

**U. S. OFFICE OF GOVERNMENT ETHICS**



**Fiscal Year 2010  
Explanatory Notes  
and  
Annual Performance Plan**

**Prepared  
for the  
Committee on Appropriations**

**May 2009**



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

May 7, 2009

The Honorable Daniel K. Inouye  
Chairman  
Committee on Appropriations  
U.S. Senate  
Room S-131, The Capitol  
Washington, DC 20510-6025

The Honorable David R. Obey  
Chairman  
Committee on Appropriations  
U.S. House of Representative  
Room H-218, The Capitol  
Washington, DC 20515-6015

Dear Chairman Inouye and Chairman Obey:

I am pleased to transmit to you the Explanatory Notes and Annual Performance Plan of the Office of Government Ethics (OGE). The Explanatory Notes reflect funding for \$13,665,000, and 80 full-time equivalents, as set forth in the President's FY 2010 budget.

Pursuant to 31 U.S.C. § 720, OGE has enclosed a statement of the actions taken in response to the recommendations made by the Government Accountability Office (GAO) in its report entitled "Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements" (GAO-08-855). OGE previously transmitted this response to the Committee on April 13, 2009. Enclosed is a copy of that transmission.

We will be pleased to discuss our request with representatives from your office, and we look forward to our annual hearing on OGE's plan and budget. If you need additional information with regard to this request please contact Don W. Fox, General Counsel, Office of General Counsel and Legal Policy at 202-482-9216.

Sincerely,

Robert I. Cusick  
Director

The Honorable Daniel K. Inouye  
The Honorable David R. Obey  
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cc: (w/Encl.): The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515

The Honorable Lamar S. Smith  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
2142 Rayburn House Office Building  
Washington, DC 20515

The Honorable Edolphus Towns  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
2157 Rayburn House Office Building  
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The Honorable Darrel Issa  
Ranking Member  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
B-350A Rayburn House Office Building  
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The Honorable Joseph I. Lieberman  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
U.S. Senate  
340 Dirksen Senate Office Building  
Washington, DC 20510-6250

The Honorable Susan M. Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
U.S. Senate  
344 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Daniel K. Inouye  
The Honorable David R. Obey  
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The Honorable Richard J. Durbin  
Chairman  
Subcommittee on Financial Services  
and General Government  
Committee on Appropriations  
U.S. Senate  
184 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable José Serrano  
Chairman  
Subcommittee on Financial Services  
Committee on Appropriations  
U.S. House of Representatives  
B-300, Rayburn House Office Building  
Washington, DC 20515

United States Office of Government Ethics  
Object Classification  
(in 1000's)

<u>Object class</u>	<u>2008 Actual</u>	<u>2009 Appropriated</u>	<u>2010 Request</u>
11.1 Salaries	\$7,442	\$8,404	\$8,500
12.1 Benefits	\$1,765	\$2,020	\$2,035
21.0 Travel & Transportation/persons	\$60	\$158	\$140
22.0 Transportation of things	\$2	\$5	\$5
23.1 Rental payments to GSA	\$1,396	\$1,351	\$1,440
23.3 Communications, utilities, misc.	\$40	\$65	\$65
24.0 Printing and Reproduction	\$23	\$75	\$75
25.2 Other Services	\$611	\$725	\$1,125
26.0 Supplies and materials	\$122	\$75	\$124
31.0 Equipment	\$228	\$122	\$156
99.0 Subtotal	\$11,689	\$13,000	\$13,665
99.0 Reimbursable	\$510	\$400	\$500
99.9 Totals	\$12,199	\$13,400	\$14,165

## **FY 2010 BUDGET AND PERFORMANCE PLAN**

### **Introduction**

Public confidence in the integrity of Government is one of the keys to the success of our democratic system. The mission of the United States Office of Government Ethics (OGE) since its establishment in 1978 by the Ethics in Government Act, to prevent and resolve conflicts of interest on the part of executive branch employees and to partner with agencies to foster high ethical standards for employees that strengthen the public's confidence in the impartiality and integrity of their Government.

OGE's budget request for FY 2010 of \$13,665,000 will allow OGE to continue to assist with the transition to the new Presidential administration by vetting its nominees for conflicts of interest and to begin to implement Executive Order 13490, signed by the President on January 21, 2009, that creates significant new ethics obligations for executive branch appointees. OGE will continue to provide the Federal workforce with guidance in ethics matters, as well as helping address the ethics program issues that will increasingly arise with the anticipated retirements of career employees and the need to recruit and retain the best possible Federal officials. Specifically, the increase will enable OGE to maintain staff at the current authorized level to begin implementing its newly expanded mission. In addition, OGE will be able to fund anticipated increases in operating expenses necessary to maintain the executive branch ethics program as outlined in its Annual Performance Plan.

During FY 2009 and FY 2010, OGE faces the dual challenge of fulfilling its role in assisting the new Presidential administration implement the President's ethics reform agenda, and continuing to foster high ethical standards of Federal executive branch employees. Given OGE's staffing levels, OGE must rely on the 6,000 ethics officials employed at 130 agencies to carry OGE's message to the millions of executive branch employees, over 300,000 of whom are in positions that require them to file financial disclosure reports. OGE will employ its resources to ensure that it provides effective and timely guidance, education, and training to thousands of ethics officials, who serve on the front line of maintaining the public's confidence that the Government conducts its business with impartiality and integrity. OGE also will employ its resources to monitor and ensure continued compliance with conflicts of interest laws through its oversight of agency ethics programs, meetings with agency ethics officials, and its direct review of the financial disclosure reports of the Government's most senior leaders in the 1,100 to 1,200 Presidentially-appointed, Senate-confirmed positions. In addition, OGE will continue to promote good governance by working with and enhancing its outreach to Federal, state, and local agencies and the public, and by supporting the United States' foreign policy anti-corruption and good governance initiatives.

### **Highlights of FY 2008**

FY 2008 was the second year of OGE's five-year Strategic Plan. In its FY 2007 budget submission, OGE announced it would undertake initiatives to support three main priorities in FY 2008 and FY 2009: (1) assisting in the transition to a new administration; (2), engaging

agency leadership in developing and supporting an ethical culture; and (3) using technology to improve the delivery of ethics services, information, and materials. OGE made substantial progress during FY 2008 in all three areas.

