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Description of document: The three most recent Office of Government Ethics (OGE) Program Reviews of the Federal Emergency Management Agency's (FEMA's) Ethics Program, 2001, 1995, 1990

Requested date: 17-February-2012

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Source of document: OGE FOIA Officer  
Office of Government Ethics, Suite 500  
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Washington, DC 20005-3917  
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United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

March 5, 2012

Tracking No: OGE FOIA FY 12/22

The Office of Government Ethics (OGE) is granting in part and denying in part your Freedom of Information Act (FOIA) request, which was referred to OGE by the Federal Emergency Management Agency (FEMA) and received by the OGE FOIA Office on February 17, 2012. In your request, you asked for a copy of the last three Program Reviews of the FEMA's Ethics Program.

OGE has located three documents responsive to your request. In response, we are enclosing in full two responsive documents. We are enclosing in part one responsive document, subject to deletions under FOIA Exemption 6, 5 U.S.C. § 552(b)(6) as information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The deletions are each marked with a reference "(b)(6)" in the enclosed copy.

The OGE official responsible for this FOIA determination is the undersigned. In accordance with the FOIA, as codified at 5 U.S.C. § 552(a)(6)(A), and OGE's FOIA regulations, at 5 C.F.R. § 2604.304, you may administratively appeal this partial denial of your request. The name and address of the OGE official to whom such an appeal would have to be submitted are: Don W. Fox, General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917. Any such appeal must be in writing and must be sent within 30 days of the date you receive this response letter. If you do appeal, you should include copies of your request and this response, together with a statement of why you believe this initial determination is in error. Also, if you appeal, you should clearly indicate on the envelope and in the letter that it is a "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, reading "Kerri Cox", is positioned above the typed name.

Kerri A. Cox  
OGE Alternate FOIA Officer

Enclosures



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

September 26, 2001

Michael D. Brown  
General Counsel and  
Designated Agency Ethics Official  
Federal Emergency Management Agency  
Room 840  
500 C Street, SW.  
Washington, DC 20472-0001

Dear Mr. Brown:

The Office of Government Ethics (OGE) recently completed a review of the Federal Emergency Management Agency's (FEMA) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to determine the ethics program's effectiveness and compliance with applicable laws and regulations. To meet our objectives, we examined the following program elements: the public and confidential financial disclosure systems, the ethics training program, the ethics counseling services, the coordination between ethics officials and officials from the Office of Inspector General (OIG), and the procedures for accepting travel payments from non-Federal sources under 31 U.S.C. § 1353. The review was conducted during March, April, and May of 2001. The following is a summary of our findings and conclusions.

#### ADMINISTRATION

As FEMA's General Counsel, you also serve as the Designated Agency Ethics Official (DAEO). The primary contact in the administration and management of FEMA's ethics program, however, is the Alternate DAEO (an attorney in the General Law Division). There are three additional attorneys who have been appointed Deputy Ethics Officials who assist the Alternate DAEO as needed.

#### PUBLIC FINANCIAL DISCLOSURE SYSTEM

To evaluate the public financial disclosure system, we examined 29 reports, 7 of which were filed by incumbent employees who were appointed by the President and confirmed by the Senate (PAS). For the most part, the reports were filed, reviewed, and certified in a timely manner. The review of the reports by the Alternate DAEO, and in certain cases the former General Counsel, appeared to be conducted in a thorough manner as our examination revealed no substantive deficiencies.

There were two new entrant reports filed by non-PAS employees that were filed late and required either a \$200 late filing fee or

a waiver of the fee from OGE. Before our fieldwork concluded, the Alternate DAEO had already forwarded requests for waivers of the late filing fees to OGE. Additionally, the Alternate DAEO has assured us that future new entrant filers will file in a timely manner, as the agency has instituted the practice of notifying the entire agency, via E-mail from the Director, when a new employee is hired or promoted into the Senior Executive Service.

Although there were procedures in place preceding the start of our fieldwork, they had not yet been documented. Prior to the completion of our fieldwork, however, the Alternate DAEO provided written documentation of the procedures for the administration of the public financial disclosure system.

#### CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

To evaluate the confidential financial disclosure system, we examined 110 of the confidential financial disclosure reports required to be filed by regular Government employees in 2000. We also examined 12 of the new entrant reports filed by special Government employees (SGE) in 2000.

Our examination of the reports filed by regular Government employees revealed that there were problems concerning the administration of the confidential financial disclosure system. These problems appeared to be directly related to the dramatic increase in the number of filers in 2000, which was triple the number of filers in 1999. The Alternate DAEO explained that this was due to her attempt to allow senior managers more input in determining which positions should be covered. She prepared a memorandum that was signed by the former General Counsel and sent to all senior managers requesting that, based upon information provided in the memorandum about who is considered a covered employee, they determine which of the employees in their respective divisions should file. Unfortunately, this resulted in overly cautious managers designating substantially more employees than were covered in the past.

The considerable rise in the amount of filers was quite burdensome for the Alternate DAEO, who alone reviews, certifies, and maintains all of the reports. The significant problems identified during our review were the late filing of reports (both incumbent and new entrant) and difficulty distinguishing new entrant reports from incumbent reports. Despite the difficulty identifying which reports were which, there was evidence that employees new to the agency and those filing during the annual filing cycle were not filing timely.

To the credit of the Alternate DAEO, she was already aware of these issues and had brainstormed methods of resolving them by the time our review commenced. Furthermore, prior to completion of our

fieldwork, she was able to provide detailed plans that will address filing timeliness of both incumbent and new entrant reports and will reduce the number of filers to a more reasonable number, without endangering the integrity of the agency. Specifically, those plans include selecting points of contact in each division to serve as a liaison to the Office of General Counsel. Also, the Alternate DAE0 will provide more specific information to senior managers about which positions should be covered in order to reduce the numbers of those designated.

The 12 new entrant SGE reports we examined revealed that this system was being satisfactorily administered. All 12 reports were filed and reviewed timely and revealed no substantive deficiencies. However, our examination did reveal a few technical problems, most significant of which was the use of the old SF 450 rather than the OGE Form 450. Prior to our exit conference, however, the Alternate DAE0 had already taken the necessary action to address all of the technical deficiencies.

As with the public financial disclosure system, there were procedures for the administration of the confidential financial disclosure system, but none in writing. Again, prior to the completion of our fieldwork, the Alternate DAE0 provided documented procedures.

#### ETHICS TRAINING

To meet the initial ethics orientation requirement, personnel officials provide new employees with written materials which include a summary of the executive branchwide standards of conduct and a memorandum from the Alternate DAE0. The memorandum includes information about how she may be contacted with ethics-related questions, along with directions to OGE's Web site where the entire text of the standards of conduct are available.

