BY THE COMPTROLLER GENERAL

Report To The Chairman, Subcommittee On Oversight Of Government Management Senate Committee On Governmental Affairs OF THE UNITED STATES

Information On Selected Aspects Of The Ethics In Government Act Of 1978

This report provides information on the public financial disclosure provisions and post-employment restrictions of the Ethics in Government Act and the activities of the Office of Government Ethics, which was established by the act.

The report summarizes a broad spectrum of views on the act's effect on the recruitment of Federal officials. It points out areas of possible confusion between the provisions of the Ethics Act and other laws and regulations. The information presented primarily concerns the executive branch, but some information is provided on the public financial disclosure systems of the legislative and judicial branches.

GAO/FPCD-83-22
FEBRUARY 23, 1983

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

B-209258

The Honorable William S. Cohen
Chairman, Subcommittee on Oversight
of Government Management
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This report responds to your January 22, 1982, request and subsequent agreements with your office that we provide information on selected aspects of the Ethics in Government Act of 1978 to assist you in oversight hearings. As agreed with your office, we concentrated on those provisions of the act which apply to the executive branch. We have also summarized a broad spectrum of differing views on the act's effect on the recruitment of Federal officials and point out some areas of possible confusion between the Ethics Act and other laws and regulations dealing with conflict of interest.

BACKGROUND

The Ethics in Government Act of 1978 was enacted as Public Law 95-521 on October 26, 1978. Titles I, II, and III established public financial disclosure requirements for officials in the legislative, executive, and judicial branches of the Government. 1/ Title IV established the Office of Government Ethics (OGE) to provide overall direction on policies concerned with preventing conflicts of interest by officers and employees of executive branch agencies. Title V amended the criminal conflict-of-interest statute (18 U.S.C. 207), which restricts certain postemployment activities of former officials and employees of the executive branch, independent agencies of the United States, and the District of Columbia. Title VI provided the authority and established procedures for appointing special prosecutors to investigate and prosecute certain executive branch officials (or officials of a national presidential campaign committee) who may have violated Federal criminal law.

1/The public financial disclosure requirements for Federal officials under the Ethics Act are not the same as the confidential financial reporting requirements under provisions of Executive Order 11222.

Title VII established an Office of Senate Legal Counsel to defend the constitutional powers of the Congress in proceedings before the courts. It also conferred jurisdiction on the courts to enforce congressional subpoenas.

The Ethics Act was amended on June 13, 1979, by Public Law 96-19 and on June 22, 1979, by Public Law 96-28. The former amendment clarified the act's financial disclosure requirements; the latter substantially changed its postemployment restrictions.

In addition to the Ethics Act, there are a variety of other Government-wide and agency-specific laws and regulations and legal interpretations which relate to the ethical conduct of Federal employees. These include the criminal conflict-of-interest statutes contained in 18 United States Code 201 through 209 which are applicable to Federal officials and employees; Executive Order 11222 and its implementing regulations, contained in 5 Code of Federal Regulations, part 735, which prescribe standards of ethical conduct for employees of executive departments and independent agencies; statutes which establish specific requirements or responsibilities for particular agencies; Comptroller General decisions and Attorney General opinions; rules of the House and Senate governing conduct of Members; and the various codes of conduct in the judicial branch.

These laws and regulations establish what constitutes a conflict of interest or the appearance of a conflict. They provide the criteria for reviewing public financial disclosure reports filed under the Ethics Act.

THE ETHICS IN GOVERNMENT ACT AND THE EXECUTIVE BRANCH

Title II of the Ethics Act requires high-level [2]/ officials in the executive branch to file financial disclosure reports shortly after assuming a Federal position and annually thereafter. Candidates for the offices of President and Vice President, and all presidential nominees to positions requiring

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[2]/High-level officials are employees whose salaries are the same as or greater than that paid to a GS-16, step 1.

Senate approval also must file. Reports are reviewed by officials at OGE or agency ethics officials [3]/ to identify possible conflicts of interest and are made available to the public upon request.

The requirements of title II have been described as an obstacle to the Federal Government's ability to attract and retain highly qualified individuals. For example, the former Assistant to the President for Presidential Personnel listed the Ethics Act as the chief obstacle to recruiting the nation's best managers in an article in Business Week dated April 19, 1982. However, opinions vary on the extent of the Ethics Act's effect on Federal recruiting. Some individuals told us that the Ethics Act is just one of a list of factors affecting Federal recruiting. These include compensation, the confirmation process, and private sector attitudes toward Federal service. Others noted that the financial disclosure and postemployment requirements of the act are not always understood by prospective employees. The Counsel to the President told us that recruiting problems related to "ethics in Government" are not with any particular provision of the Ethics Act but in the cumulative effect of the act and the criminal conflict-of-interest statutes.

One misconception about the Ethics Act is that it requires Federal officials or nominees to divest themselves of financial interests to avoid a conflict of interest or an appearance of a conflict. Although the Ethics Act mandates public financial disclosure for Federal officials, it does not require specific actions to remedy conflicts of interest. Rather, the act requires "appropriate actions" and cites alternatives. Divestiture, however, may be required by other statutes.

At its June 1982 ethics conference, OGE proposed that the group required to file public disclosure reports be narrowed to political appointees, noncareer members of the Senior Executive Service, Administrative Law Judges, certain positions of a policy-making nature (schedule C), and others holding noncareer comparable positions in the Executive Office of the President. Career members of the Senior Executive Service, those at GS-16 and above in the career civil service and individuals at grade

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[3]/Agency ethics officials assist filers in completing disclosure reports, respond to questions on disclosure or other ethical issues, and review disclosure reports to identify actions needed to prevent conflicts of interest.

O-7 and above [4]/ in the career military service would continue to file the same disclosure reports, but these reports would no longer be made available to the public. During 1981, 188 or 19 percent of the 1,007 disclosure reports requested by the public at OGE and 14 agencies surveyed by OGE were reports of career employees. This is the category of officials that would be affected by OGE's proposal.

Postemployment restrictions: misconceptions, limited information, and proposed changes

Title V of the Ethics Act expanded the postemployment restrictions of the already-existing criminal conflict-of-interest statute, 18 United States Code 207. These restrictions apply to employees in all executive branch agencies, independent agencies of the United States, and the District of Columbia. It also added other restrictions on postemployment activity for Federal employees who are designated by the act or by OGE as "senior employees." [5]/ Public Law 96-28, which was enacted on June 22, 1979, eliminated some of the Ethics Act's restrictions.

The Ethics Act did not change the criminal penalties for violating 18 United States Code 207. Criminal penalties include fines of up to $10,000 or imprisonment of not more than 2 years, or both. Department of Justice officials noted that the postemployment restrictions have not been enforced through criminal prosecution often because the severity of criminal prosecution was viewed as not in concert with the severity of the particular violations. The framers of the act recognized this and authorized agency heads to initiate an administrative disciplinary proceeding and, when warranted, impose administrative sanctions against former employees who violate the postemployment restrictions of 18 United States Code 207. Under this authority, former employees could be prohibited from contacts with their agencies for up to 5 years.

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[4]/The O-7 pay grade consists of Brigadier Generals and Rear Admirals; O-8 consists of Major Generals and Rear Admirals; O-9 consists of Lieutenant Generals and Vice Admirals; and O-10 consists of Generals and Admirals.

[5]/The act as amended designates executive level personnel and miltary of grade O-9 and above as senior employees. In addition, the Director, OGE designates positions within the Senior Executive Service, at pay grade GS-17 and above and commissioned officers at rank O-7 and O-8 as senior employees if they have significant decisionmaking or supervisory responsibility.

In 1978, we reported [6]/ to the Congress that little information existed to determine the extent to which former employees were violating postemployment laws and regulations. We noted that agencies generally did not monitor the postemployment activities of their former employees and that the Justice Department prosecuted relatively few postemployment violations. In that report, we also discussed several significant obstacles to enforcement of the postemployment laws. In 1981, we reported [7]/ to the Attorney General and the Secretary of the Treasury that their agencies had done little to administer postemployment restrictions designed to prevent potential conflicts of interest.

During our current review, ethics officials at several agencies and other individuals we talked with told us that agencies have made few referrals of postemployment violations to the Department of Justice, and Justice has prosecuted few violation cases. Agencies also have made little use of the administrative enforcement authority given them by the Ethics Act. In 33 agencies we surveyed, we found that the authority was used in one instance. Because of the lack of information, it is difficult to determine whether this represents an adherence by former employees to the provisions of the postemployment statute, or an inaction or inability on the part of agencies to identify violations, handle them administratively or refer them to the Department of Justice, and for Justice to prosecute.

OGE: its role, relationships, and responsibilities

Title IV of the Ethics Act established OGE to provide overall direction of executive branch policies related to preventing conflicts of interest by executive branch employees. The office is authorized 23.5 staff years in fiscal year 1983. Its Director is appointed by the President with the advice and consent of the Senate. Organizationally, OGE is located within the Office of Personnel Management (OPM).

OGE activities, since the agency's inception, have centered around implementing the financial disclosure requirements of title II of the act, developing regulations on postemployment

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[6]/"What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced?" (FPCD-78-38, Aug. 28, 1978).

[7]/"Potential Problem With Federal Tax System Postemployment Conflicts of Interest Can Be Prevented" (GGD-81-87, Sept. 15, 1981).

restrictions, monitoring and investigating executive agencies' ethics programs, interpreting rules and regulations concerning standards of conduct, and establishing a formal advisory opinion service as required under the act. OGE works closely with the Department of Justice on conflict-of-interest matters.

During presidential transitions, OGE works with potential nominees, the White House, and the involved agencies to review the nominees' financial disclosure reports. The Director of OGE must confirm to the Chairmen of the Senate confirmation committees that the candidates are in compliance with applicable laws and regulations concerning conflicts of interest. We were told by OGE officials that during the transition from the Carter Administration to the Reagan Administration, nearly all of OGE's time for approximately 3 months was spent preparing for the transition and a full year was spent reviewing the disclosure reports of nominees.