*1. Prepared to assist in the transition to a new administration*

During FY 2008, OGE devoted substantial energies to preparing to assist in the transition to a new administration. OGE worked vigorously to build internal capacity for its role in ensuring a smooth Presidential transition and to prepare agency ethics officials to face the challenges presented by the transition. OGE specifically prepared its staff and agency officials for the anticipated increase in public and confidential financial disclosure reports during the transition. To this end, OGE held a regional conference on financial disclosure attended by approximately 300 experienced ethics officials from over 70 agencies, finalized new rules on post-employment restrictions, issued additional guidance and resources for ethics officials on key transition-related topics, and provided training for reviewers of nominee financial disclosure reports. OGE also prepared to assist agencies with the myriad ethics issues that outgoing and incoming administration officials would face. In addition, OGE undertook a series of focused reviews to evaluate agencies' processes and procedures for collecting, reviewing, and certifying financial disclosure reports. OGE completed comprehensive evaluations of the financial disclosure programs at nine agencies.

*2. Engaged agency leadership in developing and supporting an ethical culture*

As part of OGE's leadership initiative, OGE senior management met with numerous agency leaders during FY 2008. These meetings focused on ways to strengthen agencies' ethical culture and served to raise the level of discourse relating to the importance of support from senior leadership for the ethics program. OGE developed a training program on ethical leadership specifically for agency leaders. OGE also developed and prepared ethics materials to provide to the many new appointees who enter the Government as part of the incoming administration in FY 2009. OGE's reviews of agency ethics programs often included meetings with agency leadership and resulted in the development of model practices and recommendations that enhance the executive branchwide ethics program.

*3. Used technology to improve the delivery of ethics services, information and materials*

OGE increased its use of technology to deliver resources to ethics officials in FY 2008. For example, OGE supplied financial disclosure reviewers at executive branch agencies with an electronic compilation of new guidance on public financial disclosure requirements for complex financial instruments and posted the compilation on OGE's website. OGE also used its electronic notification mailing system (ListServe) to distribute a manual that provides extensive guidance on drafting ethics agreements for Presidentially-appointed, Senate-confirmed nominees and posted the manual on OGE's website. In addition, OGE used technology to improve the delivery of training in FY 2008. OGE delivered a web-based training seminar on financial disclosure, released a CD-ROM to augment financial disclosure training, developed video clips to enhance the classroom experience for ethics training, and delivered a series of electronic ethics crossword puzzles to help agencies enhance their ethics training. OGE also launched a

new website during FY 2008. These collective mechanisms have allowed OGE to reach a wider audience in a cost-effective manner. Finally, to improve the effectiveness of its ethics policy and its assistance to agency ethics programs, OGE used new survey technologies to administer surveys to ethics officials. The survey results ensured that OGE focused on emerging issues and incorporated these issues into its training. The surveys also raised awareness of ways in which ethics officials could improve their ethics programs; for example, by undertaking self-assessments, increasing leadership involvement, and leveraging resources.

The successful planning and delivery of the 16th National Government Ethics Conference was another significant undertaking for OGE in FY 2008. The conference agenda provided a major opportunity to address OGE's top priorities. The conference offered workshops that OGE organized in themed tracks, with an overall theme focused on the Presidential transition. Sessions covered topics such as reviewing nominee financial disclosure reports, seeking private sector employment, post-employment restrictions, and what ethics officials need to know about the transition process. Over 600 members of the ethics community attended, and OGE extended invitations to members of both candidates' transition teams to raise their awareness of relevant ethics issues and to build relationships with the executive branch ethics community.

### **Priorities for FY 2009 and FY 2010**

OGE's priorities for FY 2009 and FY 2010 are described in detail in the FY 2010 performance plan set out below. They reflect planned activities for the upcoming two years that will achieve third-year and fourth-year goals of OGE's five-year strategic plan. These goals are: (1) strengthening the ethical culture within the executive branch, (2) preventing conflicts of interest, and (3) promoting good governance. Under the Director's leadership, OGE plans to undertake a variety of initiatives to support the following three key priorities in FY 2009 and FY 2010:

1. *Assisting in the transition to a new Presidential administration and in the issues that the new administration will face*

During FY 2009 and early FY 2010, OGE will undertake one of its most important roles: assisting in the smooth transition to a new Presidential administration and in the entry of senior officials during the first year of the new administration. Periods of Presidential transition are periods of peak activity for OGE, requiring the intensive preparation through significant internal and agency training, new guidance, focused program reviews, resources and materials, and early contact with the candidates' transition teams. In FY 2009 in particular, OGE will use a substantial portion of its staff resources to analyze and resolve the potential conflicts of interest of incoming executive branch leaders, to provide these incoming leaders an introduction to their new ethical responsibilities as public servants, and to assist departing officials with post-employment guidance. OGE anticipates the turnover of most of the individuals in the 1,100 to 1,200 Presidentially-appointed, Senate-confirmed (PAS) positions in the executive branch, all of whom must file financial disclosure reports. OGE will review their new entrant, annual, and termination reports during this period of transition. OGE also will continue to provide leadership and guidance to the entire executive branch ethics program and will work with agency ethics



officials to remedy any potential conflicts by negotiating effective ethics agreements and by ensuring compliance with financial disclosure reporting requirements. OGE will continue to provide agency reviewers with guidance and instruction that will improve their review of financial disclosure reports. In addition, OGE will continue its training efforts throughout FY 2009 and FY 2010, with a goal of increasing its delivery of training in FY 2010.

## *2. Implementing Executive Order 13490*

In the midst of OGE's busiest time – reviewing for conflicts of interest and then certifying the financial disclosure of all of the Presidentially-appointed Senate-confirmed (PAS) appointees of the new Presidential administration – OGE has been given substantial new responsibilities to implement a new executive order signed by the President on January 21, 2009 which establishes new ethics rules for political appointees within the executive branch. These extensive new duties and responsibilities will use a sizeable portion of OGE's resources in FY 2009 and FY 2010. Executive Order 13490 requires political appointees to pledge to refrain from: accepting gifts from registered lobbyists; attempting to influence their colleagues for two years after leaving government service; lobbying the administration as long as the President is in office; and working on the areas in which they lobbied or for the agency they lobbied for the past two years; hiring employees for reasons other than merit. OGE has a central role in the implementation of the new order, including issuing significant and ongoing guidance, providing training to agency ethics officials, the ethics community and the public, producing required analyses and reports, and, in the next year to 18 months, undertaking a revision of the Standards of Conduct regulations affecting all government employees.

And, importantly, the new executive order is only a down payment on the President's goals and objectives with regard to executive branch ethics reform. OGE expects to have major new responsibilities in addition to those created by the recently signed order, including requirements that OGE: exercise strong new enforcement authority; serve as the clearinghouse of all public records relevant to ethics in the executive branch and place this information on its website; and promulgate rules and procedures to record all oral and in-person "lobbying contacts" between registered lobbyists and political appointees, and make those records available to the public in a searchable computerized database. These impending requirements are expected to require considerable new information technology resources and expertise. Implementing these new and impending ethics reforms are expected to be OGE's main priority in addition to its critical role in the Presidential transition.

