



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

March 21, 2006

Keith E. Gottfried
Designated Agency Ethics Official
Department of Housing and Urban Development
Room 10214
451 7th Street, SW.
Washington, DC 20410

Dear Mr. Gottfried:

The Office of Government Ethics (OGE) has completed its review of the Department of Housing and Urban Development's (HUD) ethics program. The review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the program's compliance with applicable laws and regulations. We also evaluated HUD's systems and procedures for ensuring that ethics violations do not occur. The review was conducted in December 2005. The following summarizes our findings and conclusions.

HIGHLIGHTS

HUD's ethics program meets or exceeds the requirements of the ethics laws and regulations. The support and involvement of upper management has contributed to the success of the ethics program. The documentation of the advice and counseling enhances both the transparency and accountability of the ethics program. The use of tracking systems enables HUD to determine that it is meeting the requirements for the financial disclosure and education and training systems. The strong procedures for approval of travel payments from non-Federal sources increase accountability of the ethics program. HUD also provides a wide variety of ethics education and training materials to employees on a regular basis, enhancing the ethics program's transparency, efficiency, and accountability.

PROGRAM STRUCTURE

HUD has approximately 10,000 employees, located both at headquarters in Washington, DC and at field and regional offices around the country. HUD's mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination. Our review focused predominately on the headquarters. The Office of Inspector General (OIG) and the Office of Federal Housing Enterprise Oversight (OFHEO) run separate ethics programs, which were not included in the scope of our review. However, all public financial disclosure reports are filed at headquarters, so we did look at a sample of all reports, including the ones filed by employees at the OIG, the OFHEO, and at the field and regional offices.

The General Counsel for HUD is a Presidentially-appointed, Senate-confirmed (PAS) employee and is also the Designated Agency Ethics Official (DAEO). A Deputy General Counsel serves as the Alternate DAEO. Another Deputy General Counsel is in charge of Equal Opportunity and Administrative Law. Under this second Deputy is the Office of Human Resources (HR), headed by an Associate General Counsel. One of the three offices under this Associate General Counsel is the Ethics Law Division (ELD). The Associate General Counsel of the ELD, hereinafter referred to as the Ethics Counselor, is responsible for the day-to-day operations of the ethics program. Assisting the ethics staff in regards to the confidential financial disclosure system are administrative officers who update the master list of confidential financial disclosure filers.

According to the Ethics Counselor, HUD's strategic plan includes program goals for ethics. Ethics officials have ethics-related standards written into the performance measurements used for their annual performance appraisals. The ethics staff under the Ethics Counselor includes three attorney-advisors, four management analysts, a legal technician, and a student intern. However, two attorney-advisor positions and one management analyst position are currently vacant. While our review found no apparent deficiencies, we feel that it is vital to keep the ELD fully staffed to ensure the continued success of the ethics program.

Regional Counsels are generally responsible for the ethics program in the regional and field offices. The Ethics Counselor holds monthly conferences with the Regional Counsels to discuss the ethics program requirements and issues. Generally, once a year, each regional office is visited by an individual from the Office of Human Resources who reviews the personnel systems and ethics program to ensure there are no problems.

EDUCATION AND TRAINING

HUD not only meets the training requirements at subpart G of 5 C.F.R. part 2638, but exceeds them. The ethics education and training program appears to be aggressive, comprehensive, and innovative in its use of technology. Also, the Secretary gives a presentation which is used as an introduction to recorded training materials.

Initial Ethics Orientation

Initial ethics orientations are held monthly. HR provides a list of new employees to HUD's Training Academy, a HUD organization that plans and coordinates many training courses for HUD's employees. The Training Academy organizes the new employee orientation sessions which include the initial ethics orientation. It also tracks attendance. Ethics officials make the initial ethics orientation presentation and provide the new employees with copies of HUD's newsletters, the 14 basic principles, and the power point slides that are shown in the presentation.

PAS employees usually meet initially with the Ethics Counselor to go over their nominee reports. They meet a second time after they have completed their reports. After the employees are

confirmed, the Ethics Counselor again meets individually with them to provide training tailored to their specific needs. She provides a copy of the January 6, 2004 White House memorandum about 208(b)(1) waivers, HUD's supplemental standards of conduct, and a copy of the criminal conflict of interest statutes. This one-on-one training with the PAS employees indicates a more personal focus on high level employees. She also periodically attends senior staff meetings and speaks on ethics matters. In addition, since most PAS employees are hired with a new Secretary, the Ethics Counselor also holds a combined training session with all of the PAS employees.