We did not identify any specific problems at OGE that a different organizational placement or a substantially larger staff would alleviate. The former Director of OGE [8/] told us that he viewed OGE's role as that of a small legal and consulting firm providing expert opinions to its clients, the agencies. Whether this will continue after a new Director is named will depend in part on the philosophy that individual brings to the position and any constraint placed on the Director by budget or staff limitations.

Appendix I to this report contains a more detailed discussion of the Ethics Act and the executive branch.

THE ETHICS IN GOVERNMENT ACT AND THE LEGISLATIVE BRANCH

Title I of the act established public financial disclosure requirements for high-level officials in the legislative branch. We have previously reviewed the implementation of the provisions of title I by the Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct (the designated Ethics Committees). In our report, "The Financial Disclosure Process of the Legislative Branch Can Be Improved" (FPCD-81-20, Mar. 4, 1981), we concluded that the intent of the law was not being met and we made several recommendations for

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[8/]The former Director, OGE, resigned the position effective September 3, 1982. As of February 8, 1983, a new Director had not been nominated.

improving the legislative branch disclosure system. A listing of these recommendations, along with responses provided by the committees' representatives in April and May 1982 on actions taken with regard to our recommendations, is included in appendix II.

THE ETHICS IN GOVERNMENT ACT AND THE JUDICIAL BRANCH

Title III of the act established public financial disclosure requirements for officials and certain employees in the judicial branch. On May 14, 1979, a group of Federal district court judges filed a suit to prohibit public disclosure of judges' financial disclosure reports. The judges contended that the requirements enacted by the Congress violated the constitutional doctrine of separation of powers and that the public disclosure requirements constituted an invasion of their right to privacy. On November 19, 1979, the suit was decided in favor of public disclosure of the reports.

The financial disclosure reports filed by judges under the act are available for public inspection at the court to which the judge is assigned. This provides a simplified mechanism for lawyers or others to raise questions regarding possible conflicts of interest on any particular court case. Appendix III to this report contains a description of the public financial disclosure system of the judicial branch.

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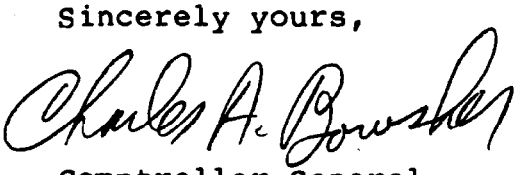
Reports we have issued in the ethics area are listed in appendix IV. The objective, scope and methodology of our work for this review is discussed in appendix V.

In the interests of time, we did not obtain agency comments on this report. We will send copies of this report to interested parties and make copies available to others upon request.

Sincerely yours,



Comptroller General
of the United States

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ABBREVIATIONS

CFR	Code of Federal Regulations
DOD	Department of Defense
EPA	Environmental Protection Agency
FECA	Federal Election Campaign Act
GAO	General Accounting Office
GS	General Schedule
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
OGE	Office of Government Ethics
OPM	Office of Personnel Management
SES	Senior Executive Service

APPENDIX I

THE ETHICS IN GOVERNMENT ACT AND THE EXECUTIVE BRANCH

This appendix provides information on the Ethics Act as it pertains to the executive branch. Specifically, it covers the

- --different views held on the act's effect on recruiting for executive branch personnel;
- --public financial disclosure requirements of title II of the act, including misconceptions held, concerns raised by filers, experience under the public access provisions, and proposals to change the requirements;
- --postemployment restrictions imposed by title V of the act, availability of information on employees' postemployment activities, use of administrative sanctions by agencies, and proposals to change the restrictions; and
- --role and responsibilities of OGE as authorized by title IV of the act.

EFFECT OF THE ETHICS ACT ON EXECUTIVE BRANCH RECRUITING

Recent articles have suggested that the Ethics in Government Act is an obstacle to the Federal Government's ability to employ and retain highly qualified individuals. [1/] We discussed this issue with individuals at the White House, OGE, other executive branch agencies, public interest groups, and other organizations. They identified several additional factors--legal, political, economic, social, and personal--which can affect an individual's decision to accept or reject an offer of Federal employment. This makes it extremely difficult, if not impossible, to attribute any specific degree of Federal recruiting difficulty to the Ethics Act or to any of its provisions.

1/Some examples include: "Lifting the Barriers to Government Service," Business Week Apr. 19, 1982; "Administration Officials Eye Repeal of Financial Disclosure Requirement," The Washington Post, Apr. 9, 1982; "Now a Drive to Ease Watergate Reform Laws," U.S. News and World Report, May 25, 1981; and "Missing: Thousands of Bureaucrats," U.S. News and World Report, Jan. 26, 1981.

The Counsel to the President told us that he believes that more individuals are lost during the recruiting process now than before the Ethics Act, but it cannot be determined where in the recruiting process individuals decline Federal service. He stated that many of the problems and restrictions frequently attributed to the Ethics Act actually existed prior to the act. He believes that problems in attracting top individuals to Federal service lie in the cumulative effect of the Ethics Act and the criminal conflict-of-interest statutes, and not with specific provisions of the Ethics Act.

A representative of the Presidential Personnel Office shared the view that it is difficult to determine at what point refusals of Federal employment occur. He said that prospective candidates for Federal positions sometimes know only the general concepts of the Ethics Act and not its specific requirements. He stressed the importance of looking at any recruiting problem comprehensively with factors, such as compensation, financial holdings, and financial disclosure, being considered.

A former official of the same office told us that there have been many cases of individuals refusing Federal service because of what is perceived as "Ethics Act requirements." He said that the term, however, refers not only to the financial disclosure requirements of the Ethics Act but to other requirements as well, including postemployment restrictions, divestiture, and blind trust provisions. He declined to provide us with specific cases.

The then Director of OGE noted in an article (Public Administration Review, Nov. - Dec. 1981) that criticism portraying the Ethics Act as the significant barrier to top level Federal recruiting frequently has been imprecise and somewhat misleading. He stated that more serious obstacles to Federal recruiting include the conflict-of-interest statutes, costs (such as tax liabilities) associated with remedying potential conflicts of interest, and the prohibited financial holdings provisions of various acts which establish agencies and agency rules.

A representative of the Business Roundtable identified the Ethics Act as only one inhibitor to Federal service. The representative identified others as being the Senate confirmation process, moving and living costs associated with changing one's residence, the postemployment restrictions, and the business community's reluctance to accept the absence of its top individuals. A representative of Common Cause identified low Federal pay as the primary reason for Federal recruiting problems.

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The National Academy of Public Administration initiated a study of factors affecting Federal recruiting in October 1982. The study is expected to be completed about April 1983. Topics which are being considered for the study include compensation and fringe benefits, ethical standards, the confirmation process, conflict-of-interest restrictions, and attitudes on Federal employment prevailing in the non-Federal sector. It is expected that a discussion of the effects of the Ethics Act will be integrated into the selected topics as appropriate.

PUBLIC FINANCIAL DISCLOSURE REQUIREMENTS OF THE ETHICS ACT

Title II of the act requires high-level Federal officials to complete and submit a financial disclosure report which is reviewed by Federal ethics officials for possible conflicts of interest. The report is then made available for inspection by the public. The Ethics Act contains no criteria for determining what constitutes a conflict of interest or an appearance of a conflict of interest. Neither does it mandate specific actions to avoid such situations. Rather, the act sets out alternatives that could be used and requires that "appropriate" action be taken. Divestiture may be an appropriate action required by other statutes to avoid violations.

The conflict-of-interest criteria are found in the criminal conflict-of-interest statutes of title 18, United States Code; in Executive Order 11222 and its implementing regulations (5 CFR 735); and in other statutes and regulations. For example, 18 United States Code 208 restricts officials from participating in matters in which they have a personal financial interest. Several remedies are available to an employee (or nominee) to avoid such a conflict. They include disqualification in any matter involving the particular financial interest, waivers available under provisions of 18 United States Code 208(b), divestiture of the interest, and qualified blind trust arrangements. The latter arrangement (the standards for which are found in the Ethics Act) operates under the theory that if individuals do not know what their financial holdings are, it is impossible to intentionally take an action to benefit those interests.

Individuals who must file public financial disclosure reports under the act and the information required to be reported annually are shown in the following charts.

Filers of Public Financial Disclosure Reports

Under Title II of the Ethics Act

Candidates: Candidates for the office of President or Vice President must file within 30 days of becoming a candidate or by May 15 of that year, whichever is later, and on or before May 15 of each succeeding year if still a candidate.

Nominees: Individuals nominated by the President to positions requiring Senate confirmation (other than for judicial office or appointment to a rank in the uniformed services at a pay grade of 0-6 or below) must file within 5 days after the nomination has been sent to the Senate.

Incumbents:

--The President and the Vice President.

--Individuals (including special Government employees as defined in 18 United States Code 202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS-16, step 1--currently $56,945.

--Members of the Senior Executive Service.

--Members of the uniformed service whose pay grade is 0-7 or above.

--Individuals in other positions determined by the Director of OGE to be of equal classification to a GS-16.

--Administrative law judges.

--Employees in the excepted service in positions of a confidential or policymaking character, unless exempted by the Director of OGE.

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--The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service, and officers or employees of the U.S. Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16.

--The Director of OGE and each designated agency ethics official.

Individuals must file within 30 days of assuming one of the above positions unless they either left a position in which they were required to file within the 30 days before assuming the new position, or filed as a nominee or candidate for the new position. Incumbents in these positions for more than 60 days in a year must file an annual disclosure report, which is due on or before May 15 of the next year. A report also is due if an individual terminates employment and does not accept another position in which filing is a requirement. This report must be filed no later than 30 days after termination, covering the preceding calendar year (if the annual report covering that year has not yet been filed) and the present year to the date of termination.

There are some exceptions to the above requirements. For example, nominees and individuals not reasonably expected to be employed in a position required to file more than 60 days in a calendar year are exempt from the reporting requirements. In addition, the Director of OGE can waive the reporting requirement for Special Government Employees who are expected to perform (or have performed) in a position required to file for less than 130 days in a calendar year under conditions specified in the act.