## *3. Enhancing ethical leadership in the Federal executive branch*

In FY 2009 and FY 2010, OGE will take concrete steps to enhance ethical leadership within the executive branch. For example, OGE's Director will continue to meet with high ranking officials at executive branch departments and agencies, in addition to the ongoing meetings that OGE's senior officials will conduct with the leadership of departments and agencies in connection with various ethics issues and ethics program reviews. OGE also will develop a training program on ethical leadership specifically for agency leaders. The course will focus on the reasons that ethical leadership is important, the ways that such leadership benefits individual agencies and the Government as a whole, and the types of concrete actions that

agency leaders can take to enhance their ethics programs. In addition, OGE will begin holding quarterly meetings with Designated Agency Ethics Officials that will enable OGE and the DAEOs to work through emerging issues, address items of concern, and proactively prevent problems from taking root within agencies' ethics programs. Among other benefits, these interactions will serve to improve transparency between OGE and the agencies it supports. Finally, throughout FY 2009 and FY 2010, OGE will continue to use a variety of technologies to deliver messages from OGE's Director to executive branch leaders to emphasize significant issues affecting the ethics community.

#### *4. Preparing the ethics community for succession management and workforce planning*

In FY 2009 and FY 2010, OGE will take steps to address issues related to succession management and workforce planning, both in the Federal workforce generally and in the ethics program specifically. Worldwide, more than 6,000 ethics officials, working in approximately 130 agencies and components, are involved in administering the Federal executive branch ethics program. Almost 90 percent of these ethics officials devote only a portion of their time to ethics responsibilities and approximately one-half of all ethics officials have fewer than four years of experience. Many Federal ethics officials, including many of the most experienced, are eligible for or nearing retirement. OGE is anticipating a combination of the anticipated loss of a large number of experienced ethics officials, an influx of inexperienced ethics officials, and an increase in retirements and new hiring throughout the Government as a result of general demographic trends. These issues underscore the emerging challenges facing the executive branch ethics community.

Effective succession management will require well-targeted action by OGE and the ethics community to ensure that ethics officials have sufficient resources, experience, and knowledge to successfully administer the ethics program. Focused attention on succession management and workforce planning are necessary to ensure that the program will be able to meet the challenges ahead.

In FY 2009 and FY 2010, OGE's efforts relating to succession management and workforce planning will range from expanding the training and guidance offered to new ethics officials to developing tools and job aids that can be used in the day-to-day management of agency ethics programs. OGE will develop training courses and guidance specifically targeted to helping ensure that agencies possess the basic resources and knowledge they need to administer the fundamental elements of their ethics program. In particular, OGE will develop materials to guide agencies in establishing and maintaining critical program elements. These efforts will be specifically designed to address the needs of smaller agencies, given their particularly acute vulnerability to disruption in the face of anticipated demographic changes. In addition, OGE will launch a series of focused reviews aimed at identifying pertinent processes and model practices. Notably, OGE will refine the development of necessary programs and strategies in close cooperation with agency ethics officials through the use of survey instruments, focus panels, and working groups.

Within the Federal workforce generally, OGE will focus on developing useful materials and training related to the anticipated retirements of numerous Federal employees and the influx

of new employees and the promotion of many staff-level employees to supervisory status. These efforts will focus on a variety of related issues, such as ethics requirements regarding negotiations for employment, restrictions on post-Federal employment activities, and guidance for trainers of new employees and new supervisors.

##### *5. Preparing for the 17th National Government Ethics Conference*

The National Government Ethics Conference is the premier professional resource for ethics officials in the executive branch. In FY 2009, OGE will continue planning the 17<sup>th</sup> National Government Ethics Conference, to be held in the second or third quarter of FY 2010.

The National Government Ethics Conference provides a significant opportunity for OGE to highlight the administration's priorities and OGE's corresponding agenda for the ethics community. The conference allows OGE to provide leadership to the ethics community while meeting the ever-changing needs of the executive branch ethics program. The conference provides a forum for intensive training, sharing of best practices, and networking for over 600 ethics officials from throughout the Federal executive branch. It allows OGE to present information distilled from lessons learned and best practices in the community.

Further, it provides a framework to discuss emerging issues and emphasize existing issues such as transparency in government, ethical leadership, accountability, and succession management. The conference also provides a foundation and structure from which OGE can lead the ethics community into the future. For example, past conferences have served to establish a unified understanding of the importance of senior leadership involvement for ethics programs to be ultimately successful. Past conferences have also provided recognition of the importance of the development and sharing of model practices.

Finally, the conference allows OGE to present a cohesive learning experience that strengthens ethics officials' knowledge, skills and abilities; and provides leadership for the executive branch ethics program.

## **FY 2008 Results**

### **Strategic Goal One: Strengthening Ethical Culture Within the Executive Branch**

#### *Objective 1.1: Improve the Effectiveness of Ethics Policy*

As part of OGE's continuous effort to review and update policy guidance for ethics officials, OGE published written materials, provided significant guidance to address key and emerging ethics issues, and provided assistance to Congress on legislative proposals. In FY 2008, OGE published 16 substantive legal memoranda and advisory opinions. These memoranda and opinions, which OGE distributed to agency ethics officials, are permanently available to the public on OGE's website. The documents discuss issues such as the gift exception for widely attended gatherings, conflicts of interest when seeking employment, and a post-employment exception for senior and very senior employees who represent candidates and political entities. A number of other written materials provide guidance on numerous financial disclosure issues including the treatment of exchange-traded funds for the purposes of financial reporting, and the reporting of emerging and complex financial instruments such as hedge funds and discretionary trusts. One memorandum provides extensive guidance on the complex rules applicable to Federal employees who plan to write books related to their Government experience. Throughout the fiscal year, OGE also continued to use the OGE electronic notification mailing system (ListServe) to distribute substantive information and timely notices to over 2,700 members of the ethics community. Nearly all ethics officials responding to OGE's annual survey of ethics officials indicated that OGE guidance is useful and that OGE provides the guidance they need to do their jobs effectively.

In FY 2008, OGE published a final rule promulgating expanded guidance explaining the scope and content of the post-employment restrictions of 18 U.S.C. § 207 and containing certain implementing procedures. Publication of this rulemaking represented a significant achievement for OGE. Following publication, OGE conducted training to familiarize ethics officials and other interested stakeholders with the guidance, including several presentations at OGE's 16<sup>th</sup> National Government Ethics Conference. OGE also conducted more extensive internal training on 18 U.S.C. § 207 and the new regulations in order to prepare its desk officers and attorneys to answer questions they may receive from ethics officials throughout the executive branch.

