statements to indicate they have reviewed them and determined that the financial interests do not violate the Organic Act or raise conflict-of-interest possibilities.
- Require the Survey counselor to report the results of the annual financial disclosure review to the Department and to note any financial interests questioned and any remedial action taken.

- Establish procedures for periodically reviewing financial disclosure statements to insure that bureau counselors adequately enforce conflict-of-interest regulations.

The Department's efforts regarding these recommendations have involved:

- Action by the Director of the Geological Survey to order divestiture of the financial interest holdings we questioned. We are currently monitoring the divestiture of these interests.
- Research by the Solicitor to establish a reasonable, workable interpretation of the Organic Act. The act dates back to 1879 and interpretive problems are posed by its lack of legislative history as well as by changes in the Survey's mission and operations.
- A legal review by the Solicitor of the 49 cases we cited, using the interpretation discussed above and the Survey's longstanding directives which implement the act.
- A review by the departmental Counselor of the cases we cited as having an appearance of conflict.

Regarding our seven recommendations for curing system defects existing in the enforcement of the Organic Act and conflict-of-interest regulations, two efforts were undertaken at the Secretary's direction. First, inspections were made of employees' statements of financial interests filed under existing regulations. Directives for remedial action were issued as a result of these inspections. Second, a concurrent effort was undertaken to review and rewrite departmental conflict-of-interest regulations, to tighten administration and oversight of employee conduct and conflict-of-interest activities.

In May 1975 the Department Counselor gave us a draft copy of the Department's revised regulation (43 C.F.R. 20.735 implementing our recommendations in the Survey report and responding to other deficiencies we noted during our review of other bureaus discussed in this report. The Department has

- revised certain bureau and Department regulations and stated more specifically what is prohibited;
- provided for more effective departmental monitoring procedures; and

--prepared an instructional guide for bureau counselor's use in performing annual financial disclosure statement reviews.

BUREAU AND DEPARTMENT
REGULATIONS

With the possible exception of MESA, each bureau we reviewed had statutory regulations prohibiting employees from having interests in certain areas. However, the only reference to these prohibitions in the Department's employee conduct manual stated that restrictions were imposed upon employees in certain named bureaus and that employees must comply with these restrictions, which were not listed.

During our review, we also questioned whether the statutory prohibition (30 U.S.C. 6) against Bureau of Mines' employees having any interest in a mine or the products of any mine under investigation was also applicable to employees of MESA, which since its separation from the Bureau of Mines in 1973 had been given responsibility for all mine investigations. As Department officials were not sure, this question was submitted to the Solicitor for a legal opinion. The Solicitor ruled that the prohibition did not apply to MESA employees.

We believe that the Solicitor's ruling is not consistent with clear congressional intent at the time of enactment of 30 U.S.C. 6 to cover employees performing the same kinds of activities still being performed by MESA employees. We recognize the technical basis for the Solicitor's conclusion based on the literal language of the statute. However, the Secretary of the Interior does not have the authority to, in effect, exempt MESA employees by administrative reorganization from such statutory requirements.

Department action

Since the Solicitor ruled that the Bureau of Mines' statutory prohibition did not apply to MESA employees, a departmental regulation similar to the statutory regulation was promulgated (40 Fed. Reg. 28290 (1975)). However, there is one significant difference. The final sentence of the regulation authorizes the MESA Administrator to make exceptions to any of the conflict-of-interest prohibitions otherwise applicable "on an individual basis for cause," thus in effect diluting the effect of the requirements. No other components of the Bureau of Mines may be similarly exempted by administrative action.

In the Department's revised employee conduct regulation, each statutory prohibition is quoted to make employees fully aware of restrictions on their financial interests. For the Geological Survey, an interpretation of their prohibition is also quoted from the Survey manual.

The revised regulation will make all statutory restrictions affecting individual bureaus applicable to the employees of the Office of the Secretary, and other offices reporting directly to the Secretary, who are required to file financial disclosure statements. Because of this new regulation, the Department is eliminating a previous requirement (43 C.F.R. 7) which prohibited Department employees and their spouses from acquiring voluntarily or retaining an interest in any lands or resources administered by the Bureau of Land Management. However, the statutory prohibition (43 U.S.C. 11) against ownership of public lands by Bureau of Land Management employees will be retained.

DEPARTMENTAL MONITORING PROCEDURES

While the Department required that bureau counselors certify that all statements have been filed, no summary report of their review indicating financial interests questioned or problem areas found was required to be sent to the Department. Nor did the Department spot check employees' statements to determine whether bureau counselors are enforcing bureau and departmental regulations. Counselors were not required to sign and date the statements to indicate that they have reviewed them and determined that the financial interests did not violate the Organic Act or raise conflict-of-interest possibilities. The lack of monitoring procedures made it extremely difficult for the Department and bureau counselors to determine which employee interests had been previously questioned or approved as not conflicting with or violating bureau regulations.

Also, the Department had appointed each bureau personnel officer to be bureau counselor responsible for the annual review of employees' financial interests, without regard to their qualifications. None of the counselors had received training on how to analyze employee interests or how to detect conflict-of-interest situations. Three of the four counselors were relatively new and had no previous experience detecting conflicts of interest. Also, the counselors were personnel specialists and were not involved in the bureaus' daily operational responsibilities and their relations with private industry.

