



OFFICE OF ETHICS

NEWSLETTER

VOLUME VII 1ST EDITION



THERE'S BEEN SOME MAJOR CHANGES MADE AROUND HERE.

This is hardly late-breaking news to many folks here at USDA Headquarters, but may just be a surprise to a lot of our agency kinfolk outside of the Beltway. Ethics advice and services are now being handled considerably differently than in the past. However, since this is the first Office of Ethics Newsletter since the change, it seemed worthwhile to make at least a passing reference to it.

By way of Secretary's Memorandum 1030-065, dated February 1, 2008, the Office of Ethics (OE) underwent a major reorganization—and we mean major. The reorganization (1) combined and centralized the former multiple agency and mission area ethics programs within the USDA into one unified USDA Ethics Program under OE and (2) restructured OE by creating a headquarters office (OE-HQ) with four branch offices, including a Science Branch (OE-Science); Farm, Conservation

and Rural Programs Branch (OE-Farm); Marketing, Regulatory and Nutrition Branch (OE-Marketing), and a Forestry Services Branch (OE-Forest).

The decision to engage in this effort is based in large part upon discussions between former Agriculture Secretary Mike Johanns and Robert Cusick, Director, U.S. Office of Government Ethics (OGE) in November 2006. The decision to reorganize the USDA Ethics Program under OE was based upon identified weaknesses in the long-established, agency/mission area-based structure of the USDA Ethics Program as a result of two separate OGE audits in 1997 and 2002.

Centralization of the USDA Ethics Program is expected to result in significant improvements in the quality and availability of ethics services to all USDA employees. First, centralization makes all ethics advisors directly accountable to the OE Director, who serves as Designated Agency Ethics Official (DAEO) for USDA. The DAEO will now be directly responsible for all aspects of the USDA Ethics Program including the selection, training, and supervision of all USDA Ethics personnel. Second, centralization is expected to provide a greater continuity of services and uniformity of advice. Finally, with uniformity of training and supervision and greater program support, comes a higher standard of Ethics advice available to USDA employees. The branch office structure will bring together advisors whose client agencies face similar issues, as well as providing greater coverage and continuity of services.

So, what does the new OE look like? Who does what? Well, glad you asked.

OE-HQ: Serves the political staffs, Departmental staff offices, the Foreign Agricultural Service and Risk Management Agency.

Contacts:

Ray Sheehan, Director, (202) 720-2251.

Ray.sheehan@usda.gov

Mike Edwards, Deputy Director, same number,

MikeM.Edwards@usda.gov.

For Who's Who in Headquarters, go to Page 8.

OE-Science: Serves all career personnel within the Research, Education and Economics mission area, as well as designated science-related organizations within the U.S. Forest Service (FS), and Natural Resources Conservation Service (NRCS).

Contact:

Sue Sheridan, Chief, (301) 504-1442,
Sue.Sheridan@usda.gov.

OE-Farm: Serves all career personnel in the Farm Service Agency, NRCS (other than those serviced by OE-Science), and the Rural Development mission area.

Contact:

Ed Peterman, Chief, (202) 205-2102,
Ed.Peterman@usda.gov.

OE-Marketing: Serves all career personnel in the Marketing and Regulatory Programs, Food Safety, and Food, Nutrition and Consumer Services mission areas.

Contact:

Mary Royster, Chief, (202) 720-0020,
Mary.Royster@usda.gov.

OE-Forest: Serves all career FS employees, other than those served by OE-Science.

Contact:

Jennifer Cron Hepler, (202) 720-2251*,
Jennifer.Hepler@usda.gov.

* Temporarily until Branch office spaces are ready.

**THE GREAT ZAMBONI IS BACK
TO ANSWER YOUR
QUESTIONS—SEE PAGE 7**



Gifts You May Keep, Invitations You May Accept

The holiday season is traditionally a time of parties, receptions, and exchanging of gifts. However, even during the holiday season, the Standards of Conduct apply. Invitations to parties, open-houses, and receptions are **gifts** and Federal personnel may not accept gifts offered because of their official positions or offered by a **prohibited source**. However, if the invitation you receive qualifies under one of the exceptions to the gift rules, you may accept an invitation from a prohibited source, even a contractor.

