IT’S JUST NOT THE SAME AROUND HERE

Pat Tippett Retires

With the retirement of Pat Tippett in June, 2007, USDA lost not only one of its most experienced ethics advisors, but also a fountain of energy, good humor, and dedication. Many USDA employees, within the Office of Ethics (OE) and without, lost the day-to-day connection with someone whom we all consider a dear friend.

Pat was one of the OE originals who came over at the very beginning. She had been ethics advisor for Agricultural Research Service for several years when USDA decided to create OE. Pat volunteered to be part of the team that considered potential organizational designs and was initially detailed to OE to help get it started. Thankfully, she was the guest who never left.

Anyone associated with Ms. Tippett received quality service with a personal touch. She was tireless in helping any one with completing a complex financial disclosure statement [redundant, I know]. In preparing Presidential nominees for Senate confirmation, she was the one who took on the toughest reports. Her ability to “get into the weeds” resulted in few, if any, questions from the Senate. It is joked that the Senate Ag Committee referred to USDA’s successful nominees as passing the “Pat Tippett Test.” We all wish Pat nothing but the best on her retirement. Time for mornings at the lake with spouse and pups. We miss you.

PS: You sure you really don’t want to fight 95 getting here every morning?

USDA’S AWARD-WINNING ETHICS TRAINING IS GOVERNMENT-WIDE

We’re Bad; We’re Nationwide! It’s been a good year to be USDA’s Ethics Program. In January, the U.S. Office of Government Ethics (OGE) gave OE not one, but two—right, two of the 10 ethics training awards issued at OGE’s Annual Ethics Conference. The first award was for development of our ethics training module “Ethics Sweepstakes”; the second was for development of Ethics “Self-Helps”, which walk you through common, yet complex, ethics questions.

In March, the Interagency Ethics Council (IEC), an informal consortium of Federal ethics officials, initiated a government-wide ethics training effort. As part of that effort, IEC elected to use a version of “Ethics Sweepstakes” modified by USDA for Government-wide use.

Now, it seems as if other Federal agencies are looking to create the next “Ethics Sweepstakes.” Not a problem; we’re a few laps ahead in that race. By the time they get to the finish line, we’ll be onto something totally different. Just keep watching.

See the step by step directions for accessing Ethics training modules in AGlearn on page 4
BIG CHANGES FOR ETHICS AT USDA.

USDA Ethics Program to be Centralized Under Office of Ethics

Most everyone at USDA has heard something about this by now, but for those who also just received news of First Manassas, Sputnik, and the 2004 Red Sox, here’s another highlight: The entire USDA Ethics Program has been centralized under the USDA Office of Ethics (OE), starting October 1, 2007.

On December 22, 2006, the Office of the Secretary approved centralization of the entire USDA Ethics Program under OE. The reorganization is an enormous change for an agency ethics program that has been highly decentralized since its inception in 1979. Up until this point, most ethics services have been provided at the agency and mission area levels, normally by employee relations branches and human resources divisions. Most other Federal agencies provide ethics services through their General Counsels’ office.

With this reorganization we are making the ethics program more visible. At the same time, we are improving the quality of ethics advice. For the first time all USDA ethics advisors will be hired, trained, and evaluated by full time ethics officials.

The result: OE will, beginning with the new fiscal year, expand from a sleepy six-person office, to an organization of approximately thirty, spread across a headquarters office and four divisions.

SOMETHING TO SING ABOUT

[Part 2] Pat Tippett receives Organization of Professional Employees of the Department of Agriculture (OPEDA’s) “Unsung Hero” Award

Raise your voices in song for Pat Tippett, 2007 recipient of OPEDA’s “Unsung Hero” Award.

On May 8th, 2007 as part of Public Service Recognition Week, Pat joined eleven other deserving recipients at the Whitten Building Patio, to receive her award from Congressman Frank Wolf and Secretary Mike Johanns. Those of the “ethics family” in attendance could not have been prouder or happier for her. It was so justified.