In order to meet the annual ethics training requirement for confidential filers in 2000, the Alternate DAE0 distributed written materials which met OGE's content requirements. The materials, which included OGE's pamphlet "A Brief Wrap on Ethics," were sent to all employees via E-mail (thereby exceeding the minimum requirement). Additionally, in an effort to remind employees about specific ethics matters when they may be particularly relevant, the Alternate DAE0 sent, during the holiday season, a memorandum to all employees detailing rules concerning giving and receiving gifts.

To meet the annual ethics training requirement for public filers, the Alternate DAE0 conducted live training in 2000, as required. Our examination of the information presented revealed that the training met content requirements and the Alternate DAE0 confirmed that all public filers received the training.

In addition to the required elements of FEMA's ethics training program, FEMA has incorporated ethics information into its Intranet site. This allows easy access by all of FEMA's employees to the ethics-related executive orders, regulations, statutes, and the ethics officials themselves since their phone numbers and E-mail addresses are also posted on the site.

#### COUNSELING

The Alternate DAEO stated that the ethics-related counseling she provides is done so in writing, both in formal letters and in E-mails. She also occasionally provides ethics advice verbally, of which she keeps a detailed written log. She estimated that she receives requests for ethics advice an average of 10 times a week.

We examined 23 instances of advice that were given during calendar years 2000 and 2001. The subjects of the advice included, among others: post employment, gifts of travel, gift acceptance, fundraising, and outside employment or other activities. Advice given appeared to be accurate, comprehensive, and responsive to employees' needs.

Another noteworthy aspect of FEMA's counseling program is the formalized method in which exiting employees are given post-employment advice. All departing employees are required to "sign out" with the Alternate DAEO. This allows her to discuss post-employment issues in person and to provide the employees with a "Post Employment Checklist" that she developed. Additionally, in 2000, she held live training sessions that were specifically focused on post-employment issues for political appointees who were departing the agency. These efforts reveal that FEMA has taken a proactive approach to ensuring that departing employees are aware of post-employment restrictions which may apply.

#### RELATIONSHIP WITH THE OIG

The Alternate DAEO explained that the Office of General Counsel has a relationship with the OIG that is conducive to both offices' missions, which is important to facilitate future cooperation between your offices. There have been no referrals of criminal conflicts of interest to the Department of Justice, although both the Alternate DAEO and the OIG are aware of the requirement to concurrently notify OGE and have procedures to do just that, should the need arise.

#### ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

FEMA does accept travel payments from non-Federal sources. Appropriate procedures are in place to approve the acceptance of travel payments and related expenses from non-Federal sources under

Mr: Michael D. Brown  
Page 5

31 U.S.C. § 1353 and the implementing General Services Administration regulation at 41 C.F.R. part 304-1.

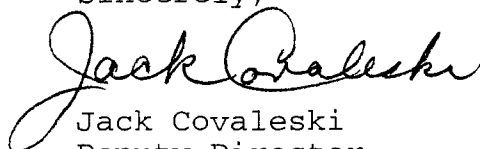
During the course of our fieldwork, the Alternate DAEO provided copies of the semiannual reports to OGE of travel for October 1, 1999 through March 31, 2000 and April 1, 2000 through September 30, 2000. Payments were accepted for employee attendance at a variety of events, including conferences, seminars, and speaking engagements. Our examination of the supporting documentation revealed that all payment offers were appropriately reviewed and accepted.

#### CONCLUSIONS

FEMA's ethics program is essentially well managed. We were pleased to find that there is an emphasis placed on effectively training all employees and making yourselves accessible to those who have ethics inquiries. While we were initially concerned about FEMA's confidential financial disclosure system, there has been much evidence that you and the Alternate DAEO are aware of the problems and willing to take the steps necessary to resolve them.

In closing, we wish to thank you for your efforts on behalf of your agency's ethics program. A copy of this letter is being sent via transmittal letter to the FEMA Inspector General. A brief follow-up review is customarily scheduled within six months of an ethics program review; however, because no improvements to your program were formally recommended, there is no need for us to conduct a follow-up. Please contact Katharine Sharpe at 202-208-8000, extension 1213, if we may be of further assistance.

Sincerely,

A handwritten signature in black ink, reading "Jack Covaleski". The signature is fluid and cursive, with the first name "Jack" being more prominent and the last name "Covaleski" written in a continuous script.

Jack Covaleski  
Deputy Director  
Office of Agency Programs

Report Number 01- 026



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

March 17, 1995

John P. Carey  
General Counsel  
Federal Emergency Management Agency  
500 C Street, SW.  
Washington, DC 20472

Dear Mr. Carey:

The Office of Government Ethics (OGE) has completed its fifth review of the Federal Emergency Management Agency's (FEMA) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objectives were to determine the ethics program's effectiveness and compliance with applicable laws and regulations. We also sought to determine whether improvements were made since OGE's last review in 1990. To achieve our objectives, we examined the following program elements: the administration of the ethics program, the public and confidential financial disclosure systems, the ethics education and training program, the counseling and advice services, the acceptance of travel expenses from non-Federal sources under 31 U.S.C. § 1353, and the relationship with the Office of the Inspector General (OIG). This review was conducted intermittently from November 1994 through January 1995.

Though our review disclosed that FEMA has made some improvements to its ethics program since our last review, we found that other elements of FEMA's ethics program require improvement. Strong points of the program include the: (1) effective administration of the public financial disclosure system and (2) counseling and advice services which are consistent with applicable ethics laws and regulations. We believe that some improvements to the confidential financial disclosure system and the education and training program will enhance the ethics program's overall effectiveness.

#### BACKGROUND

FEMA is the central agency within the Federal Government for emergency planning, preparedness, mitigation, response, and recovery. Working with state and local governments, FEMA funds emergency programs, offers technical guidance and training, and deploys Federal resources in times of catastrophic disaster. FEMA has approximately 1,700 full-time employees and, depending on emergency needs, an additional 6,000 or more employees who work on a temporary basis.



In response to a number of external reports that criticized its stovepipe organization structure, inefficiencies, and duplication of effort, FEMA instituted a new organizational structure which became effective on November 28, 1993. Since that date, some refinements to the organization have taken place. Essentially, the agency is now aligned along functional lines and consists of nine headquarters' offices and six primary directorates or administrations. In addition, FEMA has 10 regional offices whose organizations are consistent with headquarters' structuring.

#### ADMINISTRATION OF THE ETHICS PROGRAM

FEMA's General Counsel serves as the Designated Agency Ethics Official (DAEO) and the Deputy General Counsel is the Alternate DAEO. An attorney-advisor, who serves as the Ethics Counselor, is responsible for most of the day-to-day operations of the ethics program. The Ethics Counselor's duties include (1) providing ethics counseling and advice services and ethics training, (2) reviewing the public and confidential financial disclosure reports, and (3) monitoring the financial disclosure systems and the ethics training program. Other attorneys within the Office of the General Counsel serve as Deputy DAEOs and assist the Ethics Counselor on an intermittent basis.