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Information Required to be Disclosed on Annual Reports (note a)

Schedule A (income/property interests and assets)

--Source and amount of noninvestment income exceeding $100 from any one source except from the U.S. Government during the preceding calendar year; source only for spouse's noninvestment income exceeding $1,000 from any one source.

--Source and category of value of any investment income received by (or accruing to the benefit of) employee, spouse or dependent child during the preceding year except items of income totaling under $100 from any one source. There are exemptions to identifying sources of income for certain trust fund arrangements.

--Source and category of valuation of any interest in property (real or personal) held by the employee, spouse, or dependent child, in a trade or business or for investment or the production of income which has a fair market value exceeding $1,000 at the close of the reporting period. Personal residences and savings aggregating $5,000 or less in a single financial institution may be excluded.

Schedule B (purchases/sales/exchanges)

--Description, category of amount, and date of any purchase, sale, or exchange during the preceding year exceeding $1,000 of real property (other than a personal residence), stocks, bonds, commodities futures and other forms of securities by the employee, spouse, or a dependent child. Certain types of transactions are excluded.

a/The disclosure requirements for incumbents, nominees, and candidates differ in some reporting categories as to time period and extent of information required.

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Schedule C (gifts/reimbursements)

--Source, brief description, and value of gifts of transportation, lodging, food, or entertainment received by the employee, spouse, or dependent child from each source other than a relative totaling $250 or more in value. Personal hospitality received on the donors' personal premises does not need to be reported.

--Source, brief description, and value of all other gifts received by the employee, spouse, or a dependent child during the preceding calendar year from each source other than a relative which total $100 or more.

--Source and approximate value of reimbursements aggregating $250 or more in value from any one source except the U.S. Government during the preceding calendar year by the employee, spouse, or a dependent child.

Schedule D (liabilities/positions held/relations with other employees)

--Description and category of amount of liabilities owed to each creditor other than a relative exceeding $10,000 by the employee, spouse, or dependent child during the preceding calendar year. Mortgages on a personal residence need not be reported.

--Positions held at any time during the preceding calendar year and the current calendar year (up to the date of filing) in any business enterprise, nonprofit organization, labor organization, and educational or other institution.

--Agreements regarding future employment, a leave of absence, continuance of payments by a former employer other than the U.S. Government, and continuing participation in an employee welfare or benefit plan maintained by a former employer.

Agency ethics officials review the submitted disclosure reports within 60 days of receipt. However, under the provisions of section 205 of the act, they make them available to the public within 15 days after receipt. 2/ The Attorney General may institute a civil suit in a U.S. District Court against an individual who knowingly and willfully falsifies or fails to file or report any information required. The court may assess a civil penalty not to exceed $5,000.

Reports are made available to a public requestor upon a written application, which must include (a) the requestor's name, occupation, and address, (b) the name and address of any other person or organization on whose behalf the inspection or copy is being requested, and (c) the statement that the requestor is aware of the prohibitions on the obtaining or use of the report. The law prohibits the use of financial disclosure reports for any unlawful purpose or commercial purpose (except by the media for dissemination to the general public), for determining or establishing the credit rating of any individual, or for soliciting money for any political, charitable, or other purpose. The Attorney General may bring a civil action against any person who obtains or uses a report for a prohibited purpose. The penalty in such an action may not exceed $5,000.

The financial disclosure provisions of the act became effective on January 1, 1979. The first annual reports were filed on May 15, 1979, covering calendar year 1978.

Concerns raised about meeting the financial disclosure requirements of the act

We contacted ethics officials at eight agencies to discuss any problems filers encounter in satisfying the financial disclosure requirements of the act. Ethics officials assist filers in completing disclosure forms, respond to their questions, and review the disclosure reports for conflicts of interest.

2/Except reports filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any individual engaged in intelligence activities, if excluded by the President.

The ethics officials told us that difficulties arise from both the form and the information requirements of the act. Officials at five of the eight agencies said that they provide filers in their agencies with supplemental instructions for completing the form. These instructions highlight problem sections of the form, provide examples of how to report selected items, and clarify the form's instructions. Six officials said that some problems arise because of the extent of the information required by the Ethics Act and because reporting individuals do not always read the instructions accompanying the form. Three officials believe that some problems result because the disclosure form is geared to annual filings and not to new entrant or termination filings. (There are some differences in the filing requirements for annual as opposed to new entrant or termination filings.)

The disclosure form has been revised several times. Two agencies we contacted, however, were not using the latest form--one because of overstocking of the older form and the other because of a problem in getting the new form to its widely dispersed staff.

Agency ethics officials noted two specific areas where problems frequently occur. One of these was Schedule A of the disclosure form. On this schedule, individuals are required to provide several pieces of information on certain assets--the category of value of the income from the asset, the valuation of the asset itself, and the valuation method used. Officials said that filers frequently omit the valuation method used, while others omit both the method and the value of the asset. The other problem area they identified was reporting of liabilities on Schedule D of the disclosure form. The officials said that many filers do not understand this section and do not provide complete information.

We did not conduct a detailed review of the disclosure form or its instructions. However, we noted that the instructions are not found close to the parts of the form to which they relate, some questions appear to be out of sequence, and many sentences seem to be long.

Arguments for and against public availability of financial disclosure reports

The legislative history of the Ethics Act cites several arguments for and against public access to financial disclosure reports filed by Government officials and employees. Some of the witnesses who testified on the financial disclosure provisions of the legislation said that public confidence in the Government was not very high and that public financial disclosure would increase the level of public confidence by allowing the public to determine whether conflicts of interest exist. Public disclosure also deters conflicts of interest from arising by the reporting individual's knowledge that what he or she does will be subject to public scrutiny. In addition, public disclosure may discourage some individuals whose financial holdings or activities are questionable from entering public service.

Other witnesses discussed the question of privacy, the impact on recruitment, who was required to file, the contents of reports, and improper use of the reports. They said that public disclosure was an invasion of the individual's right to privacy and that this loss of privacy would inhibit qualified persons from entering or remaining in public service. The vagueness of information to be reported and its relevancy to potential conflict situations involving the reporting individual's job was also questioned.

The public interest group, Common Cause, was active in passage of the legislation. It has taken the position that the Ethics Act established important standards of disclosure for public officials. Common Cause believes that the act balances the public's interest in Government integrity and the individual's right to privacy, and it strongly favors public disclosure as a means of protecting against potential conflicts of interest. It also believes that the establishment of a system of random audits, at least for Members of Congress, would make for a more effective financial disclosure system. The possibility of an audit would make reporting individuals more likely to be diligent and accurate in completing their reports. In addition, Common Cause favors more specific procedures for agency review of the financial disclosure reports.

Experience under the public access provisions of the Ethics Act

According to information we obtained from OGE most public requests for disclosure reports filed under the act have been for reports of political appointees. For example, 819, or 81 percent, of the 1,007 disclosure reports requested by the public during 1981 at OGE and 14 agencies surveyed by OGE, were reports of the President, Vice President, candidates for those two offices, and presidential appointees. 3/ The remaining 188 reports were those of career employees. This more than 4 to 1 request ratio (noncareer compared to career official) is even more significant when one considers that the number of career employees who are required to file greatly exceeds the number of noncareer employees who must file.

According to OGE, approximately 12,000 Federal employees file public disclosure reports and reports of political appointees comprise less than 10 percent of all filings under the act.

We reviewed the request applications received during 1981 at the White House; OGE; the Departments of Health and Human Services (HHS), Housing and Urban Development (HUD), Interior, and Labor, and the Environmental Protection Agency (EPA) to assess the public's interest in disclosure reports filed at these agencies. We chose these agencies because they had had a relatively large number of requests for disclosure reports based on information available from OGE. We found that the most frequent requestors for financial disclosure reports were the media and public interest groups. The following table shows the results of our review.

3/OGE alone received requests for 771 reports in 1981.

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Requests for Public Disclosure Reports
During 1981 at Seven Locations

Agency	Media	Public interest groups	Law firms	Other	Total
OGE	104	25	14	28	171
White House	67	1	-	1	69
HHS	4	1	1	5	11
HUD	2	-	-	2	4
Interior	3	6	1	2	12
Labor	-	-	-	6	6
EPA	2	2	-	-	4
	182	35	16	44	277
	(65.7%)	(12.6%)	(5.8%)	(15.9%)	(100.0%)

The "other" group consisted of requests received from congressional and other Federal offices (15), unions (3), research and service organizations (6), an educational institution (1), individuals not representing an organization (12), filers requesting copies of their own reports (3), and others not readily identifiable as one of the above groups (4).

We contacted 50 of the requestors to ask them how they used the information obtained and to get their views on the public access provisions at the act. Of the 50 requestors, 37 were from the media, 5 from public interest groups, 2 from law firms and 6 others--two Government requestors, two unions, and two research organizations. No individuals requesting copies of their own report were in our selection.

Nearly half of the media respondents said that they had obtained the disclosure reports to prepare news reports about whether an individual's financial holdings or business relationship created a conflict of interest or the appearance of a conflict of interest. Nineteen percent of media respondents said they used the reports to estimate the filer's net worth. Another nineteen percent used the information for both purposes. The remainder cited various reasons for obtaining the reports such as general background on an individual. The information obtained by media respondents did not always result in a news report.

The public interest groups' representatives told us they used the information to attempt to identify possible conflicts of interest. Other requestors said they obtained the reports for research purposes or for background information.

In general, respondents told us that the mere fact that disclosure documents are public information encourages individuals to be more accurate in completing the reports. Nearly all said they believe individuals at GS-16 and above should continue to file public disclosure reports. About 32 percent said that additional positions should be covered.

Proposals to amend the public financial disclosure provisions of the act

OGE made several suggestions to amend the filing requirements, blind trust, and other provisions of the act at its June 1982 ethics conference. It indicated that the Ethics Act requires too many categories of employees to file public disclosure reports but does not require some critical positions below the GS-16 level to file. It cited an example of a GS-16 personnel official who is required to file and a GS-12 procurement official who is not required to file but whose actions could directly affect private sector financial interests. A long-term solution to this problem, according to OGE, would be to have the Congress and/or the General Accounting Office (GAO) narrow and redefine the conflict-of-interest sensitive positions in the executive branch. This would be a time consuming and difficult task.