Simply put, no one brought more competence, energy, humor, goodwill, or commitment to government service than Pat Tippett. As we used to say, look up “cheerful, dedicated public servant” in the dictionary and you’d see Pat’s smiling picture. Simply, if you wanted to feel good on April 15th about sending your hard-earned tax dollars to Washington, all you had to do was call Pat or go into her office. For all this, she never asked for arias sung in her honor; just the respect of her peers and the feeling that her efforts were of value to others. Yet, sing we shall. She deserves it. Pat Tippett, “Unsung Hero,” is unsung no more.

Before you plan your CFC event please visit the USDA CFC website by clicking here; 2007 USDA CFC Campaign
Looking Deeper into Ethics – Is it a Particular Matter, Yet?

Most of us who have driven children on a long car ride have repeatedly—sometimes to distraction—heard the question, "Are we there, yet?" That desire to know when some place or some thing becomes something new infuses even General Counsels’ of Federal Agencies. In fact one General Counsel recently asked the Office of Government Ethics (OGE), is it yet?

But before we get to the answer from OGE’s Letter to a Designated Agency Ethics Official dated August 23, 2006 (06x8), we need to go back for a review of 18 U.S.C. § 208 and the term "particular matter."

The first ethics statute that a new advisor is likely to learn is 18 U.S.C. § 208, the principal conflict of interest statute. Unlike 18 U.S.C. § 207, it applies to current Federal employees. Unlike § 203 and § 205, it is a frequent visitor in the ethics waiting room. That statute is also the basis for filing and review of financial disclosure reports. It applies when an employee takes on their first duties and is scrutinized when departing employees seek new employment in the private sector.

In that early look, at 18 U.S.C. § 208, the new ethics specialist learns that employees are prohibited from: (Continued Next Column)

“Participating personally and substantially in any particular matter in which he or any other person specified in the statute, has a financial interest, if the particular matter will have a direct and predictable effect on that interest.”

What makes the statute complicated is that each of these "elements" are complex subjects in their own right--each fraught with definitions, court cases, explanatory examples, exceptions, OGE and Office of Legal Counsel opinions, and intertwined regulations and related statutes.

The term "particular matter" in the third element is arguably the most complicated element of all. According to 5 CFR 2640.103(1), the term "particular matter" includes only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons or a discrete and identifiable class of persons. The term may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons. It does not, however, cover considerations or adoption of broad policy options directed to the interests of a large and diverse group of persons otherwise known as “matters of general applicability”. The particular matters covered by this part include a judicial or other proceeding, application or request for ruling or other determination, contract, claim, controversy, charge, accusation, or arrest.

Thus, the regulation defines particular matter quite broadly. What is not defined, however, is when a matter becomes a particular matter or when it ceases to be a particular matter. For example, are informal preliminary discussions about specific changes to standards affecting a particular industry a particular matter? That is the specific question asked by the General Counsel of a Federal Agency to OGE. An impatient child might have phrased it, "Are we there, yet?"

(Continued Page 4 Column 1)
If the General Counsel who wrote to OGE was looking for a door to let him out of finding someone guilty of violating the conflict of interest statute, OGC slammed the door and hard. Changes to regulations affecting a particular industry is a particular matter. It's a particular matter when the changes are being implemented; it's a particular matter when the changes are proposed; and it's even a particular matter during informal, preliminary discussions about possible changes. OGC provided three reasons. First, 18 U.S.C. § 208, by its very terms covers preliminary actions such as "investigation" and "rendering advice." Second, as the Office of Legal Counsel has observed, 18 U.S.C. § 207, which uses the more restrictive "particular matter involving specific parties," would find a particular matter even if there have only been agency discussions about the issue. Third, any other reading of the statute would undermine the purpose of the statute: if an employee with a disqualifying financial interest could continue to participate up until the time there was a formal agency proposal, he or she could greatly influence Federal actions to his own financial benefit.

In summary, the term "particular matter involving specific parties" is a broad term and is not dependent on the point of time you view the matter involved.

So, at least one authority has answered the question, "Are we there yet?" with a resounding, "Yes!" Now, if it were only that easy to quiet the kids in the car.

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YOU THINK OUR ETHICS LAWS ARE TOUGH?

On July 10, 2007, Zheng Xiaoyu, former head of China's food and drug administration was executed for taking bribes to approve substandard medicines — including an antibiotic blamed for at least 10 deaths.