Department action

To implement our previous recommendations, the revised regulation includes procedures for departmental monitoring of the system within the bureau. These procedures include

- periodically auditing the bureaus' financial disclosure system on a cyclical basis to insure that each bureau is reviewed at least once every 3 years;
- requiring written reports from bureau counselors concerning the disposition of each employee's statement which reflects a conflict, potential conflict, or apparent conflict; and
- appointing each bureau head as an ethics counselor responsible for designating the bureau personnel officer or other qualified employee to be the deputy ethics counselor responsible for the annual review of financial disclosure statements.

The Department is also requiring review officials to sign and date the financial disclosure statement to indicate that no conflicts exist once they have been reviewed.

DEFINITIVE REVIEW GUIDELINES

Bureau counselors responsible for reviewing employee statements had not been given any written guidelines as to (1) how to review the financial disclosure statements; (2) what constitutes a conflict; and (3) how to evaluate financial and property interests. Neither the Department's nor the bureaus' regulations had been interpreted for the counselors. The bureau counselors we interviewed indicated either that they had asked the Department for guidelines, or would welcome such guidelines.

During review of employees' statements, many questions arose regarding which employees' interests actually violated conflict-of-interest regulations. The Department Counselor's staff assistant had asked the counselors to call him should any difficulties arise, but this did not substitute for definitive review guidelines which could be objectively and consistently applied to each statement.

In the past, counselors only questioned those interests which aroused their curiosity. Not every interest was checked to determine the nature of the companies' business. While many companies' names suggest their business, others are not as evident and may be overlooked.

Department action

One of the Department's most important actions has been the preparation of an instructional guide for bureau counselors' use in implementing their responsibilities for the financial disclosure system. The guide discusses Executive Order 11222, departmental regulations, and bureau prohibitions. Included are guidelines as to (1) who should file financial disclosure statements; (2) how to review financial interest and property holdings; and (3) how to use reference materials. Terms used in bureau prohibitions have been defined by the Solicitor for practical application to the employees' interests. Likewise, certain Solicitor's opinions concerning conflicting interests held by Geological Survey employees are also included as examples for counselors.

CONCLUSIONS

As custodian of the Nation's natural resources, the Department of the Interior must insure that its employees maintain the highest standards of ethical conduct. The Department, through its financial disclosure system, must effectively prevent its employees from becoming involved in conflict-of-interest situations.

During our review, we noted many weaknesses in this system. Statements of financial interests had not been adequately reviewed due to a lack of (1) definitive review guidelines and (2) interpretation of statutory prohibitions. Many employees who should have been filing financial disclosure statements had not been required to do so. The Department lacked effective procedures for monitoring the financial disclosure system in its bureaus. As a result of these deficiencies, many employees were involved in potential conflict-of-interest situations.

The Department's actions to implement our recommendations concerning the Geological Survey and to remedy deficiencies discussed with Department officials during our review of the Bureau of Mines, Bureau of Land Management, MESA, and the two offices of the Assistant Secretaries should eliminate the deficiencies we found. The new instructional guide for review officers will provide definitive guidelines and an interpretation of statutory prohibitions. The revised regulation contains procedures for identifying positions whose incumbents should be required to file a statement. The Department has implemented effective procedures for monitoring the system within its bureaus.

In view of the Department's actions, we are not making any further recommendations at this time to the Department. However, it is imperative that the Department give high priority to the financial disclosure system in the future.

MATTERS FOR CONSIDERATION BY THE CONGRESS

The Department ruled that the statutory prohibition (30 U.S.C. 6) affecting Bureau of Mines' employees is not applicable to the employees of MESA. To avoid any possible confusion in the future, the Congress may wish to consider an amendment to 30 U.S.C. 6 as follows:

"In conducting inquiries and investigations under sections 1, 3, and 5 to 7 of this title neither the Director nor any member of the Bureau of Mines, nor the Administrator or any member of the Mining Enforcement and Safety Administration shall have any personal or private interest in any mine or the products of any mine under investigation..."

CHAPTER 5

SCOPE

Our review was made pursuant to requests from several Congressmen. Primary concerns expressed in these requests were:

- Whether Federal agencies have effective financial disclosure systems for revealing conflict-of-interest situations.
- Whether all required financial disclosure statements were filed in a timely and proper manner.
- Whether the financial disclosure statements were adequately reviewed and analyzed.
- Whether any additional positions whose incumbents are involved in administering several statutes and who are not required to file a financial disclosure statement should be required to.

We were asked not to delay our report by obtaining formal comments from the Department. However, we discussed the report with officials responsible for the financial disclosure system and they agreed with our findings.

We reviewed all financial disclosure statements filed by employees of the Bureau of Land Management, Bureau of Mines, MESA, Office of the Assistant Secretary for Energy and Minerals, and Office of the Assistant Secretary for Land and Water Resources. We also reviewed individual position descriptions to determine whether other employees should be filing financial disclosure statements.

