



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

February 15, 1995
DO-95-008

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Stephen D. Potts, Director

SUBJECT: Agency Supplementation of New Standards and Revocation of Superseded Old Standards

The Office of Government Ethics (OGE) wants to update departments and agencies on supplemental standards regulations. OGE also is requesting the cooperation of agencies in completing the process of revocation of superseded portions of their old standards of conduct.

As everyone knows, OGE published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) on August 7, 1992. See 57 Federal Register (FR) 35006-35067, as corrected at 57 FR 48557 & 52583. The new Standards, as codified at 5 C.F.R. part 2635, took effect on February 3, 1993, except for a grace period for existing agency regulatory standards concerning prohibited financial interests and prior approval for outside employment and activities (see the notes following §§ 2635.403(a) and 2635.803). As to such provisions, OGE last year extended the original one-year grace period for up to an additional year to February 3, 1995 (see 59 FR 4779-4780). OGE has again extended that grace period until no later than January 3, 1996 for 42 agencies that are currently working with OGE on supplemental standards. See 60 FR 6390-6391 (February 2, 1995), copy attached. OGE notes that it is not, by this rulemaking action, setting next January as a deadline for submission of agency supplementals. Agencies can continue to submit supplemental standards for OGE review, concurrence and co-signature at any time as the need arises.

Over the past several years, including at the annual ethics conferences and via DAEOgrams, OGE has emphasized the impact of the new Standards and the need for agencies to supplement them, if necessary, as well as to revoke old superseded provisions while retaining/renumbering as appropriate any surviving provisions. See the OGE DAEOgrams of August 12, 1991, November 22, 1993 (DO-93-033) and February 8, 1994 (DO-94-008). Examples of surviving agency provisions are old regulatory section 208 waivers (until OGE issues a regulation in that area), and provisions issued under independent authority, such as those implementing a separate agency gift acceptance statute or provisions on the use of Government vehicles that may have been included in some previous agency standards. See 5 C.F.R. § 2635.105(c)(3).

Some 60 agencies have secured new chapters in title 5 of the Code of Federal Regulations for supplemental ethics rules through OGE contacting the Office of the Federal Register. A listing is attached of 5 C.F.R. chapter assignments for this purpose, along with indications of those agencies that have already published supplemental standards with OGE concurrence and co-signature. Moreover, as noted above, OGE is currently working with many of the other agencies listed on their draft supplementals.

The time has come for completion of the process of revocation of superseded old agency standards, which is separate from the agency supplementation process. OGE will continue to consult and work with the agencies to keep the revocation process moving along as expeditiously as possible. OGE's August 12, 1991 DAEOgram, a copy of which is attached for ease of reference, is helpful in this regard since it has appended a sample old agency standards document with marginal notes indicating portions which should be revoked and portions to be retained (the agency concerned has since, in fact, revised its old provisions, including adding cross-references to both the new Standards and OGE's separately revised financial disclosure regulation at 5 C.F.R. part 2634). In order for OGE to complete its records, we ask that all agencies that have already revoked their prior standards of conduct in whole or in part advise us in writing (by letter, memorandum or FAX) and append a copy of the relevant Federal Register rulemaking document (unless the revocation was combined in the same document with a supplemental standards rulemaking with OGE concurrence and co-signature). Agencies revoking old standards in the future likewise should advise OGE in writing and provide copies of their rulemakings.

(TEBBS NOTE: The attachments are not reflected here because they are not in a text format)