An alternative suggestion which OGE proposed would be to limit the group required to file publicly essentially to political appointees--individuals appointed by the President requiring Senate confirmation, noncareer members of the Senior Executive Service, Administrative Law Judges, certain positions of a policymaking nature (schedule C), and comparable noncareer executive positions in the Executive Office of the President.

An OGE official told us that, under this latter proposal, individuals at GS-16 and above, and officers in the career military service at levels O-7 and above would file the same financial disclosure reports as political appointees. These reports would be reviewed for conflicts of interest but would not be made available to the public.

OGE also recommended that requirements of the act relating to various trust arrangements be amended. The act identifies three kinds of trust arrangements--a qualified diversified trust which may be established by an individual who is appointed by the President and confirmed by the Senate, a qualified blind trust, and an excepted trust. The last two trust arangements can be used by all Federal employees.

(1) A qualified diversified trust must be composed of a well-diversified portfolio of readily marketable securities, none of which are securities of entities having substantial activities in the reporting individual's area of primary responsibility. Once established, holdings placed into this type of trust are immediately "blinded," are not considered financial interests of the individual for conflict-of-interest purposes, and do not have to be reported on the individual's disclosure report.

(2) A qualified blind trust must also meet certain requirements found in the act. Unlike the qualified diversified trust, however, assets placed in this trust by a reporting individual are still considered financial interests for conflict-of-interest determination purposes and must be reported on disclosure reports. The trust is considered blind only for assets purchased subsequently by the trustee or when the original assets of the trust are sold or reduced to a value of less than $1,000.

(3) An excepted trust is a trust which was not created by the Federal official, his spouse, or any dependent child and they do not possess any knowledge of its holdings or sources of income. Assets of this type of trust do not have to be reported.

OGE has proposed that all executive branch employees be authorized to establish the qualified diversified trust. Under the current act, this type of trust is available only to presidential appointees confirmed by the Senate. If OGE's proposed change is not acceptable, OGE would recommend that this type of trust not be allowed for any employee. OGE also has proposed that "old family trusts"--those established by an ancestor for the benefit of descendents (including a Federal employee) before the effective date of the Ethics Act and the holdings of which the Federal employee is aware--be able to be blinded under the act as to the Government beneficiary.

OGE has proposed that the Ethics Act's limitation on outside earned income for Senate-confirmed Presidential appointees (GS-16 and above)--not more than 15 percent of their Government salary--be eliminated as unworkable. OGE indicated that (1) it is difficult to interpret this provision without congressional guidance (for example, what exactly is "earned" income), (2) no sanctions are stated in the act, and (3) the standards of conduct for executive branch employees in Executive Order 11222 already prohibit outside activities from interfering with an employee's Government work.

RESTRICTIONS ON POSTEMPLOYMENT ACTIVITIES OF FORMER FEDERAL EMPLOYEES

Many of the restrictions on postemployment activities of Federal employees are often attributed to the Ethics Act but are actually imposed by other statutes and regulations. We found referrals of postemployment violations to the Department of Justice and actual prosecutions by Justice have been few. In our 1978 report "What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced?" (FPCD-78-38, Aug. 28, 1978), we discussed several reasons for this. In addition, agencies generally have not used the administrative sanction authority provided by the Ethics Act.

Postemployment restrictions of 18 United States Code 207 and how they were amended by the Ethics in Government Act of 1978

Before the Ethics Act was passed, the postemployment restrictions applicable to former Federal employees were as follows:

--A lifetime ban on formal representational activity back before the Government on any particular matter involving specific parties in which the former employee had participated personally and substantially while in the Federal service. (18 United States Code 207(a)).

--A 1-year ban on acting as agent or attorney back before the Government on particular matters involving specific parties which had been under the former employee's responsibility during the individual's last year of employment. (18 United States Code 207(b), later designated as 18 United States Code 207(b)(i)).

Title V of the Ethics Act modified these restrictions on postemployment activity to include informal appearances and oral and written communications made by the former employee "with the intent to influence." The 1-year ban also was extended to 2 years.

The act as originally passed placed additional restrictions on certain high-ranking employees designated as senior employees. Senior employees were prohibited from:

--Aiding, advising, or assisting in representing for a 2-year period, any person involved in any formal or informal appearance on matters in which the senior employee had participated personally and substantially or which were pending under the former employee's official responsibility during the senior employee's final year in office. (18 United States Code 207(b)(ii))

--Contacting their former agencies on matters before the agency (or in which the agency has a direct or substantial interest) for 1 year after employment ceases, regardless of the degree of association the official had with the matter or the nature of the proceeding. (18 United States Code 207(c)). (The act, however, also added a section 207(e) under which senior employees would be allowed to contact other units within their former departments or agencies designated by OGE as "separate statutory agencies or bureaus.")

Under the act as originally passed, four categories of employees were designated as senior employees. Two of these categories--executive-level employees and commissioned officers on active duty in the uniformed services holding a rank of O-7 and above--were automatically designated by the act as senior employees. The other two categories--positions at a rate of pay equal to or greater than a GS-17 with significant decisionmaking or supervisory responsibility and positions below the GS-17 pay level with significant decisionmaking authority--had to be designated by the Director of OGE as senior employee positions.

The Ethics Act also added section 207(j) to title 18, United States Code, which authorized department and agency heads after notice and opportunity for hearings, to discipline former employees who violated the postemployment restrictions. Under this provision, department or agency heads may prohibit a former employee from:

"* * * making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court."

Changes made to 18 United States Code 207 in 1979

Public Law 96-28, enacted June 22, 1979, made several significant changes to the postemployment provisions of 18 United States Code 207, as amended by the Ethics Act. The law:

--Limited the restrictions under 18 United States Code 207(b)(ii) to assistance given within 2 years of leaving the Federal service by "personal presence" at an appearance before the Government and only to those matters in which the former employee had personally and substantially participated.

--Limited the automatic senior employee designation under the act to executive-level and military grade 0-9 and above (instead of 0-7) positions. OGE-designated positions were limited to positions within the Senior Executive Service, positions at a pay grade of GS-17 and above, or commissioned officers at rank 0-7 or 0-8 only if they had significant decisionmaking or supervisory responsibility. OGE's authority to designate positions below GS-17 was rescinded.

--Authorized the Director of OGE to designate certain nonstatutory components of a parent department or agency as separate units having distinct subject matter jurisdictions [4]/ for the purposes of 18 United States Code 207(c), the 1-year bar on contacts concerning matters pending before the agency. This would allow contacts by senior employees (except those automatically designated by the act) before "separate and distinct" components other than the one in which the senior employee served, during that 1 year period.

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[4]/This determination recognizes the separateness of subordinate agencies or bureaus of an agency which have been administratively, not statutorily, created.

--Provided for an exemption to 18 United States Code 207(c) for contacts by former senior employees who are elected representatives of a State or local government, or regular employees of such a government, a nonprofit hospital or medical research institution, or a degree-granting institution of higher education, when the communication is made on behalf of such organization.

Information generally is lacking on the extent to which former employees are complying with postemployment laws and regulations

We reported to the Congress in 1978 5/--before the Ethics Act--that the executive branch's initiatives and agencies' efforts to enforce 18 United States Code 207 and corollary statutes and regulations were limited. Agencies gathered and maintained little information to determine whether postemployment conflicts were indeed a problem and to what extent violations of the restrictions were occurring. We also reported that the Department of Justice had prosecuted 5 postemployment cases since 1970. In fact, Justice officials said that criminal prosecution for postemployment violations was sometimes viewed as too severe and no alternative civil or administrative remedy was available to handle such violations.

We reported in 1981 6/--after the Ethics Act, with its administrative sanction authority, was implemented--that the Departments of Justice and the Treasury, including the Internal Revenue Service, had done little to administer the postemployment restrictions. These agencies did not monitor their former employees' subsequent involvement in Federal tax matters to detect violations of the restrictions or to determine if postemployment problems existed. They did not know, for example, how many of their former employees were working in private tax practice, if there had been many occasions where former employees had faced postemployment conflict-of-interest situations, whether these situations were resolved, or whether they resulted in actual violations of the postemployment restrictions.

5/"What Rules Should Apply To Post-Federal Employment and How Should They Be Enforced?" (FPCD-78-38; Aug. 28, 1978).

6/"Potential Problem With Federal Tax System Postemployment Conflicts Of Interest Can Be Prevented," (GGD-81-87, Sept. 15, 1981).

According to information we obtained from the Department of Justice, the number of agency referrals to Justice of postemployment violations and the number of cases actually prosecuted have not changed significantly since the Ethics Act was implemented. Although the actual number of cases referred to Justice is relatively small, [7]/ whether this represents an adherence by former employees to the provisions of the postemployment statutes, or an inaction or inability on the part of agencies to identify such violations and refer them to the Department of Justice, and of Justice to prosecute, is difficult to determine because of the lack of information.

There is no Government-wide requirement that former employees report their postemployment activities. [8]/ This makes it difficult to determine how frequently violations of the postemployment restrictions occur.

OGE officials told us that they believe improvements have occurred because of the advice and guidance provided by that office on request. The officials said that by following OGE's advice, former employees could avoid postemployment violations.

Agencies seldom use the administrative sanction authority available under the Ethics Act

The administrative enforcement authority provision was included in the Ethics Act to provide a more realistic possibility that violators of the statute would be punished, since criminal prosecutions had been pursued so infrequently. The act required departments and agencies to consult with the Director of OGE and

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[7]/The number of postemployment conflict-of-interest matters referred to U.S. Attorneys' Offices ranged from 4 to 12 during fiscal years 1975 to 1981.

