

United States of America
**Office of
Government Ethics**

Office of Personnel Management
Washington, D.C. 20415

Mr. Louis Cox
Designated Agency Ethics Official
United States Postal Service
475 L'Enfant Plaza West, S.W.
Washington, D. C. 20260

FEB 26 1982

Dear Mr. Cox:

As part of our agency relations program, OGE staff recently performed a review of the ethics program in four Postal Service departments. In the future we also plan to visit certain Postal Service regional offices. The cooperation of you and your staff greatly aided us in conducting this review. While we found a structure for the program had been developed, we also found a number of basic weaknesses in the operation of the program which should be addressed in order to improve its effectiveness.

I am concerned, for example, with the USPS confidential financial disclosure system established pursuant to Executive Order 11222 and 5 C.F.R. Part 735. USPS did not collect confidential financial disclosure reports in either 1980 or 1981 from any USPS office other than the Law Department, the Central Region, and the Board of Governors. In response to our review, the alternate DAEO sent letters to all associate DAEO's requiring all confidential reports to be filed and reviewed immediately. This is such a fundamental step, it should not have had to await our review. We understand that the reports were not collected in these years as the alternate DAEO believed that one aspect of the filing criteria contained in the USPS standard of conduct regulations was unrealistic. This criterion requires statements from all employees earning \$30,000 or more. In his view this would have required statements from many employees below the equivalent level of a GS-13. I strongly recommend that you review the need for any dollar level test, given the fact that you already have a Grade Level criterion (EAS - 24); determine those positions for which confidential reports should be required, once you have settled on your criteria; and insure that such reports are annually filed and adequately reviewed. In addition, I might suggest that many agencies have found it prudent to require the selected filing of confidential reports by incumbents of positions below the GS-13 level based on the employees' duties. The only requirement is that approval be obtained from our Office before requiring reports from such employees. In this regard, our team reviewed a sample of 144 professional position descriptions in USPS. Among this number there were 34 positions, all below the equivalent GS-13 level, that had duties which would indicate that you may wish to consider requiring them to file confidential reports. Among these positions were contract specialists, architectural engineers, realty management and acquisition specialists, and contract price analysts.

Concerning the public financial disclosure system, our team was provided a control list of individuals required to file public financial disclosure reports; however, this list was not current. It is not routinely updated with the names of employees entering covered positions, nor is there an adequate control list of terminating employees who are required to file termination reports. The Employee Relations Department informed our team that it could furnish you or your designee with a monthly list of employees who meet the required salary level as well as a quarterly list of employees who have terminated. We

recommend that such lists be used in addition to the control list to insure that all required statements are collected in a timely manner.

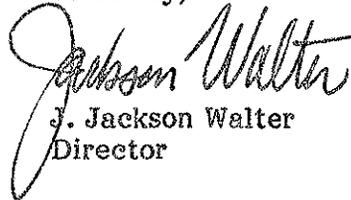
In reviewing public financial disclosure reports, the alternate DAEO indicated that he informally considers property interests having a value of less than \$5,000 to be de minimis and excepted from the conflict of interest statutes and regulations. We find no support for this interpretation in the approved USPS standard of conduct regulations. (On its face it appears to be inconsistent with the minimum reporting requirement of \$1,000 in the Ethics in Government Act.) If you wish to pursue a de minimis approach, we suggest that you consider whether employee interests might not more appropriately be reviewed on a case-by-case basis using individual waivers under 18 U.S.C. § 208(b)(1) where warranted. During the exit interview of our review team, other operational issues were highlighted such as greater use of lists of Postal Service contractors when reviewing employee financial interests, greater attention to a number of common discrepancies which appear on the SF-278, and greater care by the reviewing official in dating and signing the forms.

I note that the alternate DAEO indicated to the review team, which concurred, that the USPS standard of conduct regulations need updating. I look forward to receiving them for review and approval. As I indicated in my recent letter to all DAEO's, such regulations should be as agency-specific as possible.