We did not review the financial disclosure statements of any Presidential appointees within the Department. Their statements, and those of other high-ranking Government officials, are required by Executive Order 11222 to be filed directly with CSC. We plan to review all statements held by CSC following our review of Federal agency financial disclosure systems.

Our review was conducted at Department of the Interior headquarters in Washington, D.C., and included a review of the financial disclosure statements of employees nationwide.

Form DI-212
11-65

UNITED STATES DEPARTMENT OF THE INTERIOR
CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS
(FOR USE BY GOVERNMENT EMPLOYEES)

1. NAME (last, first, initial)		2. TITLE OF POSITION	
3. DATE OF APPOINTMENT IN PRESENT POSITION		4. BUREAU AND OFFICE	

PART I. EMPLOYMENT AND FINANCIAL INTERESTS. List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions: (a) with which you are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or (b) in which you have any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. If none, write NONE.

NAME & KIND OF ORGANIZATION (USE PART I DESIGNATIONS WHERE APPLICABLE)	ADDRESS	POSITION IN ORGANIZATION (USE PART I (a) DESIGNATIONS, IF APPLICABLE.)	NATURE OF FINANCIAL INTEREST, e.g., STOCK, PRIOR BUSINESS INCOME. (USE PART I (b) & (c) DESIGNATIONS, IF APPLICABLE.)

PART II. CREDITORS. List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS, e.g., PERSONAL LOAN, NOTE, SECURITY

PART III. INTERESTS IN REAL PROPERTY. List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write NONE.

NATURE OF INTEREST, e.g., OWNERSHIP, MORTGAGE, LIEN, INVESTMENT TRUST	TYPE OF PROPERTY, e.g., RESIDENCE, HOTEL, APARTMENT, FARM, UNDEVELOPED LAND	ADDRESS. (IF RURAL, GIVE RFD. OR COUNTY AND STATE)

PART IV. INFORMATION REQUESTED OF OTHER PERSONS. If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, please indicate the name and address of such persons, the date upon which you requested that the information be supplied, and the nature of subject matter involved. If none, write NONE.

NAME AND ADDRESS	DATE OF REQUEST	NATURE OF SUBJECT MATTER

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

(Date)

(Signature)

Form DI-213
8-66
Rev. 1

UNITED STATES DEPARTMENT OF THE INTERIOR
CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS
(FOR USE BY SPECIAL GOVERNMENT EMPLOYEES)

PART I - TO BE COMPLETED BY AGENCY

1. Name (last, first, initial)	2. Birth Date (month, day, year)
3. Bureau and Office Organizational Segment	4. PERIOD OF APPOINTMENT (this Agency)
	FROM TO

PART II - TO BE COMPLETED BY APPOINTEE

1. a. Number of days already worked during a consecutive 365-day period

(1) with this Department

(2) with other Federal agencies

b. Estimated remaining number of days expected to work during the consecutive 365-day period

(1) with this Department

(2) with other Federal agencies

c. TOTAL

2. FEDERAL GOVERNMENT EMPLOYMENT - List all other Federal agencies in which you are presently employed. (If none, write "none.")

AGENCY AND LOCATION	TITLE OR KIND OF POSITION	APPOINTMENT PERIOD	
		FROM	TO

3. NON-FEDERAL EMPLOYMENT - Name all corporations, companies, firms, State or local Government organizations, research organizations, and educational or other institutions in which you are serving as employee, officer, member, owner, trustee, director, expert, adviser, or consultant, with or without compensation. (If none, write "none.")

NAME AND KIND OF ORGANIZATION (e.g., manufacturing, research, insurance)	LOCATION (City, State)	TITLE OR KIND OF POSITION

4. FINANCIAL INTERESTS - List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. (If none, write "none.")

Information to be listed does not require a showing of amount of financial interest or value of real property. Interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement as your interest. Member of your immediate household includes only those blood relations who are full-time residents of your household.

ORGANIZATION		NATURE OF INTEREST AND IN WHOSE NAME HELD
NAME	KIND (manufacturing, storage, public utilities, etc.)	

If additional space is required, use reverse side

I CERTIFY that the statements I have made are true, complete, and correct to the best of my knowledge and belief. I UNDERSTAND that if, during the period of my appointment, I undertake a new employment, I must promptly file an amended statement, and I must also report any new financial interests acquired during this period.

(Date) _____ (Signature) _____

CONFIDENTIAL AVAILABLE

PRINCIPAL DEPARTMENT OF THE INTERIOR OFFICIALS
RESPONSIBLE FOR THE ADMINISTRATION OF
ACTIVITIES DISCUSSED IN THIS REPORT

Tenure of office
From To

DEPARTMENT OF THE INTERIOR

SECRETARY OF THE INTERIOR:

Thomas S. Kleppe	Oct. 1975	Present
Kent Frizzell (acting)	July 1975	Oct. 1975
Stanley K. Hathaway	June 1975	July 1975
Kent Frizzell (acting)	May 1975	June 1975
Rogers C. B. Morton	Jan. 1971	May 1975
Fred J. Russell (acting)	Dec. 1970	Jan. 1971
Walter J. Hickel	Jan. 1969	Nov. 1970

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