Annual Ethics Training

It appears that HUD exceeds the minimal regulatory requirements for annual ethics training. In 2004 and 2005, annual ethics training was held for all employees who file either public or confidential financial disclosure reports, and non-filers were invited to attend. PAS training is held as a separate session. In addition, HUD varies the topics of training each year in an attempt to keep material fresh for employees. Of particular note is HUD's use of various means of verbal presentation. Employees are also provided written materials, case studies, power-point presentations, and access to web casts. These web casts are produced by contractors in HUD's broadcasting studio, and they allow HUD ethics officials to broadcast training simultaneously to employees at headquarters and in the field. The web casts are also interactive in that employees watching the web casts can call in to the studio, ask their questions on air, and have them answered immediately. These web casts are also archived on the intranet, providing employees access to them at any time.

Model practices include requiring employees to use a sign-in sheet, a written confirmation for receipt of training, or an electronic message stating that they had attended training and recording this in a database. If a review of their database records indicates that an employee has not received training, ethics officials will follow-up with the employee. As part of our review of the system, we requested documentation supporting the receipt of training for each employee that we had selected in our sample review of financial disclosure reports. Based upon this documentation, we are satisfied that employees are receiving the required training.

COUNSELING AND ADVICE

The counseling and advice program is notable in many respects and is proactive in keeping employees informed of ethics issues. One notable part of the ethics program is the documentation of the ethics counseling and advice. In particular, if an inquiry is specific, the Ethics Counselor requests it be made in writing. This enhances the transparency and accountability of the ethics program. Our review of a sample of 26 pieces of written counseling and advice found that it appears to be consistent with applicable laws and regulation and is timely.

Also of note is the model practice of providing post-employment counseling to all departing employees. Departing employees must get signatures from the ELD on their clearance forms,

ensuring that they obtain counseling and/or handouts with post-employment information. Staff in the ELD also meet individually with the PAS employees, another model practice.

The ELD also provides advice to OIG staff when they need interpretation of the regulations or a more in-depth understanding of the ethics laws and regulations. The advice we reviewed appeared to be accurate, timely, and relevant to the OIG inquiries.

Current ethics information is readily available to employees via HUD's computer network. Significant ethics information is highlighted on the HUD@Work homepage with links to additional information. A New Employee Orientation page is maintained, which has a link to ethics materials, and there are General Counsel and ethics web pages. The ethics web page has links to ethics training dates, financial disclosure forms, copies of HUD's ethics newsletters, materials covering various ethics subjects and topics, a copy of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), and other ethics policies. These materials are quite comprehensive and informative.

In addition to the resources available online, the Ethics Counselor also periodically produces a newsletter called The Ethics Standard. It helps to advertise the ELD, remind employees of important dates, rules, and contact information for ethics questions. Often, the Secretary and/or the General Counsel will support the ethics program in the form of a written article. Our review of the newsletters found them to be informative.

Periodically, the Ethics Counselor will send out memoranda to either particular groups of employees or all employees when matters arise which would affect them or of which they need to be aware. We also reviewed several of these memoranda and found them to be comprehensive and informative.

ENFORCEMENT

HUD appears to address potential violations of ethics laws and regulations in a prompt and effective manner. This is evidenced through conversations with the ethics staff and our review of administrative actions taken in response to recent incidents of potential violations of ethics regulations. Individuals in the OIG, ELD, and Human Resources all described an effective working relationship with each other on an as-needed basis, providing information to benefit the other offices in their respective roles of addressing potential violations.

In addition to maintaining a hotline for reporting violations, the OIG has appointed a liaison to coordinate activities with the ELD. This liaison works with the Ethics Counselor on an as-needed basis. The OIG also notifies the employee's program manager of the result of its investigation. The program manager, who is responsible for taking action, often coordinates with HR in determining the appropriate action.

We examined the case files for all 11 instances of potential ethics violations on file for 2004. In particular, we examined the types of violations and the timeliness of addressing those potential violations, from the date the potential violation occurred to the date final action was taken on the case. The types of violations in the 11 cases we looked at involved various issues, including misuse of Government property. The types of actions taken included official reprimands, suspensions, and removal or termination. The actions appeared to be in accordance with HUD's table of offenses and penalties and appeared to be taken in a timely manner.

Only one referral of an alleged violation of the criminal conflict of interest laws was made to the Department of Justice during 2004 through the end of our fieldwork. OGE was timely notified by the OIG Special Agent-in-Charge of the referral.

ETHICS AGREEMENTS

Twelve PAS employees had entered into written ethics agreements from 2002 to the end of our fieldwork. We found the necessary actions had been taken to comply with the ethics agreements timely, and evidence of the actions was on file. The ethics agreements appeared to be consistent with relevant laws and regulations. Where an ethics agreement included a disqualification, there was also a screening arrangement. No waivers have been issued in the last two years.