Finally, our review team found no formal ethics education program within USPS. There does not appear to be a clear understanding as to whose responsibility it is to inform employees of their responsibilities under the ethics in government program. While we encourage you to delegate or coordinate with personnel/training/Inspection Service in this area, we believe that 5 C.F.R. 738.203(b)(6) makes clear that the basic responsibility belongs to the DAEO. In a related area, and as you are probably already aware, my staff and the APG for Procurement and Supply have held an initial pilot training session originally intended for that Department. Because of the interest shown by other USPS officials, steps have been taken to include more USPS organizational elements. This should just be the beginning. As indicated above, you may also want to bring the Inspection Service (which briefs new employees in the field) into this area as well as in such related areas as developing and publishing the list required by 5 C.F.R. 734.605(b). Ethics counseling for USPS employees should be available and its availability publicized.

I believe that you and your staff need to put much effort into the ethics program to make it effective and to integrate it into USPS operations. The issues raised in this letter, if properly addressed, will aid you in this regard. I also would like to be kept advised of the steps you take to improve your program. We are willing to meet with you and your staff at any time to provide further assistance.

Sincerely,



J. Jackson Walter
Director

AGENCY REPORT

SUBJECT: OGE Staff Review of the Ethics Program at the United States Postal Service (USPS)

Dates of Visit: October 26 - November 6, 1981

OGE Staff: Ed Pratt - Management Analyst
Daryl Selden - Management Analyst
Jeri Powell - Management Analyst

Purpose of Visit: To Evaluate the Effectiveness of USPS's Ethics Program

AGENCY REPORT

The U. S. Postal Service (USPS) is an independent establishment of the executive branch which is committed to providing swift and reliable mail delivery and handles approximately 106 billion pieces of mail annually. To meet its delivery standards the USPS maintains extensive processing and delivery systems and integrated bulk mail handling systems which utilize complex transportation services to link every community in the nation with every other community and foreign countries. Postal Service activities designed to facilitate postal operations include design and maintenance of the postal rate structure, development of mail classification standards, and the procurement of supplies, services, and real estate.

The Postmaster General is appointed by the 9 Governors of the USPS, who are appointed by the President with the advice and consent of the Senate to overlapping 9-year terms. The 9 Governors and the Postmaster General appoint the Deputy Postmaster General, and together these 11 people constitute the Board of Governors. USPS employs about 667,000 employees.

The USPS is organized into 5 regions with regional offices located in New York, Philadelphia, Chicago, Memphis, and San Bruno, California. In addition, there are 40 district offices, 250 sectional center offices, and thousands of post offices.

STRUCTURE AND ORGANIZATION

Mr. Louis Cox, USPS General Counsel and DAEO, has essentially delegated all of the DAEO functions to the alternate DAEO, Mr. Charles Hawley, the Assistant General Counsel for Legal Affairs. Ms. Leslie Corston, Staff Attorney, assists Mr. Hawley. Mr. Hawley devotes about 20 percent of his time on the ethics program, Ms. Corston about 10 percent of her time, and Mr. Cox less than 10 percent of his time. Mr. Hawley administers the public financial disclosure system. The confidential financial disclosure system is administered by the assistant postmasters general and other major department heads at USPS headquarters and by the regional postmasters general in the field. However, USPS employees generally have not filed confidential financial disclosure reports the last two years.

The Employee Relations Department, which is essentially the personnel office, on request has provided the alternate DAEO with a list of officials required to file public financial disclosure reports. The Inspection Service, which is similar to the Office of the Inspector General at other agencies, has had infrequent involvement with the ethics program.

The USPS has an Executive and Administrative Salary Schedule (EAS), which is comparable to the General Schedule except that the EAS has 30 grades instead of 18. The USPS also has a Postal Career Executive Service (PCES) which differs somewhat from the Senior Executive Service in that the minimum salary level under the PCES is \$25,000.

PUBLIC DISCLOSURE SYSTEM

The public disclosure system is administered by the alternate DAEO. A staff attorney assists in reviewing the statements, while a secretary helps collect them. Except for one EAS employee, all employees filing public financial disclosure reports (SF 278's) are members of the PCES. Approximately one-third of the reporting individuals are located in the Washington, D.C. area. The only USPS officials appointed by the President and requiring the advice and consent of the Senate are the nine Governors, and they do not have to file annual public reports because they work less than 60 days per year.