According to Xinhua News Agency reports, Zheng accepted cash and gifts worth more than 6.49 million yuan ($832,000) while he was director of the State Food and Drug Administration.

The bribes allowed eight companies to get around drug approval standards. The sentence is believed to indicate the Chinese leadership's determination to deal with the recent scares involving unsafe food and drugs. [Y’think?]

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Step by step directions for accessing ethics training in Aglearn

1. Open your Aglearn account,
2. Click on the Catalog at the top of your screen
3. Insert Ethics: in the search box (the colon makes a difference)
4. Select an Ethics training module by clicking on the button “Add to Learning Plan” on Right the side of your screen,
5. Repeat this process a total of 3 times,
6. In order to receive credit, make sure you complete the survey at the end of each module,
Spotless the Original Ethics Dog
Answers Your Questions

Dear Spotless,
Marge and I have been friends since grammar school and she wants me to write a letter of recommendation for her. We have never worked together but she has applied for a job at a local bank. I am a GS-14 Supervisor, and would like to know if I may write a letter of recommendation using USDA stationary and sign it using my official title?
Forever Friends

Dear Forever,
You’ve been friends since you were pups? Favors for friends are like a scratch behind the ears, or a good pat on the head. However, in this situation you may only write a letter of recommendation for Marge in your personal capacity. That is, you may not use USDA letterhead or include your title when you sign the letter. But here are some examples of when you could write a letter of recommendation on official letter head:

- If you two had worked together as Federal employees and you had personal knowledge of Marge’s abilities or character; even if she was applying for non-Federal employment.
- If you had never worked together, but Marge was applying for a position at the USDA.

Yours truly,

Spotless, the Ethics Dog

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How Ethics Wise Are You?
How about tackling the U.S. Office of Government Ethics Crossword Puzzle

- Double click on the Puzzle
- Print it
- Fill in the Answers
- The Correct Answers may be viewed at http://www.usoge.gov/pages/comp_web_trng/comp_web_trng_pg3.html

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Do Not Use the Short OGE 450A in 2008

Remember that 2008 will be an election year, and everyone filing the Confidential Financial Disclosure Report OGE Form 450 in February must use the regular OGE Form 450; do not use the OGE form 450 A short form.
HAILS, FAREWELLS & CONGRATS

Since our last newsletter, here are a few other things happening with our people:

**FSIS Farewell & congrats to Dawn Ruffner** who was selected as CFSIS Chief of Employee Relations.

**Welcome to Sylvia Bourn** who replaced Dawn. Welcome, Sylvia.

**MRP Farewell to Mary Royster** who has returned to ER work. While still helping on ethics during the lead up to reorganization, Mary will remain with APHIS. We’ll miss you, Mary.

**NRCS Farewell to Marcki Metcalf** who left for a position at EEOC’s OGC Office. Best wishes.

**OE Congrats to:**
- **Lori Delgado** who was selected for an ethics specialist position in April;
- **Mike Edwards** who was selected for the new post of Deputy Director/Alternate Ethics Official; and
- **Ed Peterman** who recently came back to USDA as Senior Ethics Specialist replacing Pat Tippett.
- **Ray Sheehan** who was named Designated Agency Ethics Official.

**OLD BUT GOOD NEWS Welcome to Barbara Keys** who came to OE as a result of Katrina -- We call her the good news of Katrina.

**Farewell to Pat Tippett** for reasons made quite clear by this issue.

**Ethics Alumni Update: Leine Whittington**, who once graced OE as both IT contractor and Ethics Assistant, switched over from civil service to the foreign service with the State Dept. and recently began service as an Economics Officer in Quito, Ecuador. She says “hello” to the ethics gang.

**REE** Best of luck to **Dwaine Grove** who left ARS for an ethics post at Fannie Mae. He is finally engaged to lovely Nichole.


Here is Another Great Opportunity to Complete Your Ethics Training This Year....

…Post Employment Ethics Training December 4th 2007 9:30 to 10:30 AM In the Jefferson Auditorium Make Your Reservation By calling (202) 720-2251 Or Email Barbara.T.Keys@USDA.gov

End of Newsletter