Contractor ethics continues to be a substantive issue in which OGE has been active for several years. In FY 2008, the issue of contractor ethics drew increased attention from the media, Federal regulators, and Congress. Ethical risks and issues continue to arise in this area because Federal employees are working in Federal buildings alongside an increasing number of contractor employees, yet these contractor employees are subject to different standards than those applicable to Federal employees. In January 2008, the Federal Acquisition Regulatory Council's law team invited OGE to participate in the development of an advanced notice of proposed rulemaking (ANPR) on contractor employees' personal conflicts of interest (FAR Case 2007-017). OGE assisted in drafting the ANPR, submitted formal comments on the ANPR, and alerted the ethics community to the ANPR. In addition to this initiative, OGE participated in other related efforts to propose rules addressing the conduct of contractors.

OGE addressed a wide range of audiences on the topic of Government contractor ethics in FY 2008. OGE delivered a formal presentation to the National Procurement Fraud Task Force and at its 16<sup>th</sup> National Government Ethics Conference. OGE also delivered several formal presentations on this topic to officials in the executive branch ethics community. OGE made formal presentations to the National Institutes of Health's ethics counselors, members of academia, Congressional staff, and a number of nonprofit organizations. Similarly, OGE advised and provided comments to the Government Accountability Office on its inquiries into ethics issues involving contractors at the Department of Defense. In addition, OGE published a booklet to provide guidance directly to executive branch employees who work with Government contractors.

During FY 2008, OGE paid significant attention to a number of legislative proposals that would affect Federal ethics laws. OGE closely tracked the development of these proposals and provided technical assistance regarding the impact they would have on the existing executive branch ethics program. OGE also provided formal views on some of the proposals. OGE provided several briefings to Congressional staff on a range of topics including contractor ethics, conflicts of interest, the Presidential transition, and financial disclosure among other topics. Moreover, OGE responded to Congressional and OMB requests for comment on numerous draft bills, legislation, bill reports, and testimony. Specifically, OGE timely responded to over 100 OMB requests for review and comment in FY 2008, with OGE's comments on direct ethics issues incorporated approximately 90 percent of the time. Also, in light of the impending Presidential transition, OGE developed and, on behalf of the administration, submitted to Congress proposed legislation that would streamline financial disclosure requirements under the Ethics in Government Act. Finally, OGE undertook efforts to build internal capacity for enhancing its legal and legislative review in the coming years.

#### *Objective 1.2: Enhance Assistance to and Oversight of Agency Ethics Programs*

OGE attorneys and desk officers answered more than 2,000 complex legal and policy questions from agency ethics officials in FY 2008. Through this support to agencies, OGE ensured consistent application of the complex legal authorities that form the framework of ethics regulation in the Federal executive branch. OGE responded effectively to a high volume of calls from agency ethics officials regarding complex legal issues related to ethics authorities. The availability of this support consistently produced qualitative enhancements in agency ethics programs.

OGE continued to use technology to enhance support of agency ethics programs. More than 90 percent of ethics officials used the OGE website in FY 2008, and OGE launched a redesigned website, [www.usoge.gov](http://www.usoge.gov), to streamline access to information. In addition, OGE shared guidance with agency ethics officials through ListServe announcements and electronic DAEOgrams. About 95 percent of ethics officials reported that these electronic notifications were an effective means for disseminating ethics information.

In FY 2008, OGE continued to focus not only on its own communications with agency ethics officials, but also on the communications regarding ethical requirements that occur internally in agencies. To this end, OGE continued its efforts to raise the level of communication

between the leadership of Federal agencies and the many officials throughout the executive branch who comprise the ethics community. OGE also continued its “Leadership Initiative” that focused on the critical role of high-level agency leadership in promoting an ethical culture within the Federal executive branch. Among other actions, OGE undertook the following measures in furtherance of this objective:

- The OGE Director met with various high ranking officials at several departments and agencies.
- OGE continued convening focus groups in FY 2008 to discuss its Leadership Initiative.
- OGE instituted lunch-time forums to focus on emerging issues related to the upcoming Presidential transition and related agencies’ program management matters.
- OGE conducted surveys regarding leadership prior to the 16th National Government Ethics Conference, and used those responses to facilitate its preparations for the conference in order to address issues that executive branch agencies identified as important.
- OGE developed and provided agencies with suggestions for concrete actions that can be implemented at the leadership level to enhance agency ethics programs. These suggestions are posted on OGE’s website.
- OGE integrated into its agency program review process the emphasis on leadership involvement in the ethics program.
- Over the fiscal year, OGE also recorded approximately 1,000,000 hits on its website, which is popular with both the ethics community and the general public.

In preparation for the Presidential transition, OGE had preliminary contacts with representatives of both of the Presidential candidates’ transition teams to discuss relevant ethics requirements. OGE also reviewed and began preparing materials for the incoming administration to facilitate a smooth transition. In order to prepare agency ethics offices for the change in administrations, “Transition” was the theme of the 16<sup>th</sup> National Government Ethics Conference, which OGE held from September 16, 2008, through September 19, 2008. Three of the seven thematic tracks for the conference focused specifically on transition issues. OGE also dedicated several sessions to teaching agency ethics officials how to counsel outgoing senior officials effectively while preparing to assist incoming PAS officials. Over 600 ethics officials participated in the 3½-day conference, and more than half of all agencies or components of executive branch departments were represented. OGE distributed conference materials to participants on flash drives to ensure that these materials will be available in electronic format. As a result, these conference materials will continue to serve as useful reference material long after the conference, and agencies can easily share them with employees and archive them for future use.

OGE also provided assistance to agency officials on a variety of ethics issues in connection with executive branch ethics activities. For example, OGE prepared a “podcast” of the Senate-confirmed nominations process and video clips that provide scenarios for discussion during training sessions on ethics restrictions on seeking employment. In order to assist executive branch agencies in requesting Certificates of Divestiture, which allow employees to defer capital gains taxes on assets that the Government requires them to divest, OGE also issued a recommended format for requests. OGE distributed this recommended format to agency ethics officials and provided training on requests for Certificates of Divestiture in February 2008. The format continues to be available electronically on OGE’s website.

In addition to branchwide emerging issues, individual agencies face their own unique challenges that they seek to remedy through supplemental, agency-specific ethics rules that OGE reviews. In FY 2008, OGE continued to emphasize the availability and advantages of alternative financial disclosure procedures and assisted agencies in developing those alternative procedures where appropriate. OGE reviewed and approved requests to implement alternative financial disclosure procedures at four agencies, in order to advance OGE’s goal of promoting the efficient allocation of ethics program resources and focusing resources on important program objectives.

