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April 1, 2004

Mary L. Walker  
Designated Agency Ethics Official  
Department of the Air Force  
1740 Air Force Pentagon  
Washington, DC 20330-1740

Dear Ms. Walker:

The Office of Government Ethics (OGE) recently completed its review of the Department of the Air Force's (Air Force) ethics program within the Office of the Secretary. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's compliance with applicable statutes and regulations. We also evaluated the systems and procedures for ensuring that ethics violations do not occur. The review was conducted from December 2003 through February 2004. The following is a summary of our findings and conclusions.

#### HIGHLIGHTS

All elements of the ethics program meet or exceed the relevant requirements. Education and training efforts were creative and tailored to specific audiences. The establishment of a network of Points of Contact (POC) within the Office of the Secretary for administering the financial disclosure systems and the education and training program appears to be an excellent way to manage the ethics program. The counseling and advice provided by ethics counselors was found to be comprehensive and responsive to the needs of those seeking assistance. Ensuring that high level employees receive post-employment briefings and providing cautionary memorandums to financial disclosure report filers are both strong points of the program.

#### PROGRAM STRUCTURE

We found the ethics program to be adequately staffed by very capable ethics counselors who possess the requisite expertise and subject matter knowledge to provide excellent ethics-related services to their constituents. Ethics functions within the General Counsel's office, which, heretofore, were separately organized to serve military and civilian personnel, were recently consolidated within the Fiscal and Administrative Law (FAL) component. This consolidation has provided for greater consistency in the administration of all program elements throughout the entire Air Force. Moreover, POCs within each office in the Office of the Secretary act as liaisons for processing financial disclosure reports and coordinating ethics training. This network of POCs provides ethics counselors within the Office of the Secretary with a useful layer of additional accountability, whereby POCs ensure that new

financial disclosure filers are identified timely, any disclosure problems are identified and addressed timely, and initial ethics orientation and annual ethics training are provided as required

## EDUCATION AND TRAINING

All requirements for initial ethics orientation and annual ethics training were met or exceeded. In addition, ethics counselors are proactive in addressing ethics-related issues through brochures and publications available to all employees. They are also seeking to develop a "values-based" ethics program oriented towards preventing ethics violations.

### Initial Ethics Orientation Program

Most new civilian employees within the Office of the Secretary are provided initial ethics orientation as part of their overall new employee orientation, while new military personnel generally were provided initial ethics orientation on prior military assignments. Ethics counselors regularly conduct in-person initial ethics orientation sessions for new Presidentially-appointed, Senate-confirmed (PAS) employees and special Government employee (SGE) members of the Air Force Scientific Advisory Board (SAB), which encompasses all of the SGEs within the scope of this review.

### Annual Ethics Training Program

Annual ethics training for the majority of covered employees is accomplished by providing materials via a Web-based program. The appropriate materials are posted and information is provided concerning ethics counselors who are available during duty hours to answer any questions. Particular groups of employees who are more likely to encounter ethics-related issues are provided in-person training. These groups have included PAS employees, newly promoted GS-15s and Senior Executive Service members, new Air Force Legislative Fellows, and General Officers. The training is tailored to address the most relevant issues they are likely to encounter.

## ADVICE AND COUNSELING SERVICES

Ethics advice and counseling services meet the requirements of 5 C F R § 2638.203(b)(7) and (8). We examined a sample of ethics-related advice and counseling rendered by the ethics staff. Based on our examination, we concluded that all of the written advice, which covered a variety of subjects, complied with applicable ethics statutes and regulations. It was provided in a timely manner and was comprehensive in addressing the relevant issues.

Within the Office of the Secretary, departing employees who are in pay grade GS-11 or higher, and their military equivalents, are required to out-process through FAL, ensuring that they have the opportunity to receive post-employment briefings. This is particularly important in view of the number of employees who seek employment with private defense contractors after, or even before, leaving Federal employment. We also note that you provide post-employment counseling to all other employees upon request. We recognize that ethics counselors' willingness to make themselves available to all employees is a hallmark of a strong ethics program.