#### PRIOR OGE REPORTS

OGE issued its last report on FEMA in May 1990. Earlier reviews were conducted in 1987, 1985, and 1982. Over the years, our reports repeatedly identified weaknesses in (1) the public and confidential financial disclosure systems, (2) the ethics training program, and (3) the Inspector General's (IG) involvement in the ethics program. In addition, we were concerned about staff allocation to administer the ethics program.

Follow-up correspondence subsequent to our 1990 report indicated that ethics officials had taken action on most of our recommendations or were making progress in correcting the deficiencies. Our current review, however, disclosed that ethics officials need to be more proactive in their efforts to correct deficiencies in the confidential financial disclosure system and the ethics education and training program.

#### WRITTEN PROCEDURES FOR ADMINISTERING FINANCIAL DISCLOSURE SYSTEMS ARE BEING DEVELOPED

Ethics officials have drafted written procedures for administering both the public and confidential financial disclosure systems to meet the requirements at 5 C.F.R. § 2638.203(b)(2) and the Ethics in Government Act of 1978, as amended. The draft document we examined during our review appeared to generally adhere

Mr. John P. Carey  
Page 3

to OGE's September 3, 1992 DAEogram which provided guidance on the development of written procedures covering the process for collecting, reviewing, evaluating, and, where appropriate, making publicly available, financial disclosure reports filed by the agency's officers and employees.

Recognizing that these procedures were in the draft stage, the review team suggested some improvements during discussions with ethics officials. Specifically, we believe that the procedures should more fully explain the process for distributing, collecting, and reviewing the confidential reports. In addition, ethics officials need to clarify that employees who enter covered positions are required to file confidential reports within 30 days. Ethics officials stated that they would incorporate our suggestions into their written procedures. According to the Ethics Counselor, when the procedures are finalized, FEMA plans to issue them as a FEMA instruction.

#### PUBLIC FINANCIAL DISCLOSURE SYSTEM IS EFFECTIVE

FEMA's public financial disclosure system is effectively administered. The reports we examined were filed, reviewed, and certified timely. In addition, we found few technical deficiencies and no substantive deficiencies.

In accordance with the draft procedures, the Office of Human Resources Management prepares an annual list of public filers and the Ethics Counselor notifies these employees of their public filing responsibilities. Reports are submitted to the Office of General Counsel for review. Conflict-of-interest analyses are primarily conducted by the Ethics Counselor before the reports are forwarded to the DAEO for certification.

During 1994, 59 employees were required to file public reports. We reviewed the reports filed by 51 employees, but did not examine the 8 reports that were sent to OGE in accordance with 5 C.F.R. § 2634.602(c).

#### CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM NEEDS IMPROVEMENT

FEMA did not administer an agencywide confidential financial disclosure system in 1994. According to the Ethics Counselor this was partially due to the reorganization which affected some agency components for most of 1994. Notwithstanding the reorganization, we found some general deficiencies in the confidential financial disclosure system which need to be corrected before FEMA will be in the position to administer an effective system.

We initially discussed some of the confidential system deficiencies with ethics officials in late November 1994 to enable them to begin working on corrective actions. Specifically, the review team advised of the need to develop both an accurate list of employees required to file confidential reports and a tracking system to ensure that those employees required to file reports routinely do so.

We believe that additional improvements are needed to strengthen the overall administration of the confidential system. Ethics officials need to: (1) determine which temporary employee positions meet the confidential financial disclosure reporting criteria and require those employees to file confidential reports annually; (2) collect confidential reports from all special Government employees (SGE); (3) develop a process to ensure that employees entering covered positions file confidential reports within 30 days; and (4) consider streamlining the annual filing notification process.

Accurate List Of Confidential  
Filers And A Tracking System  
Needs To Be Developed

At the start of our review in November 1994, ethics officials could not provide an accurate list of covered employees who had filed confidential reports in 1994. Though ethics officials indicated that approximately 75 percent of the employees required to file confidential reports in 1994 had done so, they were not able to provide numbers on the universe of filers, reports collected and reviewed, or reports outstanding.

Based on two available lists of all FEMA employees and supervisors, dated September 1994 and October 1994, we determined that approximately 350 employees appeared to meet the criteria for filing confidential reports for 1994. We selected a judgmental sample of 108 employees (31 percent) to determine filing compliance. From the 108 names selected, 43 reports (40 percent) were generally submitted and reviewed timely. Our examination of these reports found a few technical deficiencies but no substantive deficiencies. The remaining 65 employees (60 percent) in our sample had not filed confidential reports at the time of our review. In November 1994, we provided ethics officials the names of the 65 employees who appeared to meet the confidential reporting criteria and who had not filed confidential reports in 1994. At that time, ethics officials stated that they would follow up and reconcile the filing status of these employees, collect reports as appropriate, and report back to us in early January 1995.

As an immediate response to our November meeting, ethics officials undertook several actions to begin correcting the identified deficiencies. First, they notified office heads that

the annual confidential reporting cycle for 1994 would be extended until January 5, 1995. Office heads were required to identify employees in their component who had not filed and ensure that those employees were provided confidential reports for completion and submission to the Ethics Counselor. Second, in a memorandum to the Director, Office of Human Resources Management, dated December 15, 1994, the DAE0 documented the joint responsibility to develop an accurate list of confidential filers. The memorandum also specified that certain temporary employee positions would be covered under the confidential financial disclosure system. In addition, the DAE0 stated that he hoped to end reliance on the supervisory chain for the identification of filers and distribution of confidential reports.

In early January 1995, the Ethics Counselor provided the results of the reconciliation effort. He determined that 7 of the 65 employees were no longer required to file confidential reports because they had either left the agency or were no longer in covered positions. Reports were submitted by 28 of the 65 employees (43 percent). These reports were immediately reviewed by the Ethics Counselor. The remaining 30 employees had not yet filed reports as of January 5, 1995. Based on his follow-up telephone calls to these employees, the Ethics Counselor stated that he granted extensions of an additional few days to 12 filers because of apparent postal delays. According to the Ethics Counselor, he plans to send warning letters to the other 18 non-filers as an administrative remedy, pursuant to 5 C.F.R. § 2634.701(d).

After ethics officials develop an accurate list of confidential filers, which should be updated periodically, they need to develop a tracking system to monitor the collection, review, and certification of the confidential reports. This tracking system will enable ethics officials to determine which employees have not filed reports or which reports require follow-up action. Ethics officials recognize the need for a tracking capability and plan to work with officials from the Office of Human Resources Management to develop a reliable system. Until a tracking system is developed, however, ethics officials need to devise a way to ensure that all required reports for 1994 have been collected, reviewed, and certified, pursuant to subpart I of 5 C.F.R. part 2634.