OGE also focused on succession planning, recognizing that effective succession planning will require thoughtfully directed action by OGE and the ethics community. In order to establish baseline information for targeting future action, OGE designed and distributed a special survey to agency ethics officials: the Ethics Program Succession Planning Survey. OGE also added a pertinent new section to the Annual Survey of Ethics Officials covering FY 2008. The groundwork for further work and training on a range of substantive topics relating to succession planning was established in several courses presented during the 16<sup>th</sup> National Government Ethics Conference. These efforts and others will culminate in a succession planning initiative in FY 2010.

### *Objective 1.3: Increase Employees’ Awareness of Their Ethics Responsibilities*

Consistent with OGE’s preparation for the Presidential transition in FY 2009, OGE developed training and written guidance on topics related to the transition. Specifically, OGE held numerous training sessions and discussion groups for executive branch employees and for the ethics officials who provide advice to departing employees. OGE issued a pamphlet on the qualified blind trust program and a pamphlet for employees who work with Government contractors. OGE completed the first draft of a revised post-employment training course that includes information about the new post-employment regulation. OGE also completed the first draft of a revised course on ethics requirements related to seeking employment. In addition, OGE issued an updated version of a pamphlet titled, “Rules for the Road,” that provides summaries of 18 U.S.C. § 207, 18 U.S.C. § 203, and the Procurement Integrity Act, and alerts employees to other post-employment restrictions; and an updated version of a pamphlet titled, “Understanding the Revolving Door: How Ethics Rules Apply to Your Job Seeking and Post-Government Employment Activities,” which provides a general discussion about how the Federal ethics laws and restrictions may affect departing employees, both while looking for a job and after leaving the Government. These last two pamphlets summarize the most common

post-employment restrictions on what employees can do after they leave Government service. They contain revisions that reflect, among other things, a recent statutory change to 18 U.S.C. § 207(d) that increased the cooling off period for “very senior” employees from one year to two years.

Many employees serve the Government as special Government employees (SGE) or as Federal advisory committee members. For this reason, OGE continued its assistance to advisory committees in FY 2008. To assist these employees in understanding their ethical obligations, OGE did the following:

- published a pamphlet titled, “To Serve with Honor”;
- published a longer booklet on the ethics rules that apply to advisory committee members serving as special Government employees;
- completed two FACA training courses for GSA and continued to coordinate with the General Services Administration on advisory committee matters;
- evaluated agency processes for determining SGE status during the OGE program review process; and
- provided significant feedback on proposed legislation to revise the Federal Advisory Committee Act during FY 2008.

OGE continued to develop a suite of training courses, materials, and evaluation instruments for agencies to use in training their employees and in assessing the effectiveness of such training. In FY 2008, over 80 percent of agencies used OGE-provided education and training products to promote employee awareness of ethics responsibilities. During FY 2008, OGE:

- developed a course titled, “Are You Vulnerable to Conflicts?” that addresses conflicts of interest and appearance concerns;
- continued to distribute the first course of the series titled, “Initial Ethics Orientation,” which OGE has provided to approximately 100 requesters;
- delivered training at the 16<sup>th</sup> National Government Ethics Conference to demonstrate ways to deliver initial ethics orientation to employees; and



- created new and updated materials (such as job aides, bookmarks, and posters) to assist agencies in increasing employee awareness of ethics requirements, using materials that OGE designed in ways that enable mass production by ethics officials for direct distribution to their agencies' employees.

Notably, OGE continued to develop a wide variety of instructor-led training courses for ethics officials. After attending OGE-conducted training in FY 2008, all participants reported that their knowledge of ethics rules had increased.

OGE also expanded its use of educational posters to increase awareness among agency employees. The posters focus on the primary principles of ethical conduct. They are available to agencies in an electronic format that allows customization of information about agency ethics contact points. OGE received numerous requests from agencies seeking customized versions of the posters. In addition, OGE continued to develop and distribute a series of online ethics crossword puzzles available through the OGE website.

*Objective 1.4: Increase OGE's Focus on Senior Officials' Roles in Implementing Ethics Program*

OGE's Leadership Initiative provides the leaders of executive branch agencies with suggestions for concrete actions that they can implement in order to fulfill their ethics responsibilities. Leadership support is a critical component of a successful agency ethics program. OGE is committed to raising the level of communication between the leadership of executive branch agencies and the ethics community. In FY 2008, OGE emphasized that commitment and action by agency leadership is the keystone for ensuring the integrity of an agency's ethical culture and for fostering public confidence in the Government's decision-making processes. To carry this message to the executive branch's leadership in FY 2008, OGE delivered presentations on ethical leadership and building ethics into the culture that reached approximately 600 mid- and high-level managers. To further OGE's commitment to this message, OGE senior officials met with the leadership from several agencies in connection with ethics program reviews in FY 2008. In addition, OGE's Director personally met with a number of agency heads and other high-level agency officials to discuss ways that they could strengthen the existing ethical cultures of their agencies. Several presentations at the 16<sup>th</sup> National Government Ethics Conference also focused on teaching ethics officials skills for engaging their own agency leadership in this initiative. Over 90 percent of ethics officials believed that their agency's leaders paid attention to ethics and demonstrated support for the ethics program in FY 2008.

**Strategic Goal Two: Preventing Conflicts of Interest**

*Objective 2.1: Enhance Assistance to the President and the Congress in the Presidential Appointment Process*

OGE took proactive measures to enhance its assistance during the upcoming Presidential transition. During the Presidential transition, OGE anticipates the turnover of most of the 1,100 to 1,200 Presidentially-appointed, Senate-confirmed (PAS) positions in the executive branch. To

prepare for the anticipated increase in the volume of PAS nominee reports and termination reports that OGE will receive during the transition, OGE undertook the following specific measures:

