



United States
Office of Government Ethics

1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

February 26, 2002

The Honorable Gordon S. Heddell
Inspector General
Department of Labor
200 Constitution Avenue, NW.
Room S1303
Washington, DC 20210

Dear Mr. Heddell:

As part of our agency monitoring activities, we have completed a review of the ethics program at the Department of Labor's Bureau of Labor Statistics. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended.

I have enclosed a copy of the report for your information. Please call me at 202-208-8000, extension 1120, if I may be of assistance.

Sincerely,

A handwritten signature in cursive script that reads "Jack Covaleski".

Jack Covaleski
Deputy Director
Office of Agency Programs

Enclosure



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

February 26, 2002

Eugene Scalia
Solicitor and
Designated Agency Ethics Official
Department of Labor
200 Constitution Avenue, NW.
Room S-2002
Washington, DC 20210

Dear Mr. Scalia:

The Office of Government Ethics (OGE) has completed a review of the ethics program at the Department of Labor's (Labor) Bureau of Labor Statistics (BLS).¹ Our objective was to determine the ethics program's effectiveness, measured by its compliance with applicable ethics laws and regulations. To achieve our objective, we examined the following program elements: the administration of the ethics program, the financial disclosure systems, the ethics education and training program, the ethics advice and counseling services, the prior approval of outside activities, the acceptance of travel payments from non-Federal sources, and coordination with the Office of Inspector General (OIG). The review was conducted during November and December 2001. The following is a summary of our findings, conclusions, and recommendation.

As our September 11, 1995 report of our last review revealed, BLS continues to have an excellent ethics program. BLS' ethics officials as well as the ethics counselors in the Office of the Solicitor (SOL) are to be commended for their commitment to the ethics program. However, our review also revealed one deficiency that must be remedied by Labor rather than BLS.

ETHICS PROGRAM ADMINISTRATION

Labor's ethics program is decentralized. Ethics counselors located in SOL provide overall assistance and direction to BLS. BLS' ethics program is centralized at headquarters. Labor's

¹BLS' national headquarters is located in Washington, DC. BLS also maintains six regional offices located in Atlanta, GA; Boston, MA; Chicago, IL; Dallas, TX; Philadelphia, PA; and San Francisco, CA.

primary contact at BLS is a Program Analyst located in the Office of Administration (Administration), Division of Management Systems. She is BLS' primary ethics official responsible for day-to-day activities of BLS' ethics program. Three other ethics officials in Administration provide her assistance.

FINANCIAL DISCLOSURE SYSTEMS

BLS' financial disclosure systems are managed effectively. The primary ethics official advised us that BLS employees' financial interests seldom pose conflicts of interest. BLS is concerned about employees releasing labor statistics prematurely outside BLS in violation of the provisions on the use of nonpublic information, at 5 C.F.R. § 2635.703 of the "Standards of Ethical Conduct for Employees of the Executive Branch" (standards). However, financial disclosure is not considered useful in identifying compliance with § 2635.703; instead employees are instructed not to release non-public information and to contact ethics officials when they have questions regarding such information.

BLS has adopted Labor's written procedures for collecting, reviewing, evaluating, and, where appropriate, making publicly available financial disclosure reports.

Public Financial Disclosure System

To determine the effectiveness of the public financial disclosure system, we examined the public reports required to be filed in 2001. Our examination disclosed that 26 public reports were required to be filed consisting of 23 annual, 1 termination, and 2 new entrant reports. We found that 22 of the 23 annual reports were filed, reviewed, and certified timely. The Commissioner's² annual report was filed timely but SOL's ethics counselors reviewed the report late, which caused it to be submitted to OGE late. Both BLS' primary ethics official and SOL's ethics counselor advised us that this was not a trend and was unlikely to happen again. The Commissioner's termination report was filed, reviewed, and forwarded to OGE timely. Regarding the new entrant reports, one report was filed timely and the other report was filed late. Ethics officials are in the process of collecting the employee's \$200 late filing fee.

²The Commissioner is BLS' only Presidential appointment which requires the advice and consent of the Senate.

Confidential Financial Disclosure System

Currently, BLS requires its special Government employees (SGE) to file confidential financial disclosure reports.³ However, according to the primary ethics official, the duties of these SGE positions make remote the possibility that the SGE will be involved in real or apparent conflicts of interest. BLS' SGEs work part-time or intermittently as researchers (hired under the Intergovernmental Personnel Act or the Student Volunteer Authority), or as members of the Federal Economic Statistics Advisory Committee (FESAC).⁴ We suggest BLS' ethics officials consider whether to exclude, pursuant to 5 C.F.R. § 2634.905(a), the SGEs from all or a portion of the confidential reporting requirements. If BLS decides to exclude all or a portion of the SGEs' reporting requirement, BLS must obtain a determination from Labor's DAEO.

To determine the effectiveness of the confidential financial disclosure system, we examined the confidential reports required to be filed in 2001. Our examination disclosed that 26 new entrant and follow-on new entrant reports were filed, reviewed, and certified timely.