[8]/Former employees of the Department of Defense, including former civilian employees whose salaries were equal to or above the minimum GS-13 salary level and certain former and retired military officers must complete a report of their current employment. For fiscal year 1981 about 1,800 individuals submitted such reports. Former employees of defense contractors employed by the Defense Department must complete a similar report.

establish procedures implementing this provision of the act no later than January 1, 1980. In an attempt to eliminate unnecessary work and promote uniformity, OGE developed interim regulations on postemployment activities, which included a model provision on administrative enforcement proceedings (Federal Register, Apr. 3, 1979). The final regulations contained the same provision (Federal Register, Feb. 1, 1980).

We found that only a few agencies met the time requirement stated in the law for establishing their procedures, others were late, and still others have yet to establish their procedures. Also, agencies which have already established procedures seldom use the authority. According to OGE records, only eight agencies had established their administrative enforcement procedures by January 1, 1980. As of September 2, 1982, a total of 58 agencies had established enforcement procedures.

Also, as of September 2, 1982, based on information provided by OGE, 28 agencies [9/] had not established enforcement procedures. We contacted ethics officials at these agencies and at OGE to discuss why the agencies had not done so. We found that:

--One agency had submitted its proposed procedures to OGE and was awaiting its review.

--Three agencies had drafted their procedures but had not completed them.

--Two agencies were revising their standards of employee conduct which would include administrative enforcement procedures.

--Four agencies were either drafting or reviewing their procedures.

[9/] In addition, six components of the Executive Office of the President had not yet established enforcement procedures. One of these units has submitted its procedures to OGE for review. We were told by an official in the Office of Administration in the Executive Office that the other groups were working on their procedures which would be submitted shortly to OGE.

--Eighteen agencies had taken no action to comply with the requirement.

As of February 16, 1983, 22 agencies had still not established enforcement procedures. Procedures for 1 of the 22 were being reviewed by OGE. Only 2 of the 22, however, were Federal departments. Many were small agencies or Federal commissions such as the National Capital Planning Commission.

We also surveyed ethics officials in 33 of the agencies with administrative enforcement procedures to determine how frequently these procedures had been used. We found one instance where an agency had imposed an administrative sanction--a 5-year ban on contact with the agency--against a former agency employee. In that case, the former employee was indicated for violating 18 U.S.C. 207(a). Justice, however, did not believe the case warranted a severe penalty. The sanction was agreed to by the U.S. Attorney and the defendent's attorney. It was latter ratified by the agency head.

Proposals to amend the postemployment restrictions for Federal employees

The Ethics Act, as noted earlier, places additional postemployment restrictions on individuals in executive-level positions and military officers in grade O-9 and above (senior employees). In addition, certain positions at GS-17 and GS-18, the Senior Executive Service, and military grades O-7 and O-8, may be designated by the Director of OGE, in consultation with the agency head as senior employee positions. During each of the last 3 years, OGE has designated about 36 percent of positions potentially eligible for designation.

At its June 1982 ethics conference, OGE proposed that only those individuals automatically designated under the act would continue to be restricted by the 1-year restriction on contacting their agencies on matters before the agency and the 2-year ban on representing others by personal appearance before the Government on matters in which they had personally and substantially participated.

OGE is in favor of having its authority to designate positions abolished because it believes (1) the act provides few meaningful standards to use in making such designations, (2) employees in the group eligible for OGE designation are not normally high enough in their agency hierarchy to have the extent of influence that is attributed to them by the imposition of the 1-year contact ban, and (3) reorganizations, changes in administration, and personnel changes caused by reductions in force have made it difficult for OGE to receive updated position descriptions of would-be designees and information on how they fit into their organizations, making administration of this provision very difficult.

Under the act, OGE can also designate nonstatutory components of agencies as "separate and distinct units." OGE-designated senior employees in these components are not subject to the 1-year contact ban with regard to other units in their former agencies which have separate and distinct subject matter jurisdiction from the unit in which they had served. For example, OGE has designated several nonstatutory components of the Department of Justice as separate units. Among them are the Civil Division, Criminal Division, Tax Division, and the Antitrust Division.

OGE has recommended that this authority also be abolished. According to OGE, the Ethics Act provides few standards to make such designations, and the designation process is cumbersome, difficult to decipher, and very subjective. OGE has found it difficult to rule consistently since nonstatutory components are subject to internal administrative and subject matter reorganizations.

OGE: ITS MISSION, ORGANIZATION, AND OPERATIONS

OGE was established within OPM by section 401, title IV, of the Ethics Act. Its objective was to provide overall direction of executive branch conflict-of-interest policies. The Director of OGE is appointed by the President with the advice and consent of the Senate.

Under the act, the Director was given several specific responsibilities. They include:

--Developing and recommending to OPM (in consultation with the Attorney General) rules and regulations on conflicts of interest and ethics in the executive branch (including establishing procedures for the filing, review, and public availability of financial disclosure reports filed under title II), and on the identification and resolution of conflicts of interest.

--Monitoring and investigating compliance with title II public disclosure requirements and other statutory financial reporting and internal review requirements for the executive branch.

--Consulting, when requested, with agency ethics officials on individual conflict-of-interest cases and promoting the understanding of ethical standards in executive agencies.

--Reviewing financial disclosure reports filed with that office to determine whether they reveal possible violations of conflict-of-interest laws and regulations and recommending corrective action.

--Providing formal advisory opinions regarding matters of general applicability and important matters of first impression and assisting the Attorney General in evaluating the effectiveness of the conflict-of-interest laws and in recommending appropriate amendments.

The first Director (a recess appointee) served until the end of July 1979 when he began his transition to a position at another Federal agency. His participation after July was limited to policy decisions necessary to keep the office functioning. On November 26, 1979, the President nominated a new Director who was confirmed on December 18, 1979, and served until his resignation, effective September 3, 1982. The office is currently operating without a Director and, since April 1982, without a Deputy Director. The Chief Counsel is serving as the Acting Director of the office.

OGE is composed of a legal staff and a monitoring and compliance staff. In fiscal year 1982, 23.4 staff years were authorized for the office. As of September 27, 1982, OGE had 21 employees, 6 of whom were administrative or clerical staff.

The legal staff consists of the Chief Counsel and five attorneys. This group responds to legal issues raised by agencies, Federal employees, nominees, the public, or the OGE monitoring and compliance group. It also works closely with the Department of Justice on conflict-of-interest matters. Under a 1980 Memorandum of Agreement between OGE and Justice, the Director of OGE, consults with Justice's Office of Legal Counsel before rendering a formal written advisory opinion on matters of general applicability and important matters of first impression involving interpretation or application of the conflict-of-interest laws contained in 18 United States Code 202-209. The agreement further states that individuals relying on OGE's advisory opinions will not be prosecuted under the conflict-of-interest laws as a result of such an act.

As part of the Memorandum of Agreement, the Director of OGE, also must consult with Justice's Criminal Division before issuing an advisory opinion on an actual or apparent violation of any conflict-of-interest law. OGE must delay issuing such an opinion until Justice determines that it will not prosecute the case.

The monitoring and compliance staff consists of nine management analysts under the oversight of the Deputy Director of OGE (vacant at the time of our review). This group is generally responsible for reviewing financial disclosure reports and agencies' ethics programs and for conducting ethics training programs for agencies.

The Ethics Act (section 405, title IV) authorizes the appropriation of not more than $2 million a year through the end of fiscal year 1983 for OGE operations. OGE's funding, which comes from appropriations to OPM, has never reached this level:

--In fiscal year 1980, actual obligations for OGE salaries and expenses were about $629,000.

--For fiscal year 1981, OGE initially requested $1,000,000 for salaries and expenses. OPM initially approved $853,000. Additional funds were approved during the year. Actual obligations for the year were $923,000.

--OGE was affected during fiscal year 1982 by the presidentially recommended, congressionally approved reduction in non-Defense agency appropriations for salaries and expenses and the additional reduction mandated by the December 1981 continuing resolution passed by the Congress. Actual obligations for fiscal year 1982 were $951,000.

--OGE's funding level for salaries and expenses for fiscal year 1983; is $1,016,000 (including $15,000 for advances and reimbursements).

The reductions in force and furloughs which took place at OPM during fiscal year 1982 also affected OGE. OGE employees, except for the Director, were furloughed for 6 days during fiscal year 1982. In addition, administrative and clerical positions were affected by downgradings and "bumpings" from other groups in OPM. OGE's professional positions were unaffected by the reduction in force.

Regulations to implement various provisions of the act

OGE has developed, and OPM has issued, several regulations to implement provisions of the Ethics Act. They include:

--Executive Personnel Financial Disclosure Requirements (5 CFR Part 734)--these regulations established procedures for the filing, review, and public availability of reports filed by executive branch officials and employees.

--Postemployment Conflict-of-Interest Regulations (5 CFR Part 737)--these explain restrictions on postemployment activities of title V of the act, provide guidance on administrative enforcement authority, establish procedures for making determinations and designations under the act, and designate certain positions as senior employee positions and certain statutory and nonstatutory agencies/bureaus for the purposes of limiting the application of the 1-year restriction of 18 United States Code 207(c).

--OGE (5 CFR Part 738)--these regulations set forth the elements of an agency's ethics program, responsibilities of an agency head concerning that program, and the duties of the designated agency ethics official as well as regulations establishing the formal advisory opinion service of OGE.

OGE reviews of agencies' ethics programs

As part of its monitoring and compliance function, OGE reviews agencies' ethics programs. This review includes the ethics program in organizational subunits; the public and confidential financial disclosure systems; presidential appointees'

agreements; standards of conduct regulations; postemployment matters; and the agency's ethics education, training, and counseling programs. OGE also visits the agency's personnel office and Office of the Inspector General. Agency visits vary from 2 days to about 3 weeks. In a letter to the agency, OGE makes recommendations for improving the systems.

Between June 1981 and August 9, 1982, OGE reviewed programs and issued reports on its findings to the designated agency ethics officials at 18 agencies. In addition, OGE has visited regional offices of several agencies, but it usually does not issue separate reports on these regional visits. Any discrepancies found are included in reports on the headquarters component. In cases where prompt remedial action is appropriate, OGE staff reports the discrepancies to the headquarters activity immediately.