- OGE's 16<sup>th</sup> National Government Ethics Conference in September 2008 focused primarily on transition-related matters such as post-employment restrictions, seeking private sector employment, writing and publication of books, and disqualification issues. Several presentations at the conference addressed both technical disclosure issues and substantive conflicts issues related to nominee financial disclosure. In addition to the usual attendees, who numbered over 600, OGE invited key members of the campaign staffs of the two major party Presidential candidates in order to acclimate their transition teams to ethics and disclosure requirements and to establish liaison relationships with OGE staff as early in the transition process as possible.
- OGE prepared briefings for transition teams on ethics and financial disclosure as well as other transition-specific topics, and arranged meetings with the staffs of each of the major campaigns before the election.
- OGE conducted additional training for new financial disclosure reviewers in Washington, D.C. OGE also developed and distributed an electronic compilation of OGE's financial disclosure guidance and documents to individuals who attended financial disclosure training. This post-training CD-ROM provided students with a comprehensive reference guide and a series of audio files, recorded by OGE experts. The audio files addressed complex financial disclosure issues and "grey areas" that reviewers will typically face during the transition period.
- On February 28, 2008, OGE presented a Regional Conference for ethics officials from over 70 departments and agencies on financial disclosure issues related to PAS nominees in order to help prepare individual ethics officials for the increased number and complexity of financial disclosure reports that are expected during transition. The conference focused on advanced technical disclosure and substantive conflicts issues specific to PAS individuals. Approximately 300 experienced attorneys and ethics officials registered for the conference, and feedback from these attendees indicated that the result was an increase in their expertise in addressing financial disclosure requirements.
- In connection with the February 2008 Regional Conference, OGE distributed a bound volume containing 258 pages of instructional material and contact information designed to prepare executive branch ethics officials for the anticipated increase in the volume of nominee and termination financial disclosure reports associated with the Presidential transition. Nearly all of the material in this volume was new material that OGE developed specifically for this purpose.
- OGE supplied financial disclosure reviewers at executive branch agencies with an electronic compilation of new guidance on public financial disclosure requirements for

- OGE issued a written manual that provides extensive guidance on drafting ethics agreements for PAS nominees. OGE distributed this manual both at its February 2008 Regional Conference on public financial disclosure and through the electronic notification mailing system (ListServe), to which over 2,700 executive branch ethics officials are subscribed. OGE also made this manual available to both agency ethics officials and the general public by posting it on OGE's website.
- OGE continued to expand its pool of public financial disclosure report reviewers and continued to encourage other executive branch ethics programs to expand their pools as well. To assist one major department with its capacity-building effort, OGE allowed the department to detail a nominee report reviewer to OGE. During the detail, OGE provided both formal training and on-the-job training to the department's employee. OGE has offered similar opportunities to other departments and agencies.
- OGE's Director testified at a hearing before a Senate subcommittee regarding OGE's role in, and preparations for, the Presidential transition. Officials of the Office of Management and Budget in the Executive Office of the President and the General Services Administration also testified at the hearing.
- OGE expedited the Certificate of Divestiture request process by issuing a new sample format for requests. This format will assist with the increased volume of requests that OGE expects to receive during the Presidential transition.
- OGE obtained the administration's approval for draft legislation to streamline the financial disclosure process and submitted the draft legislation to Congress.
- OGE published comprehensive post-Federal employment ethics regulations and conducted training on these regulations.
- OGE published several new pamphlets on substantive ethics requirements.
- OGE began the development of a video for potential PAS nominees that explains the reasons for the financial disclosure requirements, as well as the essential nature of early and strong involvement by nominees in ethical leadership.
- OGE issued a memorandum on the heightened scrutiny of PAS nominee reports and the need for agencies' ethics officials to seek additional information, rather than relying on standard review assumptions, when reviewing PAS nominee reports.

In conjunction with the foregoing efforts to prepare for the Presidential transition, OGE began conducting a series of focused reviews to evaluate agencies' processes and procedures for collecting, reviewing, and certifying financial disclosure reports, including those filed by PAS nominees. While evaluating agencies' financial disclosure processes and procedures is a routine

part of OGE's plenary reviews, conducting the focused reviews allows OGE to evaluate a larger number of agencies in a shorter period of time. In order to identify areas for improvement before the transition, OGE designed components of the reviews, as follows:

- The reviews consisted of two parts, including both a questionnaire to be completed electronically and on-site follow-up interviews by OGE reviewers.
- The reviews focused on internal controls.
- The reviews underscored the importance of ensuring accuracy, consistency, and timeliness in the processing of PAS nominee reports in anticipation of the Presidential transition.
- Part of each focused review included an emphasis on the need for agencies to develop and maintain follow-up procedures for pursuing the collection of the reports of delinquent filers.

In connection with these focused reviews, OGE completed comprehensive evaluations of the financial disclosure programs at nine agencies. OGE used the information gathered through these reviews to develop model practices and recommendations that will enhance the executive branch ethics program.

OGE continued in FY 2008 to provide agency ethics officials with guidance and instruction that will improve their review of public financial disclosure reports. In the course of reviewing nominee reports in FY 2008, OGE closely scrutinized the work of agency ethics officials and met internally to discuss the issues that were arising in the course of these reviews. OGE's financial disclosure team and program reviewers also worked directly with agency reviewers in connection with the report of each PAS nominee. During these interactions, OGE staff provided agency ethics officials with assistance in reviewing the individual financial disclosure reports. This assistance included substantive guidance regarding the broadly applicable financial disclosure requirements and conflicts of interest issues that those reports implicated. As a result, these exchanges facilitated the nominations of numerous candidates for PAS appointments and increased the level of expertise of the community of agency ethics officials who reviewed their reports. Notably, 95 percent of conflict and technical reporting issues for nominee financial disclosure reports were resolved within five days after a nomination was made.

During FY 2008, OGE reviewed and certified 254 financial disclosure reports filed by PAS nominees. In addition, OGE increased its focus on the ethics agreements of PAS nominees, working closely with ethics officials to provide extensive guidance on such agreements in order to resolve potential conflicts of interest and concerns about appearances of conflicts of interest. Heightened scrutiny of the quality of these ethics agreements resulted in better outcomes with regard to resolving conflicts prospectively. In order to build the skills of agency ethics officials, OGE contacted agency ethics officials directly to explain and negotiate changes to their nominees' ethics agreements. OGE also enhanced its service by working directly with PAS nominees and their representatives in many cases in order to expedite the processing of reports

when agency ethics officials were unable to resolve disclosure and conflicts issues quickly. In addition, OGE continued to monitor compliance with the ethics agreements of PAS officials following their confirmations; 97 percent of PAS officials complied with the agreements within required time frames.