The gift rules also restrict what invitations **supervisors** may accept from subordinates. A supervisor may accept personal hospitality at the residence of a subordinate that is customarily provided on the occasion. During holidays, supervisors may accept gifts (other than cash) of **\$10 or less** from a subordinate. Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party. If a subordinate is invited to a social event at the supervisor's residence, the subordinate may give the supervisor a hospitality gift of the type and value customarily given on such an occasion. Please note there are no legal restrictions on gifts given to peers or subordinates; however, common sense (and good taste) should apply.

Finally, there are other limitations involving **solicitation, appropriated funds, gambling and the use of Government resources** you should consider when planning your office holiday celebrations. For more Holiday Guidance for Federal Personnel, go to our website: <http://www.usda-ethics.net/rules/holiday-guidance.htm>.

Have a wonderful holiday season!

NEED Help? Try our “Self-Helps.”



Not to be obnoxiously proud, but we are told that our website is most helpful and informative. “Help” is what we try to do. The best way to help is by helping people learn how to come to correct answers by themselves. So when an Ethics advisor isn’t available, or when you just want to figure it out for yourself, use our “Self Helps,” on the front page of our website:

www.usda.gov/ethics. These tools will help you walk your way through issues by question and answer format. You can see the factors to weigh and the considerations to address in deciding whether an action is technically appropriate.

Currently, we offer the following:

- **Can I Negotiate for Post-Employment and What Can I Do When I Leave USDA?** There are few areas more susceptible to REALLY bad Ethical outcomes than those involving employees negotiating for employment with non-Federal entities affected directly by their official work and few areas more confusticating than comprehending what post-employment restrictions apply to you once you leave USDA. Negotiating your way through this module should help you make sense of it.
- **Can I Participate in This Outside Organization?** This area has become a poster child for Ethical confusion ever since the Department of Justice decided, in 1996, that Federal employees shouldn’t be serving officially as board members and officers of non-Federal entities. We cover official service and personal service. Just another service.

- **Can I Attend This Event?** Aaah, free attendance to something—a gift. This is what we Feds live for. Yet, the Ethics advisor says “no.” Why so? Not every event with lots of attendees is a “widely-attended gathering” and agency gift acceptance authority doesn’t always mean acceptance from just anyone. Just consider this our gift to you.
- **Can I Accept Free Travel and Accommodations?** NEW!!!! This is a never-ending issue. Why can’t I accept a freebie on this trip when I could on a similar trip last year? This will accommodate your curiosity.



‘TIS THE (450 FILING) SEASON!

As the song says “it’s the most wonderful time of the year....” All the joy and camaraderie the holiday season brings is followed closely by the (arguably less) enjoyable requirement that many of us file a Confidential Financial Disclosure Report (OGE Form 450). These forms are filed by individuals that have been designated by their agency to file the report to avoid involvement in real or apparent conflicts of interest. Those who should file this report either already know who they are or will be hearing from us in the very near future (perhaps via Christmas carol, the details are still being ironed out).

These reports are due by February 15, 2009, but may not be filed before January 1, 2009. The reports cover all of 2008, and can be found on our website at: <http://www.usda-ethics.net/forms/index.htm>. Most financial services companies will be sending holiday cheer in the form of year-end accounting statements within the next few weeks. We humbly suggest that OGE Form

450 filers complete their reports as soon as possible while the information is still at their fingertips, as all of us here at OE anxiously await these forms like a child on Christmas Eve (or something like that....)

As always, the staff here at OE will be happy to assist you should you have any questions and we look forward to helping you make the filing experience as painless as possible. In addition, the Office of Government Ethics website contains answers to many Frequently Asked Questions about the OGE Form 450 at http://www.usoge.gov/forms/form_450_faqs/form_450_faqs.aspx, which filers may find especially helpful. Best wishes for you and yours throughout the holiday season and we look forward to working with all of you in the coming year.