The USPS uses the "pay compression cap" of \$50,112 in lieu of the higher salary of a GS-16, Step 1 of \$52,247 in determining whether an individual has to file a public report. The alternate DAEO informed us that PCES salaries do not necessarily increase (as a result of cost-of-living and annual merit raises) at the same annual rate as General Schedule cost-of-living increases; thus the USPS wanted to preclude situations where the PCES salary might meet the GS-16 salary level one year but fall short the next year.

In May the alternate DAEO developed a control list, based largely on a computer list furnished by the Employee Relations Department, of those USPS employees who met the \$50,112 salary requirement for having to file SF 278's. The list has not been revised and the alternate DAEO indicated he does not receive timely notification from the Employee Relations Department of terminations or of employees who have to file public reports as a result of receiving merit pay which pushes their salaries to the \$50,112 level. He had not revised his control list since May. The alternate DAEO also indicated that not all reporting individuals in the field who terminate are given SF 278's to complete during their out-processing.

An official in the Employee Relations Department stated that the Department could furnish the alternate DAEO with a monthly list of all PCES employees who meet the \$50,112 annual salary level, and every 3 months a list of the employees who have terminated since the end of the last period.

The alternate DAEO's control list together with a few additional terminees we identified during our review of the SF 278 files indicated that 207 public reports should have been filed in May. We identified 185 reports. Of the 22 reporting individuals who had not filed, 15 had retired, 2 were deceased, 1 had been mistakenly placed on the control list, and the alternate DAEO did not know the status of 4. Since the alternate DAEO had not revised the list since May, additional reports from new entrants and terminees were possibly missing.

The alternate DAEO told us that in reviewing property holdings on the SF 278 he considers items of property having value of \$5,000 or less to be de minimus and, according to him, excepted from the conflicts of interest statutes and regulations. Also, except with regard to a recent report filed by a Board of Governors nominee, he has never used a list of USPS contractors as a tool in reviewing the reports. An official in the Procurement and Supply Department stated that such a list could be furnished at any time.

We reviewed 66 of the 185 SF 278's filed. On 7 reports we identified a total of 12 holdings in companies having contracts with the USPS. The companies ranged from the well known (e.g., IBM) to the relatively unknown (e.g., Storage Tech). The value of the holdings ranged from the \$1,001 - \$5,000 to the \$15,001 - \$50,000 categories. A subsequent review by the alternate DAEO indicated that matters affecting the companies did not come under the official responsibilities of the individuals in question,

and the alternate DAEO did not believe the holdings created any apparent conflicts. In addition, we identified 17 reports having such common discrepancies as valuation method missing, category of value of income or property missing, "Not Applicable" used in lieu of "None," etc. Finally, we identified many reports which either had not been signed or dated by a reviewing official or which were not accompanied by a position description.

CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

The confidential financial disclosure system is administered in a decentralized fashion by associate ethical conduct officers who are generally assistant postmasters general in charge of departments at headquarters and regional postmasters general in the field. The alternate DAEO informed us that in the past he has always mailed a notice to the conduct officers, informing them of the confidential filing requirement and the due date. Since 1980 he has not done so and covered employees virtually stopped filing reports in 1980 and 1981 except for the Board of Governors and employees in the Law Department and the Central Region. Because the alternate DAEO has never received either the lists of the employees in each department and region required to file or those actually filing confidential reports, he did not know the true extent of non-compliance with the filing requirement.

The alternate DAEO has been reluctant to enforce compliance with the filing requirement because he believes that one of the three filing criteria contained in the regulations - any employee who is paid an annual salary of \$30,000 - or more - is not realistic since it arbitrarily requires filing by many employees below the GS-13

equivalent level. The other two filing criteria which could trigger a confidential filing are being in a pay grade of EAS-24 or above, or being involved in activities such as contracting or procurement in which decisions may have an economic impact on the interests of enterprises other than the USPS. A discussion of how the confidential filing criteria are to be revised is contained in the section addressing the agency standard of conduct regulations.

During the course of and in response to our visit the alternate DAEO sent letters to all associate ethical conduct officers advising them of the confidential filing requirement and requesting that reports be filed immediately. Prior to the end of the visit confidential reports were filed by employees in the Procurement and Supply Department.

We reviewed confidential reports filed by the Board of Governors and employees in the Law Department and the Procurement and Supply Department. We also reviewed position descriptions in the Departments of Procurement and Supply, Rates and Classification, and Real Estate and Buildings. The detailed results of these reviews follow.