## ENFORCEMENT

Ethics counselors are aware of the requirement to notify OGE when a case involving the potential violation of a criminal conflict of interest statute is referred to the Department of Justice. They are also aware of the requirement to provide subsequent reports on the disposition of the case, including any disciplinary action taken if it is declined for prosecution. Procedures are in place to govern how this is accomplished. While there have been no referrals during the period covered by our review, we believe you would comply with the prescribed procedures if/when a referral is made in the future. The only case related to the criminal conflict of interest statutes to arise during the time covered by this review is currently under investigation. We are confident that you will inform us, as specified in the Department of Defense Joint Ethics Regulation (JER), if the case is ultimately referred to the Department of Justice.

There were no detected violations of the standards of conduct during the period covered by this review. The Air Force has published general guidance in dealing with misconduct. The guidance does not specifically address the standards of conduct, but does include a general table of punishments for misconduct. Ethics counselors are confident that they would be made aware if a violation of the standards of conduct was detected and would be able to ensure that prompt and effective action was taken or affirmatively considered.

It is clear, from discussions with all parties, that an effective working relationship exists between ethics counselors, the Air Force's Office of the Inspector General (OIG), and the Air Force's Office of Special Investigations (AFOSI). This relationship would ensure that the services of OIG/AFOSI would be utilized when appropriate, including the referral of matters to and the acceptance of matters from OIG/AFOSI, as required by 5 C F R § 2638 203 (b)(12).

## FINANCIAL DISCLOSURE SYSTEMS

Both the public and confidential financial disclosure systems generally met the requirements of 5 C F R part 2634. Since FAL is now responsible for the review of all public reports, as well as all Office of the Secretary confidential reports, whether filed by military personnel or civilian employees, we believe that reporting issues will be addressed in a consistent manner.

### Public Financial Disclosure System

We examined a sample of 76 of the 535 public reports filed in 2003. The reports filed by military personnel were reviewed by ethics counselors in the Judge Advocate General's office in accordance with the procedures in place at the time they were filed (prior to the consolidation of ethics functions). We noted several instances among these reports where the underlying assets of mutual funds were not disclosed although there was no indication that the funds were excepted investment funds (EIF). Other assets were reported without providing the type or value of income. One filer reported AT&T stock as an EIF. In each case, the Deputy Designated Agency Ethics Official was advised of the issue and able to resolve it.

We did not note any unresolved issues regarding the public reports filed by civilian employees, including six reports filed by PAS employees. It was apparent that ethics counselors thoroughly

Ms Mary L Walker  
Page 4

reviewed these reports and resolved all issues that were identified. The public reports were filed, reviewed, and certified, and copies of PAS reports transmitted to OGE, as required. Moreover, PAS and other public filers complied with any ethics agreements, as required.

#### Confidential Financial Disclosure System

We examined a sample of 70 of the 368 confidential reports filed by regular employees in 2002 and 2003 and 32 of the 71 reports filed by SGE members of SAB in 2003. Many of the regular employees and almost all of the SGE filers received cautionary memorandums. These are used when an ethics counselor concludes that no reported item violates, or appears to violate, any applicable statute or regulation, but the filer has financial interests in non-Federal entities doing or seeking to do business with the Department of Defense. The only problem we noted with the confidential reports was most of the SGE filers indicated that they were filing annual reports. According to ethics counselors, they will reinforce with SGEs the requirement that they file new entrant reports.

#### 13 U S C § 1353 TRAVEL PAYMENTS

We examined Air Force's two most recent reports of travel acceptances. Both appeared to comply with applicable requirements. Procedures in the JER exist to ensure proper acceptance and reporting of travel payments accepted by Air Force employees under 31 U S C § 1353 and the implementing General Services Administration regulation at 41 C F R Chapter 304.

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In closing, I would like to thank everyone involved in this review for their cooperation on behalf of the ethics program. No six-month follow-up is necessary in view of the fact that we have no recommendations for improving the ethics program at this time. We are sending a copy of this report by transmittal letter to the Inspector General of the U S Air Force. Please contact Doug Chapman at 202-482-9223 if we may be of further assistance.

Sincerely,



Jack Covalesski  
Deputy Director  
Office of Agency Programs