We reviewed the reports that OGE has issued on agencies' ethics programs. The reports generally contained findings such as ethics officials not promptly reviewing disclosure reports, employees not filing the required reports, and disclosure reports not containing all required information. Several reports noted the need for additional ethics training for agency employees.

During 1981 and 1982 OGE instituted various follow-up procedures for its reviews. For example, agencies are asked to reply to OGE in writing on the actions taken to remedy any discrepancies found during the OGE review of the agency's ethics program. OGE follows up on the corrective action taken by an agency within 90 days after the report is issued if the agency has not reported to OGE. If an agency has not taken action, OGE will followup again in 60 days.

Additional OGE proposals

OGE proposed three other changes to the Ethics Act at its 1982 ethics conference, in addition to those previously discussed. The first would amend the Ethics Act to explicitly make OGE responsible for matters relating to standards of conduct for Federal employees (5 CFR Part 735).

The second proposal would remove section 207(g) of title 18 concerning activities of partners of current Federal employees from the postemployment conflict-of-interest law. This provision had been added to title 18 by the Ethics Act. OGE has

stated that this provision has nothing to do with the postemployment activities of former Government employees and should, therefore, be placed in a different section of the law or elsewhere. OGE also proposes that, for purposes of this provision, the term "partner" be explicitly limited to only general partners of Government employees. The current statutory term "partners" in section 207(g) is unrestricted and could include limited partners of a Government official through various tax shelter investments.

OGE's final proposal relates to Presidential transitions. OGE highlighted two particular problems it encounters. First, since a President-elect has no power to make nominations for Federal positions, neither OGE nor the agencies are entitled to review (or even be informed of) proposed candidates who will need Senate confirmation. Waiting until after January 20 to review and resolve any conflict-of-interest problems would cause bottlenecks. Instead, OGE recommends that the informal procedure which was followed during the Carter-Reagan transition be formalized. Under this procedure, the President-elect's "notice of intent to nominate" before January 20 was treated as tantamount to a nomination. It triggered the agency and OGE review of the candidate and resulted in an OGE opinion letter to the Senate confirmation committee before January 20. The second problem cited concerns the timing of the public release of disclosure reports during a transition period. In the absence of any guidance in the Ethics Act, OGE has ruled that if an agency receives an "intended candidate's" signed disclosure report from the President-elect, that agency must make the report publicly available within the next 15 days even if no actual nomination has been made. OGE would like the Ethics Act to be amended to recognize and provide guidance for handling this situation.

THE ETHICS IN GOVERNMENT ACT AND

THE LEGISLATIVE BRANCH

Title I of the Ethics in Government Act of 1978 established public financial disclosure requirements for the legislative branch. Members of Congress, officers of both the House and Senate, congressional employees, candidates for congressional office, and certain employees of the legislative branch are required to file public financial disclosure reports. The Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct (the designated Ethics Committees) are responsible for implementing and administering the legislative branch disclosure system. The Office of the Secretary of the Senate and the Clerk of the House receive disclosure reports, send copies of the reports to the Senate and House Ethics Committees, and make reports available to the public on request.

Members of Congress must file financial disclosure reports if they are in office on May 15 of any year. The reporting period covers the previous calendar year. Officers and employees of the House or Senate or a legislative branch agency are required to file on May 15 if they were compensated at the basic rate of pay equal to or more than that in effect for a grade GS-16 (currently $56,945), for more than 60 days in the previous calendar year. If a Member does not have a staff employee compensated at the rate of pay equal to or in excess of the GS-16 rate, that Member must designate at least one staff member as a "principal assistant" to file a disclosure report. The principal assistant must be employed by the designating Member of Congress on May 15. The principal assistant provision does not apply to staff of congressional committees.

New employees who are expected to work for more than 60 days and are compensated at or in excess of the GS-16 rate must file within 30 days of assuming the new position if they (1) were not employed in the legislative branch immediately before assuming the position or (2) did not hold a legislative branch position covered by the law within the preceding 30 days. The Ethics Committees may waive the reporting requirement for experts, consultants, and other employees hired on a temporary or part-time basis who are expected to work less than 130 days.

A candidate [10]/ for the Congress must file a financial disclosure report within 30 days after becoming a candidate, or by May 15, whichever is later, but in no event later than 7 days before an election. The individual must continue to file by May 15 of each year as long as he or she remains a candidate.

The financial information required on annual disclosure reports for the legislative branch is very similar to that required of individuals in the executive branch. This includes information on income from sources other than current Federal employment; gifts of lodging, food, or entertainment; other gifts and reimbursements; property interests held; liabilities; certain financial transactions; positions held; and terms of any agreements or arrangements with former employers or other parties. New officers and employees, and candidates for office are not required to report gifts, reimbursements, or certain financial transactions.

The Ethics Act contains no penalty for late filers. Section 106 of title I, however, authorizes the Attorney General to bring a civil action against those who knowingly and willfully falsify or fail to file or report information that they are required to report under the law. Violators can be assessed a civil penalty of up to $5,000.

PRIOR GAO REVIEW OF LEGISLATIVE BRANCH DISCLOSURE SYSTEM

Section 109 of the Ethics Act requires GAO to determine whether title I of the act is being carried out effectively and whether timely and accurate financial disclosure reports are being filed. From 1979-1981, we reviewed the House and Senate disclosure activities for the 1979 and 1980 calendar year filing requirements. We considered

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[10]/A candidate is defined by the Ethics in Government Act as someone other than the incumbent who seeks nomination or election to the Congress. This differs from the candidate registration requirement under the Federal Election Campaign Act (FECA). An amendment to that act on January 8, 1980, required only individuals who had raised or spent more than $5,000 to register with the Federal Election Commission. Thus, it is possible for an individual to be considered a candidate under the Ethics Act but not be required to register with the Federal Election Commission.

--the identification of filers, including the adequacy of coverage and an evaluation of how Members designate persons required to file;

--compliance with filing requirements;

--the compliance review role of the Ethics Committees;

--enforcement by the Justice Department;

--the need for systematic random audits of the reports filed under title I of the act; and

--how the Secretary of the Senate and the Clerk of the House carry out administrative duties, including the implementation of the public access requirements of the act.

Our report, "The Financial Disclosure Process of the Legislative Branch Can Be Improved" (FPCD-81-20), was issued on March 4, 1981. We concluded that the intent of the law was not being met because of the absence of a well-defined disclosure system and strict enforcement. The report included a series of recommendations for improving the disclosure process and other matters for consideration by the Ethics Committees.

In April and May 1982, we discussed the report's recommendations with staff representatives of Ethics Committees to determine what actions these committees had taken on our recommendations and on other matters we had discussed in the report. Their replies are noted below. We have not conducted any further followup work on these actions.

Recommendation to the Congress

Institute a requirement for random audits of financial disclosure reports.

Senate: The committee staff representative told us that no action has been taken.

House : The committee staff representative told us that no action has been taken.

Recommendations to the Chairmen of the House and Senate Ethics Committees

Develop formal written criteria to assist Members in designating principal assistants subject to potential conflicts of interest.

Senate: The staff representative told us the committee believes it should be left up to each Senator to decide how to run his office and to make such designations.

House : The committee staff representative told us that no action has been taken.

Periodically evaluate legislative branch agencies' identification of filers (including experts and consultants).

Senate: The staff representative told us the committee considers the lists of individuals required to file received from the legislative agencies to be accurate.

House : The committee staff representative told us that no action has been taken.

Inform the House and Senate support organizations of the information needed to monitor filing compliance and specify how often such information is needed.

Senate: The staff representative told us the committee believes lists of individuals required to file received from the Senate Disbursing Office and the legislative branch agencies are sufficient to monitor compliance.

House : The staff representative told us the committee believes that the information being provided by the House Office of the Clerk is adequate.

Regularly monitor all nonfilers (individuals required to file but who have not yet done so) and establish a policy that specifies the actions to be taken against nonfilers.

Senate: According to the committee staff representative, Senators and employees are filing disclosure reports on time. Most of the late filers are candidates. The committee policy is to send a series of three letters to nonfilers instructing them to file. If nonfilers still fail to file, the committee would refer them to the Department of Justice. No case has ever reached this last step.

House : The committee staff representative told us that the committee obtains compliance from House members, employees, and "serious" candidates on filing disclosure reports. Therefore, it has not had to take action against nonfilers.

Develop detailed guidelines to assist committee staff reviewing reports for completeness and accuracy.

Senate: A checklist has been developed for reviewing reports.

House: Written guidelines have been established.

Require all candidates, including candidates who lose a primary election (but who continue their candidacy), to promptly file disclosure reports.

Senate: The staff representative told us the committee requires all active candidates to file disclosure reports.

House : The staff representative told us the committee now requires all "legitimate" candidates, including candidates who lose a primary election, to promptly file disclosure reports.

Develop formal procedures and requirements for approval of a proposed trust and its trustee(s). Establish procedures for monitoring and enforcing the qualified blind trust requirements set forth in the law.

Senate: The staff representative told us that the only formal procedures and requirements are those in the act. The committee compares the trust agreement with the act. Also, it is the committee's position that it is the responsibility of the reporting individual to assure the independence of the trustee.

House : The staff representative told us the committee staff compares the trust provisions with those in the act.

Recommendations to the Chairman, Senate Ethics Committee

Monitor appointment of new employees required to file so that the committee can observe filing compliance by these individuals.

The Senate Disbursing Office mails a notification to new covered employees informing them to file within 30 days and also sends a list of the new employees to the Senate Ethics Committee. The committee staff representative believes this is sufficient to assure compliance.

Notify Senators who must designate a principal assistant when they do not have an employee equivalent to a GS-16 or above on their staff.

The staff representative told us the committee does not see any need to notify Senators because the act states that such a designation is required if no staff member is paid at a GS-16 rate or above. Also, each Senator has a designated individual on his or her staff to handle political funds who must file a financial disclosure report under Senate rule 41.

Followup to insure that individuals requested to amend their reports comply in a timely fashion.