Review of Statements on File

Current reports were on file for members of the Law Department, the Board of Governors and the Procurement and Supply Department. The following chart and explanatory notes summarize our review of those reports:

Schedule of the Review of USPS
Confidential Disclosure Reports

<u>Organization</u>	<u>Total Positions Filing</u>	<u>Reports Reviewed</u>	<u>Reports needing Clarification</u>
Board of Governors	8	6 ¹	6 ²
Law Department	23 ³	21 ⁴	4 ⁵
Procurement Supply Department	<u>39</u>	<u>39</u>	<u>10⁶</u>
TOTAL	<u>70</u>	<u>66</u>	<u>20</u>

1. Reports had not been filed by 2 Members of the Board of Governors. The alternate DAEO indicated he would followup to see that statements were filed.

2. All of the Governors completed SF 278's that were being held by the DAEO in a confidential manner. None of the statements were complete. Valuation methods and amounts, and income were missing, schedules were incomplete or blank and none of the forms were signed or dated by a reviewing official indicating certification.

3. The Law Department has 10 lawyers at level EAS-24 or above who have been excepted from confidential filing because they are involved with union activities, and Mr. Hawley has determined that their activities are not covered by the filing requirements.

4. Reports had not been received from 2 required filers to date. The alternate DAEO indicated that he would followup to ensure that these reports were filed.

5. These 4 reports showed stock holdings by the filers. Of these 4, 2 reports showed stock for companies that have contractual agreements with USPS. One of these 2 filers has recently left USPS. The alternate DAEO in response to our analysis indicated that his reviews had not been as thorough as they should be and he would in the future make a stronger effort to identify potential conflicts both real or apparent.

6. All 10 reports showed stock holdings that we felt needed further clarification or identification by the reviewing official, the Assistant Postmaster General for Procurement and Supply. This official informed us that for 9 of the statements the companies listed did not do business with USPS and, in those instances where they did, a determination was made for each filer that he/she was not involved in any official capacity with his/her particular holdings in any way. The reviewing official was not sure of the holding listed on the tenth statement and she indicated she would followup to ensure that no conflicts exist.

Review of USPS Headquarters Positions

We reviewed position descriptions in three major USPS Departments:

- The Procurement and Supply Department with 365 employees.
- The Rates and Classification Department with 135 employees.
- The Real Estate and Buildings Department with 120 employees.

The following chart and explanatory notes summarize the results of the review of these positions. We did not identify any covered positions for which confidential reports should not be filed.

Schedule of Review of USPS Headquarters Positions (Covered and Uncovered)

<u>Organization</u>	<u>Total Different Professional Positions</u>	<u>Positions Reviewed</u>	<u>Positions Currently Covered</u>	<u>Uncovered Positions that Should Be Covered</u>
Real Estate and Buildings Department	95	52	22	18 ¹
Rates and Classification Department	52	49	22	8 ²
Procurement and Supply Department	<u>124</u>	<u>43</u>	<u>16</u>	<u>8</u> ³
TOTAL	271	144	60	34

1. The 18 positions OGE identified for the Real Estate and Buildings Department that are not presently covered by the confidential disclosure requirements but satisfied USPS criteria for confidential filing are:

- EAS - 23 Contract Specialist, Senior
- EAS - 20 Contract Specialist
- EAS - 19 Project Specialist (Mechanical Systems and Equipment)
- EAS - 18 Electrical Engineering Technician
- EAS - 23 Compliance Specialist
- EAS - 21 Industrial Engineer
- EAS - 22 Realty Management and Acquisition Specialist
- EAS - 19 Realty Management and Acquisition Analyst
- EAS - 23 General Engineer, Senior

- EAS - 23 Architectural Engineer, Staff Consultant
- EAS - 23 Mechanical Engineer, Senior
- EAS - 23 Electrical Engineer, Senior
- EAS - 21 Project Manager
- EAS - 21 Senior Postal Equipment Specialist
- EAS - 20 Architectural Engineer
- EAS - 20 Electrical Engineer

2. The 8 positions OGE identified for the Rates and Classification Department that are not presently covered by the confidential disclosure requirements but satisfied USPS criteria for confidential filing are:

- EAS - 23 Mail Classification Specialist, Senior
- EAS - 15 Mail Classification Specialist, Junior
- EAS - 21 Special Services Specialist
- EAS - 18 Mail Classification Records Analyst
- EAS - 20 Economist
- EAS - 23 Operations Research Analyst, Senior
- EAS - 21 Mail Classification Specialist
- EAS - 23 Special Services Specialist, Senior

3. The 8 positions OGE identified for the Procurement and Supply Department that are not presently covered by the confidential disclosure requirements but satisfied USPS criteria for confidential filing are:

- EAS - 23 Traffic Officer
- EAS - 23 Contract Specialist, Senior

- EAS - 23 Manager, Building Services Branch
- EAS - 23 Supply Program Officer
- EAS - 20 Traffic Management Specialist
- EAS - 23 Contract Price Analyst
- EAS - 20 Contract Specialist
- EAS - 23 Manager, Space and Construction Management Branch

EDUCATION, TRAINING AND COUNSELING

The alternate DAEO told us that neither he nor the DAEO have conducted any formal education or training programs related to ethics. The extent of any education or training performed by the alternate DAEO has consisted of cover letters and instructional memoranda sent to employees at the time of filing of the public reports, and a few advisory opinions. The alternate DAEO has not conducted a formal counseling program either. His belief is that employees generally understand the ethics standards and procedures and, if not, they will seek advice from supervisors, associate ethical conduct officers, or the DAEO or alternate DAEO. However, the alternate DAEO said he would explore the possibility of formal education and training programs on ethics, and would contact OGE's Agency Relations Branch as soon as he makes a determination of the resources and logistics involved in training USPS employees scattered throughout the country.

The alternate DAEO said that the responsibility for informing employees of their responsibilities under the standard of conduct regulations has never been clearly defined at the USPS. In an indirect sense the Employee Relations Department has been given the responsibility since the Department ensures that all offices in the USPS have copies of the Employee and Labor Relations Manual which contains a 14-page "Code of Ethical

Conduct" written in non-legalistic language. The Department also provides central direction to employee relations specialists assigned to all USPS offices. Although these specialists are responsible for dealing with the whole spectrum of employee problems including violation of the ethics standards, we were not able to ascertain the degree to which the specialists were involved with ethics.

The Inspection Service is the only other entity at the USPS which is at all involved in any ethics — related training. All new employees in the field attend an orientation session during which they receive a one-hour presentation from an Inspection Service representative related to common criminal violations by employees and the attendant penalties.

None of the three Departments we visited had conducted any formal education or training programs. However, all the assistant postmasters general in charge of the Departments agreed that such education or training, if properly designed and conducted, would be of value. One of the officials — the Assistant Postmaster General in charge of the Procurement and Supply Department — has since been contacted by the Agency Relations Branch of OGE about developing a training program for the Department.

Finally, the Training and Development Institute, which is responsible for employee training at the USPS, expressed no interest in developing an ethics training program.

AGENCY STANDARD OF CONDUCT REGULATIONS

The USPS's code of conduct regulations are essentially an adaptation of the OPM regulations. The most significant differences are that the USPS regulations contain some very specific prohibitions related to financial interests and outside employment. USPS regulations state that employees who receive an annual income of \$30,000 and above, or are in certain grade levels contained in the USPS's own salary schedule should file confidential reports.

The alternate DAEO stated, and we concurred, that a number of revisions need to be made to the code of conduct regulations, especially to the confidential reporting criteria. The USPS has not generally required the filing of confidential reports for the last two years because one of the filing criteria was considered unrealistic (i.e., the \$30,000 salary criterion covers many more employees below the GS-13 equivalent level than should reasonably be covered). Accordingly, the regulation needs to be revised to require confidential reports from each employee who is in a pay grade EAS-24 (which is very roughly equivalent to a GS-13) or above; is a member of the PCES who is not required to file a public financial disclosure report; or is involved in contracting or procurement, auditing, or other activities in which his/her decisions may have an economic impact on the interests of any enterprise other than the USPS.

The alternate DAEO explained his rationale for including all members of the PCES under some form of financial reporting, even though the minimum PCES salary level of \$25,000 is below the \$29,413 salary of an EAS-24. It was that, by definition, anyone who enters the PCES is considered to be an executive and in a sensitive enough position to require some form of disclosure. In a practical sense, no more than eight members of the PCES have salaries falling below \$29,413 - all of whom are probably sectional center managers having as many as a couple hundred post offices under them.