The Ethics Counselor informed us that there is a tracking system for the nomination and confirmation process which includes information on ethics agreements. She is also very active in the ethics agreement process. Matters from which an employee is recused usually go to the deputies in the rare cases when a matter does arise. Therefore the process includes an employee's deputy and the Ethics Counselor discussing the ethics agreement and actions to be taken.

In addition to the PAS ethics agreements, HUD requires non-PAS employees to have written recusals. We examined the file with these recusals which covered acts affecting a personal financial interest, appearance of violating the law or the Standards, and personal and business relationships. All the recusals appeared to be consistent with relevant laws and regulations. These written recusals also had ingrained screening arrangements.

FINANCIAL DISCLOSURE SYSTEMS

HUD meets and exceeds the financial disclosure requirements at 5 C.F.R. part 2634, including those relating to alternative and supplemental financial disclosure. HUD has strong, comprehensive written procedures for both the public and the confidential financial disclosure systems. In addition, HUD uses a database to track who has filed a report. Finally, HUD issues cautionary memoranda to filers where appropriate, warning filers of potential conflicts.

Public Financial Disclosure

HUD's written procedures for the public financial disclosure system consist of date stamping the reports, logging the date of receipt into a tracking system, reviewing the reports for completeness and lack of conflicts of interest, formally notifying filers when additional information is required, and establishing a due date for the additional information. HUD follows up with filers who have not yet filed, reminding them of their obligation to file, and follow-up procedures for termination filers include letters mailed to departing public filers via certified mail with return receipt requested. HUD also provides training to public filers covering the purposes and requirements of the public financial disclosure system and instructions on how to complete the SF 278.

In order to review the public system, we looked at a sample of reports filed for the May 2005 filing cycle, which covered calendar year 2004. Of the 182 total filers on HUD's master list of non-PAS public filers, we reviewed 50 reports, consisting of 39 incumbent reports, 9 new entrant reports, 1 termination report, and 1 combined incumbent/termination report. All reports were filed, reviewed, and certified in a timely manner. Also, there were few technical errors and no substantive problems.

We also looked at the 11 public financial disclosure reports filed by PAS filers in 2004 that were forwarded to OGE. The reports consisted of five annual, five termination, and one combined annual/termination report. Our review disclosed that the reports were filed, reviewed, certified, and forwarded to OGE in a timely manner. Also, there were no technical or substantive problems.

Confidential Financial Disclosure

In addition to the OGE Form 450, HUD has designed a supplemental form and supplemental instructions for OGE Form 450 filers. With OGE's concurrence and approval, HUD has implemented the "Supplement to the OGE Form 450" (Supplement).

To ensure an accurate master list of filers, every August, the ELD also provides administrative officers a copy of the master list of filers and requests their input on any changes that need to be made. The administrative officers update the list and return it to the ELD. The Ethics Counselor schedules training for them each year to cover the designation criteria and their responsibility in the filing process.

To review the confidential financial disclosure system, we selected a sample of OGE Form 450s and accompanying Supplements from filers located at headquarters. This sample did not include those filed at field or regional offices, as those reports are maintained in the respective field or regional office. Officials in those offices keep the ELD apprised of their progress in collecting the reports. We reviewed a sample of 50 reports, consisting of 41 annual reports, 2 new entrant reports, and 7 special Government employees' reports. We found that the reports were generally filed in a timely manner, and they were thoroughly reviewed and certified in a timely manner.

Mr. Keith E. Gottfried
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ACCEPTANCE OF TRAVEL PAYMENTS

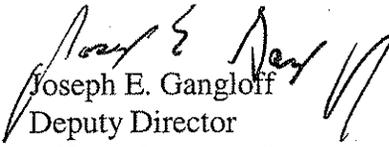
HUD accepts payments for travel, subsistence, and related expenses from non-Federal sources under 31 U.S.C. § 1353. HUD's policy and procedures for the acceptance of such travel payments appear to be comprehensive. Of note are the strong procedures for the approval of all payments by the Deputy Secretary. In addition, if the offer is from a prohibited source, then an agency designee, who is an ethics official, reviews and approves the request. We selected the four semi-annual reports from HUD covering the period from October 1, 2003 to September 30, 2005, which included a total of eight acceptances. We reviewed the reports and found them to be correctly completed and timely submitted to OGE. Additionally, we examined the supporting documents and found that the proper HUD approvals had been obtained.

SPECIAL GOVERNMENT EMPLOYEES

HUD has seven SGEs who serve as experts and consultants. Our review of their reports is found above under the "Confidential Financial Disclosure" section. HUD does have one Federal Advisory Committee; however, the members of that committee serve as representatives.

In closing, we wish to thank you and your staff for your efforts on behalf of the ethics program. Please contact Gina Noe Todorovich at 202-482-9316, if we may be of further assistance.

Sincerely,


Joseph E. Gangloff
Deputy Director
Office of Agency Programs

Report Number 06- 006