Individuals are given 2 weeks to amend their reports. If they do not, a followup of mail and telephone contacts is undertaken.

Assume the enforcement initiative, after sending the proper dunning notices to delinquent filers, by referring to the Attorney General, in a timely fashion, all individuals who have failed to file disclosure reports.

According to the committee staff representative, there has never been a reason to refer anyone to the Attorney General. The committee staff representative believes the dunning notices and follow-up actions have been successful in getting individuals to file disclosure reports.

Recommendations to the Chairman, House Ethics Committee

Establish a system that will monitor requests for and receipts of amended reports.

A system has been developed for tracking reports to be amended.

Establish timeframes for when an amended report should be filed.

Individuals are allowed one week to correct their financial disclosure statements.

After sending the proper dunning notices to delinquent filers, refer nonfilers to the House Members for decision to refer them to the Attorney General.

Although the House Office of the Clerk has been sending the proper dunning notices to delinquent filers of financial statements, the Ethics Committee has not referred any nonfilers to House Members.

Matters for consideration by the Chairmen of the House and Senate Ethics Committees

Modify the appropriate Federal Election Campaign forms, in coordination with the Federal Election Commission, to help the Senate and House offices of public records insure that all defeated candidates who remain candidates are properly identified.

Senate: The committee staff representative told us that no action has been taken.

House : The committee staff representative told us that no action has been taken.

Conform the ethics law definition of a candidate to that of the Federal Election Campaign Act and introduce necessary legislation to do so.

Senate: The committee staff representative told us that no action has been taken.

House : The committee staff representative told us that no action has been taken.

Amend the ethics law to lower the salary required for filing to $50,112 (the then-current pay ceiling) or some other specified pay level.

Note: The October 1980 pay adjustment set the legal rate of a GS-16, step 1, at $52,257. However, the basic rate of pay payable to employees at this level was limited to $50,112. Because of a House Ethics Committee interpretative ruling, many individuals who were required to file in 1980 were not required to file in 1981 because they were no longer compensated at the legal GS-16 rate. This did not occur in the Senate in 1981 due to a different interpretation of the requirement. Neither the House nor the Senate took action to rectify the above situation. On

APPENDIX II

January 1, 1982, the pay ceiling was raised to $57,500 (General Schedule) and $58,500 (SES), once again permitting the paying of the legal rate for GS-16, step 1. Although this alleviated the problem, it could arise again if the pay ceiling drops below the GS-16, step 1, legal rate in the future.

If individuals continue to file late, after appropriate committee action, consider amending the law to impose a civil penalty to discourage late filing.

Senate: The committee staff representative told us that no action has been taken.

House : The staff representative told us the committee has not found itself in a situation to require this and has taken no action on this matter.

Require that a reporting individual attach to the annual financial disclosure report any trust document required by law.

Senate: Trust documents are not attached to the annual reports, but are available to the public.

House : Reporting individuals are attaching trust documents to annual financial disclosure statements.

Propose legislation to delete the requirement that Member and candidate disclosure reports be forwarded to the appropriate States.

Senate: The committee staff representative told us that no action has been taken.

House : The committee staff representative told us that no action has been taken.

Designate a Federal location within each State as the repository for reports so that the maintenance/disposition, written application for inspection or copy, and unlawful use provisions may be consistently applied.

Senate: The committee staff representative told us that no action has been taken.

House : The committee staff representative told us that no action has been taken.

APPENDIX II

If either of the above two matters is not acted upon, prepare formal guidelines to State offices advising them of the proper practices that should be employed.

Senate: The staff representative told us the committee does not agree that formal guidelines to the States are needed.

House : The committee staff representative told us that no action has been taken

APPENDIX III

THE ETHICS IN GOVERNMENT ACT AND THE JUDICIAL BRANCH

Title III of the Ethics in Government Act established public financial disclosure requirements for judicial officers and other employees in the judicial branch. These requirements are very similar to the public disclosure requirements placed on employees in the other branches of the Federal Government. A description of the disclosure system in the judicial branch follows.

RESPONSIBILITIES OF THE JUDICIAL ETHICS COMMITTEE

Section 303(a) of the act required the Judicial Conference of the United States--the body which governs the administration of the Federal judicial system--to establish a Judicial Ethics Committee to receive and review financial disclosure reports in the judicial branch. On November 8, 1978, the Chief Justice of the United States appointed the members of this committee. The committee is composed of 10 district and circuit court judges with staff assistance provided by the Administrative Office of the United States Courts. The Deputy Director of that office serves as the Recording Secretary to the ethics committee.

The responsibilities of this committee are detailed in section 303(c) of the act. The committee, with the approval of the Judicial Conference:

--Develops necessary forms and issues rules and regulations.

--Monitors and investigates compliance.

--Makes reports available to the public.

--Conducts (or causes to be conducted) reviews of disclosure reports.

--Cooperates with the Attorney General in enforcement actions.

--Submits recommendations for revising title III of the act.

--Performs other functions assigned by the Judicial Conference.

FILING AND DISCLOSURE REQUIREMENTS FOR JUDICIAL OFFICERS AND EMPLOYEES

Judicial officers [11]/ must file annual financial disclosure reports with the committee and with the clerk of the court on which they sit. Judges of the District of Columbia courts, although not subject to the jurisdiction of the Judicial Conference, are also required under the act to file reports with the committee and with their clerk of court. In addition, employees of the judicial branch and of the Tax Court who are not judicial officers but who are authorized to perform adjudicatory functions with respect to judicial proceedings (such as bankruptcy judges, full-time magistrates, and certain part-time magistrates) or who receive compensation at or in excess of the minimum rate for grade GS-16 of the General Schedule must file with the committee and with the clerk of the court which they serve. About 1,700 Federal judicial officers and employees and District of Columbia judicial officers file annual disclosure statements.

Covered individuals must file a report for any calendar year in which they performed their duties for a period in excess of 60 days. Reports are due no later than May 15 of the succeeding year. Reports are also required from nominees to Federal judgeship positions within 5 days of transmittal of the nomination by the President to the Senate, from newly appointed judicial employees within 30 days of assuming a covered position, and from all covered individuals within 30 days of terminating employment. The Committee can grant filing extensions of up to 90 days.

Annual reports must include information on the source, type, and amount of noninvestment income; income from and value of investments and trusts; gifts; reimbursements; liabilities; certain types of financial transactions; positions held; and continuing arrangements with former employers or other parties. New judicial employees and nominees for Federal judgeship positions need not report gifts, reimbursements, or transactions.

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[11]/Judicial officers include the Justices of the Supreme Court and the Judges of the United States Courts of Appeal, the United States District Courts, the Court of Claims, the Court of Customs and Patent Appeals, the Tax Court, the Court of International Trade, and other courts created by Act of Congress.

The specific information required is detailed in section 302 of the act and is, with only a few exceptions, the same as that required for covered individuals in the legislative and executive branches. One difference, however, is that judicial officers must report all of their holdings even those in any trust arrangements.

REVIEW AND COMPLIANCE ACTIVITIES OF THE JUDICIAL ETHICS COMMITTEE

Under the authority of sections 303(c) and 306(a) of the act, the ethics committee reviews disclosure reports to determine whether they are "filed in a timely manner, are complete, and are in proper form." The committee has not established any formal written procedures for this review. Each report is reviewed by at least one member of the committee and no committee member may review any reports from his or her own district or circuit. The committee sends letters to reporting individuals concerning errors or omissions on the reporting form and to individuals who have failed to file in the time allowed. In addition, staff of the Administrative Office, U.S. Courts compared reports covering calendar year 1981 with reports covering calendar year 1980 for consistency of information. The committee plans to continue this procedure.

Under sections 303(c) and 306(b) of the act, the filed reports must be reviewed for possible violations of appropriate conflict-of-interest laws and regulations. Because of the wide variety of cases to which a judicial officer may be assigned, however, identifying a potential conflict-of-interest situation at the time the disclosure report is filed and reviewed is very difficult. The Chairman of the Judicial Ethics Committee told us that there is no absolute way to determine possible conflicts of interest by reviewing the disclosure reports. Questions of conflict of interest are more likely to arise in relation to a specific court case under consideration. This differs considerably from the way in which conflicts are identified in the executive branch. In this regard the disclosure report form covering calendar year 1981 was amended to incorporate the statement, "* * * to the best of my knowledge at the time after reasonable inquiry, I did not participate in any litigation during the period covered by this report in which I, my spouse, or dependent child or children had a financial interest in the outcome of such litigation."

Section 304(b) of the act specifically provides that the committee refer to the Attorney General the name of any individual the committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to

file information required to be reported. Under the authority granted by section 304(a) of the act, the Attorney General may bring a civil action in a United States District Court against such an individual and a civil penalty not to exceed $5,000 may be assessed by the Court. As of July 27, 1982, the Judicial Ethics Committee had not made any referrals to the Attorney General.

In accordance with section 305(b)(1) of the act, copies of the disclosure reports may be obtained by the public at either the Judicial Ethics Committee or the local clerk of court. Approximately 95 percent of requests made to the committee for disclosure reports are from the media. We did not determine who requests disclosure statements at the local court level because these requests are not monitored by the Judicial Ethics Committee.

OTHER SAFEGUARDS AGAINST JUDICIAL CONFLICTS OF INTEREST

The legal profession has developed other safeguards against conflict-of-interest situations. For example, on August 16, 1972, a Code of Judicial Conduct was adopted by the House of Delegates of the American Bar Association. The code was also adopted in 1973, with a few modifications, by the Judicial Conference as the Code of Judicial Conduct for United States Judges. Canon 3 of the Code requires a judge to disqualify himself in any proceeding in which he has a financial interest, however small. Canon 5 requires a judge to refrain from engaging in business and financial activities which might interfere with the impartial performance of his judicial duties. Canon 6 requires him to report all compensation he receives for outside activities. The Judicial Conference in a March 1979 report noted that in situations where provisions of the Code of Judicial Conduct for U.S. Judges appear to vary from the standards established under the Ethics in Government Act, the stricter standard, whether in the code or in the act, should apply.