We also agreed that the following revisions or additions to the regulations need to be made:

- the regulations need to be changed to reflect the subject matter contained in the OGE regulations published pursuant to Titles II and IV of the Ethics in Government Act of 1978, as amended;

- a list of the positions required to file confidential reports should be indicated in the regulations, or an indication of where such a list is located at the USPS; and
- post-employment regulations need to be published pursuant to Title V of the Act.

CONCLUSIONS

The control list used by the alternate DAEO in administering the public financial disclosure system is incomplete and outdated. The alternate DAEO receives no periodic updates of new reporting individuals or covered employees who have terminated. Almost all of the statements not on file were termination reports. The control list had not been revised since May. We identified the common discrepancies with the reports on file such as valuation of income or property missing, etc. Many reports had not been signed or dated by a reviewing official or were not accompanied by a position description. The alternate DAEO's review procedures were not effective. He made no use of an available list of USPS contractors and considers items of property having a value of \$5,000 or less to be de minimus holdings.

The alternate DAEO has not enforced compliance with the confidential filing requirements since 1980, because he believed the filing criteria were unrealistic. As a result virtually no covered employees filed reports in 1980 and 1981 except for the Board of Governors and employees in the Law Department and the Central Region. The full extent of non-compliance is unknown because the alternate DAEO does not receive lists of covered employees in each department and region nor a status report on annual filings. The Board of Governors have SF 278 reports on file that are being treated in a confidential manner. None of those reports were complete.

The review of the position descriptions in the three major USPS Departments identified many positions which USPS should consider requiring to file confidential statements, all of which were below the EAS-24 level.

USPS has not conducted any formal ethics-related education programs. All of the responsible officials agreed that such education and training would be of value. The Assistant Postmaster General for Procurement and Supply expressed an interest in developing a training program in conjunction with our agency relations staff and has already had an initial meeting to explore such possibilities.

The filing requirements for confidential disclosure may be outdated, unrealistic and in need of revision because the current filing threshold of \$30,000 may no longer be equivalent to the GS-13 level, this results in the automatic inclusion of many, who otherwise would not be required to file.

RECOMMENDATIONS

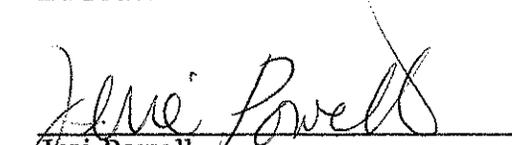
We recommend that the following actions be taken by the USPS to address the deficiencies noted in the report:

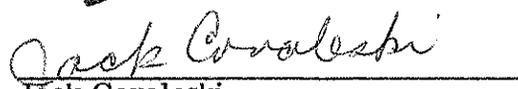
- The alternate DAEO needs to develop an up-to-date control list of officials required to file public reports by having the Employee Relations Department provide timely notification of new entrants, pay increases, and terminations. Efforts should then be made to obtain reports which have not been filed. The alternate DAEO also needs to strengthen his reviews of the reports by insuring that the data reported on all reports is complete and accurate, and by making use of all review tools, including a list of USPS contractors, in determining whether conflicts exist.
- The alternate DAEO should insure that all organizational elements within the USPS review their positions to determine whether all employees are covered who should be covered by the confidential filing requirements, and should insure that the covered individuals actually file the reports. Also, beginning with the next filing, the members of the Board of Governors should use the confidential disclosure form (in lieu of the SF 278).
- The alternate DAEO needs to develop some type of formal ethics training program for USPS employees and/or encourage efforts like those of the Assistant Postmaster General for Procurement and Supply in developing a training program for her employees with the aide of our Agency Relations Branch.

- The standards of conduct regulations should be revised to include (1) the changes to the confidential reporting criteria; (2) the subject matter relevant to the OGE regulations published pursuant to Titles II, IV, and V of the Act; and (3) either a list or the location of a list of positions covered by the confidential disclosure system.


Ed Pratt


Daryl Selden


Jeri Powell


Jack Covalesski


Jim Pont


J. Jackson Walter