Need To Determine Which Temporary  
Employees Should File  
Confidential Reports

FEMA hires two types of temporary employees to assist in responding to emergencies--Disaster Assistant Employees (DAE) and Special Disaster-Specific Assistance Temporary Employees (SDATE). DAEs are hired to assist with program administration and to provide assistance at the Disaster Application Centers and at the Disaster

Field Offices. DAEs specifically assist with active disaster response and recovery operations. On the other hand, to assist with long-term work associated with extremely large and programmatically burdensome disasters, temporary employees in the newly developed (in the pilot testing phase) SDATE program assist in follow-up and close-out activities.

Our previous reports discussed including DAEs under the confidential financial disclosure system. Ethics officials advised us that the issue of covering certain temporary employee positions has been under discussion for some time. As an initial step, the DAE Program Instruction Number 8600.1, dated June 21, 1991, states that DAEs are subject to ethics laws and regulations. In addition, the Instruction requires DAEs to read and become familiar with 5 C.F.R. part 2635. Ethics officials informed the review team that beginning in 1994, DAEs were also provided annual ethics training. However, the final determination on including some DAE positions under the confidential system has not been made. The Ethics Counselor stated that a decision regarding the extent of covering certain DAE positions should be forthcoming in 1995.

The Ethics Counselor also stated that even though limited documentation exists on SDATEs, a decision was made to provide ethics training to these employees. A determination on the extent of including certain SDATE positions under the confidential system will probably be made at the same time as the DAE determination.

Confidential Reports Need To  
Be Collected From All SGEs

FEMA has four advisory committees--the FEMA Advisory Board (FAB)<sup>1</sup>, the Emergency Management Institute Board of Visitors, the Advisory Committee for the Urban Search and Rescue Response System, and the National Fire Academy Board of Visitors. All members of these committees are SGEs and are required to file confidential reports on their annual reappointment dates. Our sample of the previously mentioned 108 employees included 26 advisory committee members. Of the 65 apparent non-filers, 13 were SGEs. The Ethics Counselor followed up by telephone with each SGE, resulting in the following: (1) four stated that they had filed reports, but since these reports were apparently lost they were asked to refile; (2) one resigned prior to his reappointment date and, therefore, was not required to file a report; and (3) eight still had not filed. The eight SGEs were advised to file their confidential reports immediately. To avoid future problems connected with collecting SGE confidential reports, ethics officials plan to

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<sup>1</sup>The FAB charter is due for renewal. FEMA submitted a request for renewal to the General Services Administration on November 4, 1994.

Mr. John P. Carey  
Page 7

delegate the collection responsibility to the Designated Federal Official assigned to each of the advisory committees.

Ensure That Employees Entering Covered  
Positions File Confidential Reports  
Within 30 Days

As ethics and Office of Human Resources Management officials work towards developing an accurate list of confidential filers, they will also need to institute a process to ensure that employees entering covered positions file confidential reports within 30 days, pursuant to 5 C.F.R. § 2634.903(b). Ethics officials agreed that they will need to collaborate with officials in the Office of Human Resources Management to develop a workable process.

Streamline The Annual Notification  
Process

Since the confidential system is centralized within the Office of the General Counsel and supervisors are not responsible for reviewing employees' confidential reports, we believe that it would be more efficient and effective to eliminate the annual notification to office heads. Instead of office heads distributing confidential reports to designated employees within their office, ethics officials should consider directly notifying designated employees of their confidential reporting responsibilities by memorandum.

As stated previously, the DAEO indicated that he hoped to end reliance on the supervisory chain for the distribution of confidential reports. The Ethics Counselor believed that the reliance on the supervisory chain would be eliminated by the October 1995 filing time frame.

ETHICS EDUCATION AND TRAINING  
PROGRAM NEEDS IMPROVEMENT

FEMA needs to improve its ethics education and training program to meet the requirements of OGE's training regulation at 5 C.F.R. part 2638. Section 2638.703 requires that initial agency ethics orientation be provided to new employees within 90 days of entrance on duty. Ethics officials have instituted a process to ensure that all new employees are provided a packet of ethics materials when they enter on duty and are provided one hour to review the materials. However, limited documentation exists to show that FEMA has met its 1994 annual training requirement. To ensure that FEMA fulfills its annual training requirement, ethics officials will need to develop a system to track the attendance of employees at annual training sessions.

Plan To Accomplish Annual Ethics  
Training Was Developed

Ethics officials developed the framework for conducting annual ethics training in 1994. The one-hour training session generally consisted of viewing OGE's videotape entitled "Integrity in Public Service: Earning the Public's Trust," an overview and briefing on the conflict-of-interest statutes and 5 C.F.R. part 2635, a discussion of hypothetical ethics situations, and a question and answer session. Depending on the audience, training was provided by the DAEO, the Ethics Counselor, or Deputy DAEOs. In addition, for certain employees involved in procurement, combined ethics and procurement integrity briefings were conducted by the Department of Agriculture Graduate School.

Some Annual Ethics Training Was Conducted  
In 1994 But There Was Limited  
Feedback And Tracking

Though not required by OGE regulations, ethics officials determined that all 1,700 FEMA full-time employees and temporary employees<sup>2</sup> would receive annual ethics training. Notwithstanding that ethics officials believe that a large portion of the agency's employees have attended a 1994 training session, limited documentation was available to assure that training was actually conducted or completed. Ethics officials have not instituted a method to obtain feedback to ensure that all employees, including temporaries, attended a training session. However, in late 1994, the Ethics Counselor requested feedback from the various organizational components on training sessions. The limited documentation provided by only a few components consisted of memorandums stating that training was completed or showing the dates of the training sessions and the number of attendees from a specific office. In addition, the Ethics Counselor received a few ethics training attendance rosters. Our examination of the available documentation, in early January 1995, indicated that approximately 18 training sessions were conducted and that approximately 650 employees attended the sessions.<sup>3</sup>

A method to obtain feedback from FEMA's components regarding ethics training would enable ethics officials to ensure that the 1,700 full-time employees currently required by FEMA to receive annual ethics training do so. A separate feedback process may need

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<sup>2</sup>FEMA's 1995 Ethics Training Plan, which was submitted to OGE in August 1994, showed a total of 2,100 temporary employees (DAEs and SDATs) who would be provided annual ethics training.