****IMPORTANT NOTE:** If you filed an OGE Form 450 in 2008 and there have been no changes in the information you reported on that form, you are most likely eligible to file OGE Form 450-A, which is significantly shorter than the standard OGE Form 450. If you have any questions about your eligibility to file an OGE Form 450-A, please contact our office.

BRANCH REPORTS



OE-Farm expecting a record number of reports

The Farm, Conservation, and Rural Programs Branch is in the middle of a massive OGE Form 450 transition project which includes the receipt of over 8,000 reports from NRCS, RD, and FSA employees across the country. This is a huge undertaking; although our team, led by Deb Griffin and assisted by Louise Battle and Debbie Cooper, is ready for the challenge. In CY 2009 employees in the respective servicing units will submit their OGE Form 450 to their State Ethics Contact for a cursory initial review and then the reports will be forwarded to Washington D.C. for the final review and certification. If you receive an email from a

member of our review team requesting additional information, please respond as quickly as possible – your quick response will be greatly appreciated.

OE-Science introduces new forms

In 2008, the Science Ethics Branch (SEB) received approval from OGE to use Form SEB-102, “Conflict of Interest Certification” in lieu of the OGE Form 450 as an alternative form of disclosure for employees serving as Agency Representatives. Agency Representatives are SEB employees that are temporarily assigned responsibilities to work with outside entities pursuant to agreements. These responsibilities could cover a period from 90 days to several years. If the employee’s permanently assigned duties do not meet financial disclosure criteria, it is only this temporary designation or collateral-type responsibilities that requires submission of a Financial Disclosure Report. Now these employees will submit the SEB-102 instead. The SEB-102 provides specific guidance concerning the types of conflicts an employee must consider when working with an outside entity. SEB also has established a program of activities, such as additional training requirements (mandated by our Extramural Agreements Division) and other communications with employees that make the use of a Confidential Financial Disclosure Report unnecessary.

Filing the SEB-102 applies only to those individuals occupying temporarily assigned responsibilities. Individuals in positions who meet the financial disclosure criteria on a permanent basis are still required to submit the OGE Form 450. You can access SEB-102 on the SEB website: <http://www.usda-ethics.net/science/forms/SEB-102.pdf>.

SEB recently revised the form used to request prior approval for outside activities. The revised form, SEB-106, is intended to bring supervisors back into the process of having to determine whether an activity might be considered part of an employee’s official duties. Form SEB-106 was also developed

to document activities with non federal organizations that could be approved in an official capacity. You can access SEB-106 on the SEB website: <http://www.usda-ethics.net/science/forms/SEB-106.pdf>.



OE-Marketing streamlining the prior approval process

The OE-Marketing Branch (Branch) consists of FNS, FSIS, and MRP (AMS, APHIS, and GIPSA). The Branch is working on streamlining the prior approval process for outside employment/activity. Currently, the Branch uses three different forms for employees to request prior approval to engage in non-Federal employment/activity. The decision was made to draft a new form to make the process more uniform for the five program areas. The form is currently pending approval.

FSIS supplemental regulation at 5 CFR 8301.104 requires FSIS employees to obtain written approval prior to engaging in any form of outside employment/ activity. Within the last 9 months, the Branch has observed a pattern of certain outside positions/activities that would not likely cause a conflict of interest for FSIS employees. The issuance of the new form will grant authority to the appropriate supervisors to approve employees request to engage in outside employment/activity. The Branch plans to provide examples of the types of outside employment/activity which will not likely cause a conflict of interest, empowering supervisors to approve requests for outside employment/activity with or without consulting with the Branch.

The majority of the program areas will not notice a major change in their current processes for employees to request prior approval to engage in outside employment/activity. However, the new

process should expedite the approval process for FSIS employees.



OE-Forest in temporary quarters

Even as Jennifer Cron Hepler, the new Forest Branch Chief, strives to get her office established, she has been addressing ethics issues posed by her clients in the Forest Service. For advice, Forest Service personnel may contact Jennifer in her temporary quarters, Room 347W in the Whitten Building.

THE GREAT ZAMBONI SPEAKS!!!!