The Temporary Emergency Court of Appeals and several other courts of appeal have implemented special disclosure rules to make it easier to identify potential conflict situations. In these courts, corporate parties to litigation furnish the court with lists of all controlled subsidiaries and parent corporations so that any conflict with the holdings of the judge may be identified. The Judicial Conference, at the suggestion of the Judicial Ethics Committee, has recommended to all courts that they adopt similar disclosure policies.

APPENDIX III

The criteria for disqualification of a judge from hearing a case and the procedures to be followed are found in 28 United States Code 455 and 28 United States Code 144. It is difficult to estimate the number of disqualifications which are due to financial reasons. Not only is summarized information lacking, but judges generally are not required to provide a specific reason when voluntarily disqualifying themselves in a case.

GAO REPORTS IN THE ETHICS AREA

Since 1974 we have issued 42 reports in the ethics area. The majority of these reports have dealt with agencies' financial disclosure systems. Others have dealt with standards of employee conduct, postemployment conflicts of interest, and various other ethics-related topics. These reports are listed in the following sections.

REPORTS ON FINANCIAL DISCLOSURE SYSTEMS

Executive Order 11222 prescribed standards of ethical conduct for Government officers and employees and directed the Civil Service Commission to establish guidelines for agency financial disclosure systems. We reported on the systems at several executive branch agencies and found deficiencies which lessened their effectiveness. We also reported on executive branch enforcement of financial disclosure reporting requirements. Also, in a summary report, we discussed what could be done to improve the overall administration and enforcement of the executive branch system.

We also reported on the implementation of the Ethics Act's public financial disclosure requirements by the legislative branch. We recommended several improvements to that process.

Title	Number	Date
Effectiveness of the Financial Disclosure System for Employees of the U.S. Geological Survey	FPCD-75-131	3/03/75
Effectiveness of the Financial Disclosure System for Civil Aeronautics Board Employees Needs Improvement	FPCD-76-6	9/16/75
Improvements Needed in the Federal Maritime Commission's Financial Disclosure System for Employees	FPCD-76-16	10/22/75
Improvements Needed in Procurement and Financial Disclosure Activities of the U.S. Railway Association	RED-76-41	11/05/75
Department of the Interior Improves its Financial Disclosure System for Employees	FPCD-75-167	12/02/75

Title	Number	Date
Financial Disclosure System for Employees of the Food and Drug Administration Needs Tightening	FPCD-76-21	1/19/76
Inter-American Foundation's Financial Disclosure System for Employees and its Procurement Practices	ID-76-69	6/30/76
Problems with the Financial Disclosure System, Federal Aviation Administration	FPCD-76-50	8/04/76
Problems Found in the Financial Disclosure System for Department of Commerce Employees	FPCD-76-55	8/10/76
Export-Import Bank's Financial Disclosure System for Employees and its Procurement Practices	ID-76-81	10/04/76
Actions Needed to Improve the Federal Communications Commission's Financial Disclosure System	FPCD-76-51	12/21/76
The Food and Drug Administration's Financial Disclosure System for Special Government Employees: Progress and Problems	FPCD-76-99	1/24/77
An Improved Financial Disclosure System, Energy Research and Development Administration	FPCD-77-14	1/26/77
Financial Disclosure System for Department of Agriculture Employees Needs Strengthening	FPCD-77-17	1/31/77
Action Needed to Make the Executive Branch Financial Disclosure System Effective	FPCD-77-23	2/28/77
Financial Disclosure Systems in Banking Regulatory Agencies	FPCD-77-29	3/23/77
The Federal Deposit Insurance Corporation's Financial Disclosure Regulations Should Be Improved	FPCD-77-49	6/01/77

Title	Number	Date
Financial Disclosure for High-level Executive Officials: The Current System and the New Commitment	FPCD-77-59	8/01/77
Proposals Regarding the Federal Reserve Board's Financial Disclosure System	FPCD-77-46	8/12/77
Department of Commerce Actions to Improve its Financial Disclosure Systems	FPCD-78-42	4/13/78
Federal Trade Commission Needs to Strengthen Rules on Financial Disclosure	HRD-78-141	7/10/78
Actions Taken by Bank Regulatory Agencies to Improve Their Financial Disclosure Systems	FPCD-78-54	7/14/78
The Financial Disclosure Process of the Legislative Branch Can Be Improved	FPCD-81-20	3/04/81
The Geological Survey's Financial Disclosure System is Adequate but Further Refinements are Needed	FPCD-82-37	4/16/82
Changes are Needed to Improve the Management of the Bureau of Land Management's Financial Disclosure System	GAO/FPCD-83-16	10/18/82

REPORTS ON STANDARDS OF EMPLOYEE CONDUCT

Standards of conduct regulations were established by Federal agencies in response to Executive Order 11222. We reviewed the development and implementation of these standards at six agencies. (The Departments of Health, Education, and Welfare, the Interior, Housing and Urban Development, and the National Science Foundation, National Aeronautics and Space Administration, and Environmental Protection Agency.) We also examined certain aspects of the standards of conduct program at the Army and Air Force Exchange Service and the Navy Resale System Office in a separate review.

We issued four reports recommending specific improvements to agencies' standards of conduct programs and an overall report primarily concerning issues to be addressed by OPM.

Title	Number	Date
Department of Health, Education, and Welfare Standards of Employee Conduct Need Improvement	FPCD-79-29	3/14/79
National Science Foundation Standards of Employee Conduct Need Improvements	FPCD-79-33	3/29/79
Employee Standards of Conduct: Improvements Needed in the Army and Air Force Exchange Service and the Navy Resale System Office	FPCD-79-15	4/24/79
Environmental Protection Agency Standards of Employee Conduct Need Improvement	FPCD-79-48	5/08/79
Federal Agency Standards of Employee Conduct Need Improvement	FPCD-80-8	10/18/79

REPORTS ON POSTEMPLOYMENT CONFLICTS OF INTEREST

The interchange of personnel between the Federal Government and private business has been referred to as the "revolving-door" syndrome. Although certain advantages are gained by both the public and private sectors through this interchange, there has been an increasing public consciousness of former Federal officials using or appearing to use their public experience to their personal advantage in the private sector. We have issued two reports concerning postemployment conflicts of interest. The first discusses the Government's efforts to regulate post-Federal employment and what can be done to improve executive branch administration of existing laws and regulations. The second report discusses how the Departments of Justice and the Treasury, including the Internal Revenue Service, implemented the postemployment laws and professional standards that apply to former Federal employees.

Title	Number	Date
What Rules Should Apply to Post-Federal Employment and How Should They be Enforced?	FPCD-78-38	8/28/78
Potential Problem with Federal Tax System Postemployment Conflicts of Interest Can Be Prevented	GGD-81-87	9/15/81

OTHER RELATED REPORTS

Title	Number	Date
Divestiture of Conflicting Interests by Employees of the U.S. Geological Survey	FPCD-76-37	2/02/76
Propriety of Certain Trips Made by Senior Uniformed Officers Aboard Government-owned Aircraft	FPCD-78-59	8/18/78
The District of Columbia Government Should Establish a Separate Office of Ethics	FPCD-79-65	8/16/79
Roles and Responsibilities of the Congressional Offices Under Title I of the Ethics in Government Act of 1978	FPCD-80-27	11/13/79
Efforts by the Office of Government Ethics to Implement Certain Sections of the Ethics in Government Act	FPCD-80-34	12/07/79
Review of Federal Agencies' Gift Funds	FGMSD-80-77	9/24/80
Review of the Propriety of White Hosue and Executive Agency Expenditures for Selected Travel, Entertainment, and Personnel Costs	FGMSD-81-11 FGMSD-81-13 FGMSD-81-14	10/20/80 10/20/80 10/20/80
National Science Foundation Conflict of Interest Problems with Grants to Short Term Employees	PAD-81-16	1/15/81

Title	Number	Date
Framework for Assessing Job Vulnerability to Ethical Problems (staff study)	FPCD-82-2	11/04/81
Objectivity of the Defense Science Board's Task Force on Embedded Computer Resources Acquisition and Management	GAO/FPCD-82-55	7/22/82

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to obtain and summarize information on selected aspects of the Ethics in Government Act. We concentrated on those provisions of the act which apply to the executive branch (titles II, IV, and V) and obtained only limited information on provisions applicable to the legislative and judicial branches (titles I and III, respectively).

We obtained information from and discussed ethics issues with officials at the White House, OPM, OGE, and Department of Justice. We also contacted representatives of several private organizations, including the Business Roundtable, National Academy of Public Administration, and Common Cause, and officials of former Administrations. We obtained their views on the benefits of and problems relating to the Ethics Act, particularly its effect on Federal recruiting.

In addition, we reviewed the legislative history of the Ethics Act, other relevant laws and regulations, and literatureon ethics in Government. We also conducted three telephone surveys:

--A survey of 50 individuals who had requested copies of public financial disclosure statements during 1981 to determine how they used the information and their views on the public access provisions of the Ethics Act. This sample was judgementally selected to obtain coverage of the major user groups.

--A survey of ethics officials at 33 of the 58 agencies which have established administrative enforcement procedures for handling postemployment violations, to determine how often these procedures have been used. We limited this survey because the similarity of responses from the agencies contacted made additional contacts unnecessary.

--A survey of ethics officials at 28 agencies which had not established administrative enforcement procedures on postemployment violations to determine why they had not done so. Based on information provided by OGE, these represented all of the agencies which had not established procedures at the time of our review. Several of these agencies subsequently did establish procedures.

APPENDIX V

We contacted representatives of the designated House and Senate Ethics Committees to determine what actions they have taken on our earlier recommendations for improving the legislative branch's financial disclosure process. As your office requested, we did no followup work to assess the actions taken.

We discussed provisions of the judicial branch's financial disclosure system with the Chairman of the Judicial Ethics Committee of the Judicial Conference and the Deputy Director, Administrative Office of the United States Courts.

We performed this review in accordance with generally accepted Government audit standards from February to December 1982.

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