<sup>3</sup>The documentation available did not differentiate between full-time or temporary employees.

to be developed to monitor temporary employees' ethics training. For 1995 ethics training, ethics officials plan to enlist the services of the Preparedness, Training, and Exercises Directorate, Training Division to aid in carrying out some of the administrative functions associated with the ethics education and training program. Before beginning the 1995 annual ethics training, however, we encourage ethics officials to reassess their decision to provide annual ethics training to all employees rather than only to those employees required to receive annual training, pursuant to 5 C.F.R. § 2638.704(b).

COUNSELING AND ADVICE SERVICES ARE  
CONSISTENT WITH ETHICS LAWS  
AND REGULATIONS

FEMA's ethics counseling program appears to be responsive to employees and provides advice on a variety of ethics issues. According to ethics officials, most of the advice provided to employees is oral, but the Ethics Counselor also provides written determinations in response to ethics-related inquiries.

Our review of 1994 advice files disclosed that written determinations were provided on a variety of ethics-related issues, such as gift acceptance, outside activities, and post employment. We examined approximately 25 written determinations and found that the advice was comprehensive and consistent with applicable ethics laws and regulations.

Ethics officials have also provided employees useful general ethics policy information on the honoraria prohibition, gift acceptance, and other matters, for which they should be commended.

WRITTEN APPROVAL REQUIREMENT TO PARTICIPATE  
IN OUTSIDE ACTIVITIES WILL BE REPEALED

The FEMA policy in effect at the time of our review, which was implemented subsequent to the February 3, 1993 effective date of 5 C.F.R. part 2635, requires written approval prior to engaging in specific outside activities or employment for employees who are below a GS-15 level. Specifically, employees are required to submit a request to the DAEO, including a current employee position description, a written description of the outside activity which includes the position status (i.e., managerial or ownership), and the time frame the employee expects to be involved with the outside activity. Employees who are at or above the GS-15 level are not required to obtain written approval before participating in outside activities or employment. Ethics officials provide GS-15 and above employees personal counseling regarding their outside activities.

Notwithstanding oral advice provided to the Ethics Counselor by FEMA's OGE Desk Officer in November 1993, FEMA issued



Mr. John P. Carey  
Page 10

Instruction 1100.2, entitled "Procedures for Obtaining Conflict of Interest Review and Approval for Outside Employment" (dated October 27, 1993).<sup>4</sup> Instruction 1100.2 also addresses the honoraria prohibition and criminal restrictions on outside employment. The OGE Desk Officer had advised the Ethics Counselor that if FEMA intended to have an outside activity approval process, ethics officials would need to submit a supplemental regulation to OGE for approval, pursuant to 5 C.F.R. § 2635.105.

Due to some confusion or misunderstanding over OGE's advice at the time and because ethics officials viewed the Instruction as a short-term measure, the OGE Desk Officer's advice was not followed. Basically, ethics officials were interested in gauging the extent and type of employees' outside activities and employment at the time the Instruction was issued. According to the Ethics Counselor, in the past there had been a high level of concern over the outside activities of some FEMA employees. However, according to the Ethics Counselor, as a result of the increase in providing more ethics training and counseling, and, generally, more emphasis on ethics, officials have recently determined that a written approval system to engage in outside activities or employment is no longer necessary. In fact, by the close of our review, ethics officials had drafted a notice to repeal the part of the Instruction pertaining to the outside activity approval process. According to the Ethics Counselor, in lieu of the Instruction, employees will be reminded to seek ethics advice, as necessary.

#### ACCEPTANCE OF TRAVEL REIMBURSEMENTS FROM NON-FEDERAL SOURCES

We reviewed four acceptances of payment for travel, subsistence, and related expenses in excess of \$250 from non-Federal sources for the period beginning January 1, 1994 and ending September 30, 1994. All were accepted in accordance with FEMA's policy on acceptance of travel and related expenses from non-Federal sources and the applicable General Services Administration interim rule.

#### COORDINATION WITH THE OIG IS EFFECTIVE

Ethics officials are meeting the requirements of 5 C.F.R. § 2638.203(b)(12) pertaining to coordination with FEMA's OIG on ethics-related matters. Ethics and OIG officials stated that they

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<sup>4</sup>FEMA's former standards of conduct regulation, at 44 C.F.R. part 3, which were repealed prior to the issuance of Instruction 1100.2, included a provision on outside employment and other activities. The provision required employees to obtain written approval only before engaging in outside employment that was in the same professional field as the employee's official position.

Mr. John P. Carey  
Page 11

have built an effective working relationship with one another and that they coordinate on ethics-related matters and employee misconduct cases as necessary.

The OIG made one referral to the Department of Justice (Justice) during 1993 which Justice declined to prosecute. FEMA subsequently took administrative action which included counseling the employee and issuing a letter of caution. Due to a misunderstanding in concurrent reporting responsibility at the time of this referral, the OIG lapsed in notifying OGE. The Assistant IG for Investigation informed us that for any future referrals, including administrative action, OGE would be concurrently notified as required. In addition, in a memorandum to the Director of OGE, dated October 24, 1994, the Assistant IG for Investigation acknowledged the requirement for concurrently notifying the Director of referrals to Justice and providing copies of the referral documents, pursuant to 5 C.F.R. § 2638.603(b).

Late in 1994, the OIG referred a post-employment matter to a U.S. Attorney, which was declined for prosecution. The OIG notified OGE of the referral shortly after the U.S. Attorney declined prosecutive interest.

#### CONCLUSIONS

FEMA's public financial disclosure system is sound and the counseling and advice services provided meet OGE requirements and appear to serve employees' needs. We believe, however, that the overall effectiveness of FEMA's ethics program can be enhanced by improving the confidential financial disclosure system and the ethics education and training program.

#### RECOMMENDATIONS

We recommend that you:

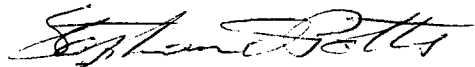
1. Ensure that an accurate list of confidential filers is developed and periodically updated.
2. Collect and review confidential reports from employees required to file in 1994 which were not collected at the time of our examination.
3. Develop a tracking system to monitor the filing of confidential financial disclosure reports.
4. Ensure that a process is developed to identify new entrant confidential filers when they enter covered positions and notify them of the filing requirement at 5 C.F.R. § 2634.903(b).

Mr. John P. Carey  
Page 12

5. Determine which temporary employee (DAE and SDATE) positions should be included under the confidential financial disclosure system and collect confidential reports, as appropriate.
6. Ensure that SGEs file confidential financial disclosure reports timely.
7. Develop a tracking system to ensure that all employees required to attend annual ethics training do so.
8. Repeal the part of FEMA Instruction 1100.2 pertaining to the outside activity approval process.