As there continues to be significant agency interest in electronic filing of financial disclosure forms, in FY 2007 OGE allowed each agency to undertake its own development of an electronic filing process to use with either the public reporting system (Standard Form 278) or the confidential reporting system (OGE Form 450). In FY 2008, OGE continued to support agency e-filing efforts in the following ways:

- OGE participated in an interagency e-filing working group called the “Electronic Filing Workgroup,” which promotes the development and advancement of executive branchwide electronic financial disclosure report filing. OGE also facilitated a presentation by this group at the 16<sup>th</sup> National Government Ethics Conference in September 2008. In addition to the panel presentation, OGE organized a one-day e-filing workshop where participants saw three live demonstrations of existing electronic filing systems.
- As a member of the e-filing workgroup of the Interagency Ethics Council (IEC), OGE assisted in the development of a document titled, “eFiling Roadmap & Planning Workbook: Electronically File (eFile) & Manage Financial Disclosure Reports (FDRs).” Once completed, this document will serve as a guide for ethics officials seeking to implement an electronic process for the filing of financial disclosure reports (Standard Form 278 and OGE Form 450) in their agencies. The roadmap details ways to decide on and deploy an e-filing solution based on the experiences of several agencies. The workgroup will finalize this document in FY 2009.
- OGE met with several agencies that are in the process of developing e-filing systems, including the National Aeronautics and Space Administration, the Department of Veterans Affairs, the Executive Office of the United States Attorneys, the Department of Health and Human Services, the United States Postal Service, and the Federal Deposit Insurance Corporation.
- OGE developed and distributed an e-filing survey to 129 independent agencies and 46 major components. The survey provided OGE with specific information on the extent to which steps in each agency’s process can be completed electronically, and it helped OGE to fulfill its commitment to monitor the e-filing efforts of individual agencies.

OGE enhanced the assistance it provides to the President and Congress by updating its regulations. Specifically, in FY 2007 OGE submitted a proposed regulation on qualified blind trusts and qualified diversified trusts to the Department of Justice (DOJ) and the Office of Personnel Management (OPM) for review. This proposed regulation revises existing regulations in order to clarify the processes for establishing such trust instruments. OGE received and responded to comments from DOJ and OPM in FY 2008. OGE hoped to submit the proposed regulation to the Office of Management and Budget (OMB) in FY 2008 and adopt a final

regulation before the beginning of the Presidential transition, but was unable to submit the rule to OMB in FY 2008 because OMB imposed a moratorium on new rules that remained in force through the end of the past administration. OGE will continue to pursue this initiative in FY 2009. Also in FY 2008, OGE began developing revised regulations dealing with exemptions to the conflicts of interest rules, but did not submit the regulations to OMB in FY 2008 due to the moratorium on new rules during the transition.

In FY 2008, in conjunction with its nominee review process, OGE also continued its efforts to ensure that incumbent PAS appointees' financial interests did not pose actual or apparent conflicts of interest with their current duties. OGE accomplished this effort by reviewing annual financial disclosure reports and termination reports that such officials submitted. OGE performed a conflicts analysis on 1,087 annual and termination public financial disclosure reports filed by these employees. OGE also worked with small boards and commissions to strengthen their substantive and technical reviews of financial disclosure reports. In addition, OGE provided instructor-led courses to ethics officials from various agencies on identifying and resolving conflicts of interest.

*Objective 2.2: Monitor Continued Compliance With Conflict of Interest Laws*

Inspectors General provide critical support in the enforcement of ethics laws and rules because they usually conduct the primary investigations of alleged violations. In FY 2008, OGE continued its effort to foster effective working relationships with the Inspectors General community. OGE's Director maintained consistent communication with the Inspectors General through regular attendance at the meetings of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) (formerly the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE)). OGE has also sought opportunities to strengthen the relationship between the community of Inspectors General and the community of ethics officials, in an effort to help Inspectors General understand the application of the ethics requirements. In addition to its meetings with Inspector General personnel, OGE provided educational support to the Inspectors General community, including the following:

- OGE developed and conducted two formal training courses on investigating conflicts of interest during FY 2008 at the Inspector General Academy.
- OGE staff presented training directly to the staffs of Inspectors General on five other occasions during FY 2008. On one of these occasions, OGE provided individualized training to the staff of the Department of Education's Inspector General on reviewing financial disclosure reports. This training enabled the Inspector General's staff to respond to an important Congressional inquiry regarding financial disclosure at the Department of Education.
- At the 16<sup>th</sup> National Government Ethics Conference, OGE expanded its outreach to Inspectors General by inviting them to increase the number of their representatives at the conference. OGE also reached out to the Inspectors General community before the conference in order to ensure that the conference agenda included topics of interest to them. The Inspectors General community's attendance and participation in the

OGE also continued to work directly with the Department of Justice and Inspectors General on enforcement of ethics requirements. OGE regularly provides assistance to prosecutors and investigators concerning the interpretation and application of the conflict of interest laws and ethics rules in the context of specific prosecutions and investigations. The subjects of these interactions included such matters as improper gifts, falsification of financial disclosure statements, financial conflicts of interest, and post-employment restrictions. In addition to these activities, OGE continued to collect and monitor concurrent notifications of conflict of interest referrals to the Department of Justice to identify trends. In FY 2008, OGE also developed an electronic process for receipt of concurrent notification of conflict of interest referrals to the Department of Justice.

Also in FY 2008, OGE's formal tracking systems effectively monitored the activities of executive branch agencies in connection with conflicts of interest laws, as follows:

- OGE continued to maintain a monitoring system that ensures that PAS appointees file annual and termination financial disclosure reports as quickly as possible. In FY 2008, OGE achieved a 10% increase in the number of PAS reports that agencies timely filed with OGE for final review and certification.
- OGE continued to monitor compliance of PAS appointees with their ethics agreements. In FY 2008, OGE found that 97% of all tracked PAS appointees met the regulatory requirement of complying with their agreements within applicable timelines.
- As part of the standard program review process, OGE program reviewers routinely emphasized to agencies the importance of notifying public filers once their reports are reviewed and certified. All agency programs reviewed in FY 2008 provide public financial disclosure report filers with feedback after their reports have been reviewed. In those cases where reports had not been certified or were certified late due to filing errors or inconsistencies, OGE program reviewers ensured that agency officials were making efforts to collect information or correct any deficiencies that were delaying certification.

*Objective 2.3: Administer an Effective Confidential Financial Disclosure System*

In FY 2008, OGE continued to emphasize the availability and advantages of alternative financial disclosure procedures and to assist agencies in developing alternative procedures where appropriate. All alternative financial disclosure systems reviewed in FY 2008 had been implemented effectively. In FY 2008 OGE also reviewed and approved requests to implement or update alternative financial disclosure procedures at the following four agencies:

- Environmental Protection Agency;

- National Aeronautics and Space Administration;
- Department of Agriculture; and
- Department of Veterans Affairs.

OGE also maintained a Frequently Asked Questions section for confidential financial disclosure reports on its website.

