



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

February 16, 2012

Robert Fenner  
Designated Agency Ethics Official  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

Dear Mr. Fenner:

The United States Office of Government Ethics (OGE) recently conducted a follow-up review of the ethics program at the National Credit Union Administration (NCUA) to determine whether the improvements recommended or suggested in our April 2011 report have been achieved. Below are the results of our follow-up review.

As noted in OGE's report on the initial review of NCUA's ethics program, the Alternate Designated Agency Ethics official is responsible for the day-to-day administration of NCUA's ethics program. The Alternate DAEO is assisted by two Deputy Ethics Officers (DEO) at headquarters. NCUA's program also relies on the cooperative efforts of a network of regional DEOs to help administer the ethics program within each of the five NCUA regions. OGE's report suggested:

- In view of NCUA's decentralized organizational ethics program structure, OGE suggests that NCUA consider incorporating ethics duties into the job descriptions and performance appraisals of all NCUA ethics officials, especially the regional DEOs.

Language addressing the ethics program responsibilities of the Alternate DAEO and the two DEOs at headquarters has been drafted and is under consideration for inclusion in their respective position descriptions. There is some question as to whether the appraisal system NCUA uses can be amended to include ratings on the performance of ethics-related responsibilities. The Alternate DAEO has also suggested appropriate language for the regional DEOs' position descriptions. However, because some position descriptions within NCUA are standardized, including those of the regional DEOs, it may not be possible to amend those position descriptions. OGE encourages NCUA to continue pursuing the inclusion of ethics-related responsibilities in ethics officials' position descriptions and performance appraisals. Since NCUA's actions are responsive to our suggestion, we have closed this issue.

NCUA had no written procedures for administering the public or confidential financial disclosure systems at the time of OGE's initial review. Written procedures are required by section 402(d)(1) of the Ethics Act. OGE also found it difficult to independently track the

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timeliness of processing of public and confidential reports because there was no system in place to monitor and document the status of the reports. OGE further found that none of the confidential reports filed within one of NCUA's regions and selected for examination had been certified. There was no indication that further information from filers was required to complete the review and certification of the reports. Based on these findings, OGE made three recommendations. The recommendations and results of OGE's follow-up review are as follows:

- Establish written procedures for administering the public and confidential financial disclosure systems to comply with the requirements of section 402(d)(1) of the Ethics Act.

NCUA ethics officials have drafted written procedures for administering the public and confidential financial disclosure systems. The procedures are in compliance with applicable requirements and should help to ensure continuity in NCUA's ethics program. This recommendation has been closed.

- Develop a system that tracks the progress made on each financial disclosure report to help ensure that financial disclosure reports are reviewed and certified timely.

While there is a system in place to monitor and document the status of public reports, NCUA still has no comprehensive means of tracking the approximately 900 confidential reports required to be filed each year. Ethics officials have been reviewing electronic filing systems. These systems would resolve tracking issues but come at substantial cost and require budgetary approval which could delay implementation and is by no means certain.

The bulk of NCUA's confidential filers are credit union examiners who are assigned to examine individual credit unions on a case-by-case basis. These assignments are relatively limited in number and have a readily defined list of interested parties and potentially conflicting interests. It was suggested during the follow-up review that NCUA consider adopting an alternative confidential financial disclosure system. For NCUA and similarly situated agencies, a certification of no conflict statement is sometimes more effective in preventing conflicts of interest than the OGE Form 450.

A certification form is generally filed upon the assignment of a new case or matter and before the filer takes any action. Certification forms typically define what would create a conflict of interest and require the filer to sign a certification that they have no conflicting financial interest. Signed certifications are usually maintained as part of the files for the relevant case or matter. This eliminates the need for potentially complex analysis by ethics officials and the administrative burden of processing reports through various reviewing officials. Additionally, this type of system provides real-time information as opposed to the OGE Form 450 which is completed once a year and may not accurately reflect the filer's interests at the time a new case or matter is assigned. Finally, the adoption of an alternative system may negate the need for an electronic filing system. Sample certification forms were provided to NCUA ethics

officials for their consideration. As discussed with ethics officials, any alternative financial disclosure system would require OGE's approval. OGE will be happy to assist NCUA in developing an alternative system. Until NCUA either obtains an electronic filing system which has adequate tracking mechanisms, adopts an alternative system approved by OGE, or otherwise addresses the tracking of reports, this recommendation remains open.

- Institute the practice of routinely conducting "ethics assistance reviews" as it relates to the confidential financial disclosure system outside of the NCUA Central Office to help ensure proper management focus and attention within the NCUA regions.

Ethics officials have created a plan to conduct ethics assistance reviews at regional offices. The first visit is scheduled to take place in March, 2012. The ethics assistance reviews will address financial disclosure, training, ethics advice, and program management issues. While no reviews have actually been conducted, OGE is satisfied that NCUA is addressing our concerns and has closed this recommendation.

OGE's initial report also included suggestions regarding written procedures for administering NCUA's ethics program and providing training for regional DEOs:

- OGE encourages the Ethics Office to develop written procedures that reflect the current practices for administering other elements of NCUA's ethics program as well. OGE considers this to be a model agency practice and a valuable resource to both employees and ethics officials.

Ethics officials have enhanced NCUA's training plan to incorporate some of the processes and procedures used to administer the training element of the ethics program. Ethics officials also stated that they intend to compile existing guidance relevant to the administration of the ethics program. This would serve as an important repository of information. NCUA's actions are responsive to OGE's suggestion and this issue has been closed.

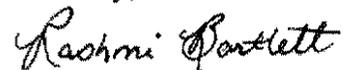
- In light of NCUA's decentralized organizational ethics program structure, OGE suggests that a continuous learning strategy be developed for regional DEOs to help enhance the agency's financial disclosure program. Consistent, timely, and accurate review of reports requires agencies to enhance reviewer experience and expertise by providing specialized training to reviewers.

Ethics officials will have the opportunity to discuss review techniques and issues with regional DEOs during the planned ethics assistance reviews. This will allow for one-on-one discussions of the challenges faced by individual DEOs. Additionally, NCUA's national conferences will provide the opportunity to discuss ethics issues in a group setting. OGE has closed this issue.

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Based on our follow-up and as noted, we have determined that all but one of OGE's recommendations are closed. OGE will conduct further follow-up review after NCUA has had the opportunity to address the one recommendation which remains open. Again, OGE will be happy to assist NCUA in developing an alternative confidential disclosure system which can more effectively assist in preventing conflicts of interest. Thank you for your assistance during the follow-up process. Please contact me at 202-482-9317 if you require any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Rashmi Bartlett".

Rashmi Bartlett  
Associate Director