In closing, I would like to thank you for all of your efforts on behalf of the ethics program. Please advise me within 60 days of the specific actions your agency has taken or plans to take concerning each of the recommendations in our report. A brief follow-up review will be scheduled within six months from the date of this report. In view of the corrective action authority vested with the Director of the Office of Government Ethics under subsection 402(b)(9) of the Ethics Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that FEMA implement actions to correct these deficiencies in a timely manner. A copy of this report is being sent to the FEMA Director and the IG. Please contact Ilene Cranisky at 202-523-5757, extension 1218, if we may be of further assistance.

Sincerely,



Stephen D. Potts  
Director

Report Number 95- 012

AGENCY ETHICS PROGRAM REVIEW REPORT

**Agency:** Federal Emergency Management Agency (FEMA)

**Review Dates:** February 5, 1990 to February 20, 1990

**OGE Staff:** Richard Handy, Chief, Program Review Branch  
Cecilia Owens, Management Analyst, Program Review  
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Michael Korwin, Desk Officer, Program Development  
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Division  
Barbara Katz, General Attorney, General Law Division  
Linda Keener, Freedom of Information Act/Privacy Act  
Specialist

## AGENCY BACKGROUND

The Federal Emergency Management Agency (FEMA) is the central point of contact within the federal government for emergency management activities. Such activities include:

- coordinating civil emergency preparedness for nuclear power plant accidents and hazardous materials incidents;
- coordinating federal aid for Presidentially declared disasters and emergencies;
- ensuring that government at all levels is able to respond to and recover from national emergencies; and
- providing funding, technical assistance, supplies, equipment, and training to enhance state and local governments' emergency management capabilities.

The agency employs approximately 2,500 employees, located at headquarters and in ten regional offices. According to an ethics official, approximately 80% of the agency's employees deal with procurement or contracting in some way.

Some areas in which possible conflicts of interest could arise within FEMA are:

- employee financial holdings in nuclear power plants, and
- holdings in agency contractors providing emergency management equipment such as warning devices, sirens, and emergency communications.

For example, an employee in the Natural and Technological Hazards Division may know whether a particular nuclear power plant's off-site emergency preparedness plan will be approved or denied. Because a plant cannot receive approval to operate without a favorable decision on this plan, the employee may be in a position to use this information to benefit financially by buying or selling

stock in that company.

#### PRIOR OGE REVIEWS

We first reviewed FEMA's ethics program in September 1982 and concluded that several elements of the program were not being effectively implemented. Our second review, in December 1984, revealed that few improvements had been made since our initial review. We then conducted periodic follow-ups to monitor FEMA's compliance with our recommendations. We performed our third program review from December 1986 through February 1987, and issued thirteen recommendations to the Designated Agency Ethics Official (DAEO) for improvement of the program. We followed-up in November 1987, at which time FEMA reported that most of the recommendations had been adopted.

#### ETHICS OFFICIALS' DUTIES AND RESPONSIBILITIES

Observation: FEMA's DAEO believes his office lacks sufficient staff resources to manage all aspects of the ethics program.

Currently, the DAEO and three assistants perform ethics duties. However, none of them do so on a full-time basis. According to the DAEO, each member of the ethics staff is responsible for a sizeable full-time assignment and estimates spending approximately 20% of his/her time on ethics duties. As a result of the limited amount of time available for ethics responsibilities, the staff concentrates only on basic program elements.

The DAEO stressed that FEMA badly needs at least one full-time ethics official because of:

-- the large volume of the public and confidential reports,

- the extended coverage for the confidential reporting system;
- the need for numerous responses to outside employment requests and gift acceptance inquiries; and
- the need for ongoing ethics training at headquarters and the 10 regional offices.

Because of these reasons, as well as our observation that FEMA needs to perform a more complete, in-depth conflicts of interest analysis, OGE agrees with the DAEO's assessment, and suggests that FEMA's management provide sufficient staff resources to ensure the effectiveness of the ethics program as mandated in Presidential Executive Order 12674.

#### STANDARDS OF CONDUCT

Observation: FEMA's Standards of Conduct are consistent with basic Federal regulations and standards.

FEMA's Standards of Conduct, which are found in 44 C.F.R., Part 3, are consistent with basic federal regulations and standards. However, FEMA published these standards without OGE approval, as required by 5 C.F.R. 735.104(c). Indeed, in a 1986 letter to the agency, OGE informed FEMA that our approval was contingent upon revisions to provisions of section 3.14(e) on spousal travel. Again, we encourage FEMA to follow through on our previous recommendation that this section include clarification of the circumstances under which the spouse of an employee may accept reimbursement from a private organization for actual expenses. In light of the pending regulations on acceptance of payment from non-federal sources, FEMA should not formally modify their standards at this time. Instead, the DAEO should provide guidance and clarification of spousal travel to employees through the use of

internal policy memoranda. At such time that FEMA does revise their standards of conduct, we remind them that our approval is required prior to publication in the Federal Register.

#### PUBLIC FINANCIAL DISCLOSURE REPORTING SYSTEM

Observation: Review of the public financial disclosure reports needs improvement.

In 1989, 51 individuals filed public financial disclosure reports, 49 were full-time FEMA employees and two were special Government employees who had worked at least 61 days during the calendar year. Our review found that all these reports were on file.

Covered employees who leave the agency receive a blank public report, which is to be returned within 30 days. The agency strictly adheres to the 30 day time frame and contacts a filer if a report has not been received within the allotted time. We reviewed the list of public filers and found that all termination reports had been collected, as required.

To determine the adequacy of FEMA's public report review process, we reviewed 25, or 50%, of these reports and found no conflicts of interest. We did, however, identify a recurring reporting weakness of not identifying the specific nature and the physical location of partnerships. The public reporting instructions on the SF 278 state that the reporting individual must identify the nature and location of a business, a partnership, or a joint venture. The instructions go on to explain that this level of information is necessary in order to give reviewers an adequate basis for the conflicts analysis required by the Ethics in Government Act of



1978. In conclusion, without this information, it appears that FEMA ethics officials are not adequately assessing public reports for real or apparent conflicts of interest. We recommend improving the review of these reports by identifying the nature and location of a business, partnership, or joint venture and by using this information to assess conflicts of interest.

#### CONFIDENTIAL FINANCIAL DISCLOSURE REPORTING SYSTEM

Observation: Although FEMA generally collects reports as required, the substantive as well as the technical reviews of the reports need improvement.

FEMA has written procedures on how to collect, review, and evaluate confidential financial disclosure statements. According to these procedures, the Office of Personnel provides ethics officials a master list of all covered employees in grade GS-13 through GS-15. This list is used to collect the statements and track the reporting process. Once collected, the forms are reviewed for technical correctness, i.e. the use of "none" instead of "N/A". Then, those reports citing financial holdings are compared with a listing of contractors and grantees who receive \$25,000 or more and a nuclear power plant listing to determine whether a conflict may exist. In cases where an employee's holding is found on these lists, FEMA determines whether a waiver, divestiture, or recusal is appropriate. In cases where an employee reports outside employment or activities, FEMA determines what the activity involves, and considers appropriate remedial action.