The voice of the GREAT ZAMBONI, World-renown Ethics Sage and Fine Dining Critic has been silent for many months. However, with the renewal of the OE Newsletter, the GREAT ONE has agreed to reprise his role as the final arbiter of the most perplexing issues facing *the World Today*.



Oh Great Zamboni, I am in charge of the CFC Program for my

agency. I LOVE CFC and all the excitement around it. Well, at least I did until last year, when we had to request approval to hold events. We made hundreds on our “Drink ‘till you Drop for CFC” down at the “Auld Slosh and Grog” last year. Just kidding (heh). Nowadays, with the economy as it is, I feel stressed-out trying to top what the agency took in for CFC last year. But recently, I had a great idea. Our agency JUST went through a major move and the hallways are still full (after 5 months) of items marked “surplus.” NOBODY seems to want these things!! So, with the help of a smart IT buddy down the hall, we set up an agency CFC website and conducted an auction for these items—y’know, like e-Bay. The cash started rolling in. We topped last year within 2 weeks!!

That all worked so well that I came up with another brainstorm [I amaze myself sometime]. We could rake in even more if some items bore the signature of a genuine federal official. What if we auctioned a lamp signed by the Undersecretary who used it? I know all about endorsements, so I don’t think there’s much of a problem and it’s all for charity, but I figured I’d ask. It’s ok, right?

GZ: Absolutely . . . so long as you don’t mind being seen in the same drab, grey, pinstriped outfit each day for the next 2 to 5 years. Your creativity clearly knows no bounds. Unfortunate, that. But let me start by saying that in the grand meal of ethical violations, you are asking about dessert before ordering the main course. Obtuse? OK. Look! There’s good news and bad news. The good news is that you shouldn’t worry yourself too much about the endorsements. The bad news? It’s probably because you’ll be facing larger issues like possibly under 18 U.S.C. 641. The Great Z can’t speak authoritatively about this statute, but I heartily commend it to your reading. Pity. Perhaps you were unduly influenced in your youth by the phrase “possession is 9 tenths of the law” while never hearing the important part about the other tenth being TITLE. Title to this property belongs to

the United States of America and there are rules for how we can dispose of excess property to the public under which monies generated by sale of Federal property go to [drum roll, please] the GOVERNMENT! Unless done in accordance with these regulations, your actions could earn another title –“misappropriation of government property.”

[NOTE: While the GREAT ZAMBONI has changed some of the facts, rest assured that even the GREAT Z cannot make up stuff like this].



MEET THE STAFF

Since our last newsletter, our Headquarters’ family has grown under the esteemed leadership of OE Director, Ray Sheehan [NOTE: Ray insisted we use the “esteemed” part]:

Ray Sheehan, OE Director, has been in the Federal ethics biz since 1987. He has been the OE Director since February 2002, adding the title of USDA Designated Agency Ethics Official in 2007 with the retirement of the legendary John Surina. Prior to joining OE as a Senior Ethics Specialist in 1999, Ray spent 9 years in USDA OGC’s General Law Division. Before coming to Ag, Ray’s Federal experience was All-Navy [Beat Army!]. He served in the Navy Judge Advocate General’s Corps (Navy JAG) in Iceland and Okinawa (1976-9) and as a civilian attorney at both Navy JAG (1980-86) and Naval Sea Systems Command (1986-89). And no, his JAG experience was not the basis for the TV show. His JD is from Suffolk University in Boston [Go Sawx!] and his BA is from Providence College [Go Friars!]. When not doing the “good work” at OE, you’ll find Ray (1) playing guitar with his Celtic group, (2) playing softball, (3) taking his dog

swimming, (4) following his Sox, Pats, Celts and Bruins, or (5) paying bills [4 out of 5 ain't bad].