ETHICS EDUCATION AND TRAINING PROGRAM

New employees at headquarters attend an Administrative Benefits session offered monthly. During each session, the primary ethics official conducts an ethics orientation briefing and provides employees with a copy of the standards along with ethics summaries developed by SOL's ethics counselors. Labor's supplemental regulation, at 5 C.F.R. part 5201, is not distributed because none of its provisions apply to BLS. New employees in the regions receive a copy of the standards and are advised to seek advice from Labor's regional solicitor.

BLS' covered employees received annual ethics training in 2001. We confirmed that all public filers, including the Commissioner, attended either the July 27, 2001 or November 2, 2001

³BLS has determined that none of its full-time employees meet the definition of a confidential filer, as defined under 5 C.F.R. § 2634.904.

⁴BLS has two advisory councils, the Business Research Advisory Council (BRAC) and the Labor Research Advisory Council (LRAC). The members on the BRAC and LRAC are representatives and not SGEs.

ethics training session. An ethics counselor from SOL conducted both ethics training sessions. BLS' SGEs received either new employee ethics orientation or a written summary of the ethics laws and regulations entitled "How To Keep Out Of Trouble," which was tailored specifically for SGEs.

SOL's ethics counselors present additional ethics seminars when the need arises. For example, an ethics counselor presented a special ethics session for the FESAC members. Additionally, an ethics counselor developed ethics articles to be in the monthly "Spotlight" on Labor's intranet. For example, the "Spotlight" carried the restrictions on political activity by Federal employees, which included many questions and answers.

ADVICE AND COUNSELING SERVICES

Written ethics advice is provided using electronic mail, letters, and memorandums. The primary ethics official consults an ethics counselor from SOL when necessary. Our examination of BLS' recent written advice disclosed that it covered gifts, the Hatch Act, misuse of position, outside activities, post employment, speaking, teaching, travel, and writing. We found the written advice provided to BLS' employees was consistent with the ethics laws and regulations.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

BLS has comprehensive written procedures for processing requests for travel reimbursements from non-Federal sources. These procedures cover BLS' acceptance of travel payments from foreign governments and organizations under 31 U.S.C. § 1353, as implemented by 41 C.F.R. parts 301-1 and 304-1. These procedures also cover BLS' employees' acceptance of travel payments from state and local governments and certain tax-exempt organizations under the Government Employees Training Act (GETA) at 5 U.S.C. § 4111, as implemented by 5 C.F.R. §§ 410.501-410.503.

We examined 13 requests for BLS' employees to participate at conferences and workshops in 2001. Our review disclosed that the requests, which consisted of 4 requests under 31 U.S.C. § 1353 and 9 requests under GETA, were properly approved.

Labor's semiannual reports to OGE of travel payments totaling more than \$250 per event under 31 U.S.C. § 1353 are submitted late. The report covering April 1, 2001 - September 30, 2001 has not yet been submitted to OGE. The report covering October 1, 2000 -

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March 31, 2001 was submitted on December 3, 2001. The report covering April 1, 2000 - September 30, 2000 was submitted on March 29, 2001. Under 41 C.F.R. § 304-1.9(a)(1), agency reports for periods ending September 30 are to be submitted to OGE by November 30 of each year, and agency reports for periods ending March 31 are to be submitted to OGE by May 31 of each year.

An SOL ethics counselor advised us that the lateness in the submission of the semiannual reports to OGE was due to a relatively high turnover of personnel in Labor's Office of the Assistant Secretary of Administration and Management (OASAM). Accordingly, an ethics counselor met with the OASAM staff in January 2002 to address the timely submission of semiannual reports to OGE. If applicable, BLS would be advised of the proper procedures for reporting information to Labor for compilation in the semiannual reports to OGE.

COORDINATION WITH THE OIG

BLS has had no allegations of criminal conflicts of interest referred to the Department of Justice for the period under review. Consequently, BLS' primary ethics official has not found it necessary to communicate directly with officials in Labor's OIG. However, as a result of a 1999 OIG audit, BLS generated an internal procedure and a computer training module regarding the confidentiality of BLS non-public information.

CONCLUSIONS AND RECOMMENDATION

Based on the results of our review, we conclude that BLS has an excellent ethics program that complies with the requirements of the ethics laws and regulations. The various aspects of the program continue to be effectively coordinated and managed by your able and experienced staff. The ethics education and training program continues to exceed the regulatory requirements. Additionally, the advice and counseling was again found to be comprehensive and consistent with applicable laws and regulations.

OGE commends the ethics counselor from SOL for being proactive, having already met with Labor's OASAM staff to address the timeliness of the semiannual travel payment reports. However, we recommend that you:

Submit to OGE timely the semiannual reports of travel payments from non-Federal sources totaling more than \$250 per event accepted under 31 U.S.C. § 1353.

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In closing, I thank you and your staff for your efforts on behalf of the ethics program. Please advise me within 60 days of the actions you have taken or plan to take on our recommendation. A brief follow-up review is normally scheduled within six months from the date of this report. In view of the corrective action authority vested with the OGE Director under subsection 202(b)(9) of the Ethics in Government Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that our recommendation be implemented in a timely manner. A copy of this report is being sent to the Inspector General. Please contact Jean Hoff at 202-208-8000, extension 1214, if we may be of further assistance.

Sincerely,



Jack Covaleski
Deputy Director
Office of Agency Programs

Report Number 02- 004