## The Collection Process

For the 1989 reporting period, FEMA collected confidential reports from 684 full-time employees, 8 consultants, and 20 Advisory Board members. Based on our review of the files, we verified that all full-time employees required to submit reports had done so. However, we identified one special Government employee who had not filed. In addition, we found Advisory Board members who had not filed in a timely manner, i.e. prior to the first Board meeting of the year.

Currently, the agency collects annual confidential reports from all employees in grades GS-13 through GS-15. Beginning with the 1990 reporting cycle, FEMA plans to collect reports from all employees, regardless of grade, in procurement and contracting positions. In October, 1989, OGE approved this action. FEMA's Personnel Office and the DAEO's office are currently developing plans and procedures for identifying and collecting reports from individuals meeting the new coverage criteria. Once the administrative details of the new system are resolved, FEMA should revise the written procedures, as appropriate.

In light of the expanded coverage for individuals required to file confidential reports in 1990, FEMA ethics officials expect the volume of reports to almost double from the current 684 to approximately 1,100 reports. Last year, summer interns reviewed the reports; this year, a newly hired attorney will review the reports in addition to her full-time staff attorney responsibilities. Ethics officials expressed concern that, with the great increase in the number of reports, the review may not be accomplished within a reasonable timeframe.

## The Review Process

In order to assess FEMA's review procedures, we examined 68, or 10%, of the confidential reports submitted for the last reporting period. Our review and discussions with the ethics officials suggest that the substantive reviews need to be improved. For example, the comparison of financial holdings with the contractor/grantee and nuclear power plant listings is the extent of FEMA's conflicts analysis. Officials do not consider financial interests in contractors or grantees below the \$25,000 threshold nor do they identify the nature of a reported business or financial interest that does not appear on the listings. In summary, reviewers are generally not performing adequate in-depth conflicts of interest analyses of financial interests cited on the confidential reports. Such analysis is imperative and should include identifying the nature of a business or financial interest. By limiting their analysis to simply the contractor/grantee and nuclear power plant listings, FEMA officials overlook other sources of possible conflicts of interest. For example, one employee reported Racal Electronics on his confidential report. Because this company did not appear on FEMA's contractor/ grantee list or the nuclear power plant list; the reviewer did not continue the analysis by identifying the nature of this company. However, a review of Moody's indicates that the nature and principal activities of Racal Electronics are professional electronics, fire and physical security, and telecommunications. Because these activities are pertinent to some of FEMA's activities, further conflicts analysis should have been done. For example, further analysis might have included research on:

- the employee's official duties to determine whether he is in a position to influence contracting decisions for fire and physical security equipment;

- whether Racal Electronics is a subsidiary of a company cited on the contractor list; or
- whether Racal has a contract with FEMA for less than \$25,000.

During our review, we identified two other cases where additional substantive reviews by ethics officials were warranted--one involved a FEMA consultant and the other involved a full-time employee.

- A FEMA consultant reported that he was an owner and senior consultant of an emergency management consulting firm and that he worked for another company as a part-time consultant. Although emergency management is a FEMA activity, FEMA did not research whether this firm had a contract with the agency for less than \$25,000. Also, even though the company the individual worked for as a part-time consultant is on the FEMA contractor list and has about \$6.4 million in contracts with the agency, the ethics official did not further investigate the matter to determine which contracts the individual worked on for that company. In fact, the only comment on the report was that the individual was advised to contact the ethics official prior to accepting any employment with the company.

- In another case, a FEMA contracting officer reported (b)(6) employment at a particular company. This company is on the FEMA contractor list; however, FEMA's review failed to identify this potential conflict. As a result, (b)(6) who was servicing the contract, was never advised about remedial actions such as recusal or removal from the position, nor was (b)(6) ever counseled on any ethical issues. FEMA's failure to identify this

situation surfaced when the company for which (b)(6) worked lost the renewal contract. The contracting officer was subsequently reported by another FEMA employee for withholding information from the new contractor. (b)(6) actions are currently under investigation by the DAEO's office.

In summary, FEMA's use of the listings provides a starting point for examining reported financial interests for potential conflicts; however, further, more in-depth analysis is required. The nature of a business or financial interest can be determined by referring to Moody's or Standard and Poor's and by contacting the reporting individual. We suggest that officials document their files with this information so that they will not have to research the information each year. FEMA ethics officials stated that they do not explore the nature of financial holdings because they lack adequate resources to undertake the task. We acknowledge that investigating the nature of financial holdings increases the reviewing time; however, without a proper substantive review of each report, the fundamental purpose of the reporting process is nullified.

In addition to improving the substantive reviews of the confidential reports, the agency also needs to improve the technical reviews. For instance, some of the files we reviewed did not contain reviewers' notes or comments, such as contact with a reporting individual concerning possible remedial actions. For example, according to an ethics official, if a waiver indicates that a particular financial holding was de-minimus, the reporting individual was always contacted. However, our review of the waiver cases did not show any documentation that contacts with individuals were ever made. FEMA instructions state that if the reviewer calls

the individual and obtains information, the reviewer should add it to the form and note "per conversation with \_\_\_\_\_ on \_\_\_\_\_" and add his/her initials. We recommend that officials adhere to this procedure.

According to agency procedures on the review of confidential reports involving outside employment/activities, the reviewer should determine what the outside employment or activity involves, which usually entails a call to the filer. However, we also found no evidence that this policy has been implemented. Therefore, we recommend that officials execute this policy, as required. Another method for improving the technical reviews is to compare the outside employment files with the individual's confidential report to confirm that individuals are reporting known sources of income on their disclosure statements.

FEMA is in the process of revising its confidential report Form 11-1, because ethics officials suspect employees are making technical completion errors due to the form's design. Our review of the confidential reports identified technical errors. For instance, most individuals with rental property did not report creditor(s), even when more than one rental property was reported. In addition, individuals did not appear to be reporting spousal employment. However, in light of OGE's pending confidential report regulations, we suggest that FEMA continue to use their existing report. In lieu of revising the form to address reporting errors, such as those noted above, ethics officials should clarify the reporting instructions by issuing a cover memorandum describing common errors, such as the memo FEMA currently uses for public reports, or by completing and distributing an example confidential report.

## OUTSIDE EMPLOYMENT/ACTIVITIES AND GIFT ACCEPTANCE COUNSELING

Observation: Outside employment counseling is consistent with the agency's Standards of Conduct; however, gift acceptance counseling is not.