Mike Edwards, OE Deputy Director, has served in Government ethics at OE for six years, including a 4 month detail in the Office of Counsel to the President. Prior to entering the civilian Federal service, Mike spent 14 years as an active duty officer in Navy JAG (see a pattern?), where he served tours in Norfolk, Virginia; Naples, Italy; Washington, DC; and aboard the nuclear powered aircraft carrier, USS ENTERPRISE (CVN 65). (When he returned from Naples a part of him stayed behind.) He has remained in the Naval Reserves and was recently promoted to the rank of Captain. Mike is a graduate of Rice University and South Texas College of Law, and has an LL.M. from the Army JAG School in Charlottesville, Virginia. He is married and he and his wife have two children who both live and work in Texas. Mike likes to eat, to run, and to work on IT projects. You will likely find him under a desk hooking up cables.



Jennifer Cron Hepler is the new Ethics Branch Chief for the Forestry Services Branch, serving the U.S. Forest Service (FS). For almost 12 years, she worked in Federal Offices of Inspector General (OIG), where she provided legal advice regarding administrative, civil and criminal matters (including Ethics). Jennifer earned a BSBA in accounting with honors and a JD with honors from the University of Florida in Gainesville, Florida. In addition to being an attorney, Jennifer possesses a Certified Public Accountant's (CPA) license. Even after many years, Jennifer still misses Miami in the winter. She remains a loyal "orange and blue" Gator fan too.



Sandie Dunham is a new Senior Ethics Program Specialist in OE Headquarters. She will be in charge of Program Services. Prior to joining the OE, she worked in ethics programs at the National Institutes of Health, Office of Government Ethics, Nuclear Regulatory Commission, Broadcasting Board of Governors and the Federal Election Commission. Sandie graduated from the State University of New York at Potsdam with a BA in Spanish as well as the College of Saint Rose with a M.Ed. in reading. When she relocated to the Washington, D.C. area, she received a certificate from the Legal Assistant Program at the George Washington University. Sandie is an avid sports fan who loves ice hockey as well as the New York Yankees.



Arlene McCarthy is also a new Senior Ethics Program Specialist in OE-HQ. She will be in charge of Policy /Analysis and will serve the Foreign Agricultural Service. Arlene served the US Dept. of Education as an Ethics attorney and the Federal Energy Regulatory Commission as an attorney advisor before coming to USDA. Arlene taught legal research, reasoning and writing and oral advocacy at American University's Washington College of Law and Southern University Law Center. She also served as a judicial law clerk in New Orleans, LA, her hometown. She is a graduate of the University of Texas Law School and Columbia University, Barnard College. Arlene is the proud mother of one daughter, a junior at the University of Pittsburgh.



Andrew Tobin is a new Ethics Specialist in the USDA Headquarters Office of Ethics. Andrew

will service Departmental Administration and the Risk Management Agency. Prior to joining USDA, Andrew worked as a law clerk at the District of Columbia Office of Bar Counsel. Andrew is a 2006 graduate of the Catholic University of America, Columbus School of Law and graduated from Fairfield University in 2003 with a Bachelor's degree in American Studies. Andrew is also a member of the Maryland State Bar Association. In his spare time, Andrew enjoys running, reading and playing pickup basketball. He is a fan of all things Boston sports but does not miss the eight-month winters in his home state of Massachusetts.



Wanda C. Martin is a native of New Orleans and a graduate of Xavier University. She has worked at USDA, OCFO/National Finance Center (NFC) for nearly 30 years in several capacities. She worked as a Program Analyst for more than 20 years serving in the NFC's Evaluation Staff, Financial Management Office and Information Resources Management Division. As a Program Analyst, she worked on numerous special projects and initiatives (together with representatives from various agencies within USDA and other Federal departments) prior to joining the Ethics arena in 2005. She accepted the position with OCFO HQ in the Administrative Management Division to serve as the Ethics Officer for OCFO.



Barbara Keys started in the Federal Government with the NFC in June 1999. In 2005, she was reassigned to the Ethics Office where she worked until Hurricane Katrina. In October 2005, she relocated to OE in Washington D.C. She will relocate back to New Orleans in early January, still under the OE HQ Detachment at NFC. Barbara has enjoyed working in D.C. She has been married to a wonderful husband for 14 years. She has three children, 10 grandchildren (9 living, 1 deceased), and 3 great-grandchildren on the way.