### Outside employment

An employee must obtain prior written approval before engaging in outside employment in the same professional field as that of the individual's official position. In October 1989, the DAEO issued a detailed memo on outside employment to all FEMA employees. This memo included written procedures for obtaining approval. A review of the counseling files shows that outside employment advice is consistent with the criteria set forth in FEMA's Standards of Conduct.

### Gift acceptance

Section 3.14 of FEMA's Standards of Conduct describes four exceptions to the prohibition against accepting gifts from certain persons. One of these exceptions is "acceptance of food and refreshments of nominal value (fifteen dollars or less) on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting..." (emphasis added). However, FEMA employees are allowed to attend monthly luncheons of the Armed Forces Communications and Electronics Association (AFCEA) which is an association composed primarily of government contractors, including many contractors who do business with FEMA. The DAEO should review circumstances surrounding FEMA's affiliation with the AFCEA and issue an updated memo to employees regarding FEMA's position. If the DAEO decides to allow employees to continue the

affiliation, he should monitor agency employee attendance at the monthly luncheons, i.e. who is going, how many are going, and when.

In reviewing the files, we found several instances in which the previous DAEO provided advice but deferred the final ethics decision to other agency officials. In one instance, the former DAEO deferred the decision on whether it is in the agency's interest that employees attend monthly AFCEA luncheons. In another case, the DAEO deferred the decision on whether it is in the government's and FEMA's interest that an employee accept a meal during a luncheon. Deferring decisions to supervisors or other agency officials may result in inconsistent ethics decisions. Because final standards of conduct decisions should be made by the DAEO, OGE encourages the current DAEO to review these prior gift acceptance decisions to determine if such activity is ongoing and, if so, whether approval is in accordance with the Standards of Conduct.

Based on our review and discussions with ethics officials, we found that not all counseling opinions were documented in the files. We, therefore, recommend that ethics officials, at a minimum, document all counseling advice provided in response to employee written requests, and, whenever possible, provide the employee a written response.



## ETHICS EDUCATION AND TRAINING

Observation: Although ethics education and training improved in 1989 for regional staff, it did not improve for headquarters staff.

In 1989, the former DAEO and Deputy DAEO performed ethics training in each of FEMA's ten regions. The training was mandatory and employees were required to sign attendance sheets. OGE commends FEMA on this endeavor. However, this training did not include headquarters staff which comprises the majority of FEMA employees. The DAEO plans to conduct 1990 training sessions for headquarters staff in Washington, D.C., Emmitsburg, Maryland, and Berryville, Virginia. OGE encourages the implementation of this plan.

Although FEMA does not have an annual ethics training plan, ethics officials acknowledge the need for training. However, they lack staff resources, and, in some cases, the travel money, to implement the necessary training program.

In addition to training, the DAEO issues ethics memoranda to all FEMA employees. In 1989, three such memos were issued. Each memo addressed a particular provision of the standards of conduct, such as outside employment, but none of them addressed all the provisions. According to Section 3.4(a) of FEMA's standards, these regulations are to "be brought to the attention of (full-time employees and special government) employees at least annually". The last ethics memo to do so was issued in May 1988. Because of the importance of educating all employees on the standards of conduct, and, in light of FEMA's recent disciplinary action where two high level officials were suspended for two weeks without pay for a standards of conduct violation, we recommend that the DAEO

promptly issue a current memo to all employees explaining the standards of conduct.

#### POST-EMPLOYMENT RESTRICTIONS

Observation: Although OGC distributes a Post-Employment Restriction Summary, their method of dissemination does not include all employees.

Several months ago OGC began distributing a post-employment restriction summary to all departing employees who are serviced by headquarters in Washington, D.C. Because this was one of the 1987 OGE recommendations, we are pleased to see its addition. However, FEMA's method of distribution does not cover headquarters employees assigned outside of Washington, D.C. or regional employees. It also does not cover special Government employees, such as consultants, who most certainly have a need to know this information. OGE recommends that FEMA further explore methods for distributing this summary to **all** FEMA employees.

#### COORDINATION WITH THE INSPECTOR GENERAL

Observation: An open channel of communication exists between OGC and the Office of the Inspector General.

Both OGC and the Office of the Inspector General (OIG) receive information on possible ethics violations. OGC may refer a possible ethics violation to the OIG for investigation and OIG may refer a possible violation to OGC for resolution. The channel of communication between the two offices appears open.

In March 1985, OGE identified the need for periodic audits of FEMA's ethics program and recommended that OGC pursue this with

OIG. In June 1987, OGE reported that the ethics program could be strengthened by periodic reviews by OIG. The OIG has not performed an ethics audit to date nor has it scheduled one on its 1990 formal planning document. Once again, OGE recommends that OIG periodically audit the ethics program.

#### RECOMMENDATIONS

We have cited ten recommendations to improve the efficiency and effectiveness of FEMA's ethics program. These are summarized as follows:

- FEMA's management should allocate sufficient staff resources to ensure the effectiveness of the ethics program and provide the scope and leadership necessary to develop and maintain a sound ethics program.
- FEMA should provide guidance to all employees concerning Section 3.14(e) of the Standards of Conduct, including clarification of the circumstances under which the spouse of an employee may accept reimbursement from a private source. Pending issuance of executive branch regulations, this clarification should be done through an internal notice or memorandum. We remind FEMA that whenever the agency revises the standards, they must submit them to OGE for approval **prior** to publication in the Federal Register.
- Ethics officials need to improve the review of public and confidential financial disclosure reports by identifying the nature and location of a business, partnership, or joint venture and use this information

to assess conflicts of interest.

- The review of confidential reports needs improvement by strengthening the analysis for conflicts of interest. In addition, officials should compare any outside employment approvals with the individual's confidential report to ensure that individuals are reporting all known sources of income. Lastly, officials should adhere to their written procedures by reviewing all confidential reports for the nature of outside employment/activities and by documenting the file whenever they contact the reporting individual.
- Ethics officials should clarify the confidential report instructions by issuing a cover memo describing common errors, such as the memo FEMA currently uses for public reports.
- The DAEO should issue a memorandum to all employees explaining the Standards of Conduct, and continue this practice at least annually thereafter. We also recommend that the DAEO contact OGE's Education and Liaison Division for assistance with any training questions.
- The DAEO should review employee attendance at AFCEA events and issue a memo to employees clarifying FEMA's policy on gift acceptance. If the DAEO decides to continue the current practice, he should monitor employee attendance at the monthly luncheons more closely.
- Ethics officials should improve the documentation of counseling advice, and, whenever possible, provide the

employee a written response.

- FEMA needs to further explore methods for distributing the post-employment information to all FEMA employees, especially senior level and special Government employees.
- The Office of the Inspector General should periodically audit the ethics program.

OGC AGENCY REPORT  
SIGNATURE PAGE

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Branch

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