### **Strategic Goal Three: Promoting Good Governance**

#### *Objective 3.1: Increase OGE's Support of and Cooperation With Federal, State and Local Agencies Implementing Programs That Help Support Good Governance*

In FY 2008, OGE engaged in a number of activities with Federal, State, and local agencies which promote integrity, accountability, and transparency in Government. At the Federal level, OGE's Director maintained consistent communication with the Inspectors General community through regular attendance at monthly meetings of the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). OGE's Director continued to serve on the PCIE Integrity Committee and served as a presenter for the Inspector General Leadership Development Course. In addition, OGE developed and began presenting a course for the Inspector General Training Academy that will enhance the Academy's training on investigating public corruption and ethics cases.

OGE also maintained a consistent presence at the Federal Interagency Ethics Council, an informal group of executive branch ethics officials who meet monthly to share model practices and practical information. In particular, OGE made a significant presentation on the newly issued post-employment regulations.

In continued support of the substantial number of Federal advisory committees, OGE staff participated in a multi-day curriculum development exercise held by the General Services Administration to improve training for Federal advisory committee management officers in departments and agencies.

Transparency in government is fundamental to good governance. OGE provided team leadership supporting the Department of Justice in a long-standing FOIA and Constitutional law claims suit.

Exploring a new opportunity to reach a broader audience on subjects complementary to the ethics program, OGE participated in the development of a podcast that addressed the duty to report misconduct and identified the offices that can receive reports of misconduct. The podcast featured representatives from OGE, the Office of Special Counsel's Disclosure Unit, and an Inspector General Hotline program.



At the State and local level, OGE continued to be an active member of the Council on Governmental Ethics Laws (COGEL), an organization comprised of Federal, State, and local government agencies primarily from the United States and Canada. COGEL members are, in part, responsible for government ethics and access to information programs. In FY 2008, OGE utilized the newly revamped COGEL member forum to answer program inquiries from other members, and to pose its own questions concerning good practices.

Throughout FY 2008, OGE coordinated extensively with other Federal agencies and, to some degree, with State, and local government agencies in conjunction with the United States' obligations under international anti-corruption conventions and mutual evaluation mechanisms. In the more general area of programs within public administration that help support the prevention of corruption, as opposed to law enforcement, OGE took the lead within Federal working groups in gathering specific information on applicable laws, regulations, policies and practices of these agencies for those programs. For example, OGE worked cooperatively with Federal agencies to implement or report on implementation of recommendations made to the United States as the result of the first-round and second-round evaluations by the Council of Europe's Group of States Against Corruption (GRECO) and the first-round evaluation by the follow-up mechanism for the Inter-American Convention Against Corruption (MESICIC). As a more general matter, OGE used the anti-corruption conventions and evaluation mechanisms as platforms for discussions of specific internationally recognized good governance and integrity issues.

OGE's participation and interaction with other Federal, State and local agencies on topics that build on the complementarity of a variety of programs within public administration was well received and also provided helpful insights to OGE as it evaluated its own programs.

*Objective 3.2: Enhance Outreach to the Public and Private Sector and Civil Society*

In FY 2008, OGE's Director and other members of OGE's staff made numerous presentations to private sector and civil society organizations whose understanding of the Federal ethics program helped to support public trust in Government. The audiences included non-Government organizations, professional and business associations, and educational institutions, such as the American Bar Association, the D.C. Bar Association, and a national association of scientists. The OGE Director and his staff also specifically reached out to various organizations for their views on such issues as the role of leadership in enhancing and maintaining ethical cultures in agencies and the anticipated challenges during the Presidential transition. These interactions also consistently drew positive responses. In addition, OGE extended invitations to private sector organizations and civil society to participate in the 16th National Government Ethics Conference.

In FY 2008, OGE continued to serve the public effectively through its help desk, which provided timely and thorough responses to over 900 queries for information. OGE responded in a timely fashion to numerous press inquiries in order to ensure accuracy of reporting on ethics laws and rules that apply to the executive branch. In addition, OGE conducted three formal interviews with various media outlets on ethics issues. OGE responded directly to letters from

the public seeking information or assistance on issues that often require referral to other Federal or State entities. OGE released 160 reports of PAS officials in response to 32 requests. OGE continued its 100 percent on-time response rate for FOIA and Privacy Act requests. OGE also released 64 travel payment reports (or § 1353 reports). All executive branch agencies file these reports with OGE semi-annually in order to show the extent to which agencies accepted payments for travel, subsistence, and related expenses received from non-Federal sources in connection with the attendance of employees at certain meetings and similar functions.

*Objective 3.3: Support U.S. Foreign Policy Anti-Corruption and Good Governance Initiatives*

OGE's provision of ethics program expertise and an understanding of an ethics program's role in good governance continued to have an appreciable and positive effect on the recipients of the United States' anti-corruption foreign policy initiatives. Its expertise was highly appreciated by the Federal agencies whose initiatives and programs OGE supported. As a result, FY 2008 was an extremely active and highly successful year for OGE in its continuing support of the United States' foreign policy initiatives in the area of corruption prevention.

Throughout the year, OGE staff continued to represent the United States Government at the plenary meetings of the Council of Europe's Group of States Against Corruption (GRECO) and to serve as expert evaluators of other GRECO members for the third round of evaluations. In addition, a representative from OGE was asked to write the substantive section of GRECO's Eighth General Activity Report that addressed practices and lessons learned from GRECO reviews on the topic of "revolving doors" or "pantouflage." The section was well received by the member countries, with a number of countries subsequently translating that section of the text into other languages for use by their own policymakers.

The United Nations Convention Against Corruption has been, and continues to be, a priority anti-corruption foreign policy initiative of the United States. Because of OGE's expertise in mutual evaluation mechanisms, OGE continued to serve as a principal member of an interagency committee that is responsible for developing the United States' position on a review mechanism for implementation of the Convention; represented the United States at meetings that the United Nations Office on Drugs and Crime (UNODC) held to advance the development of a review mechanism; and assisted the United States with its own review and with its commitments to review three other countries in a pilot review program. Based on OGE's active participation in these activities, the Department of State asked OGE to serve as a member of the United States' delegation to the Second Council of States Parties to the Convention.

Throughout FY 2008, OGE provided expertise in a number of initiatives of other international organizations in which the United States is a member. For example, OGE worked with the members of the Asia Pacific Economic Cooperation's (APEC) Anti-corruption and Transparency Task Force to develop resources that help support APEC Principles of Conduct for Public Officials. In addition, OGE continued to serve as a United States expert resource to the Organization for Economic Cooperation and Development through the Directorate on Public Governance and Territorial Development for a variety of topics and programs including post-employment, lobbying, and assessing integrity programs and to the Directorate for Financial and

Enterprise Affairs in a program for the Anti-Corruption Network for Eastern Europe and Central Asia.

In long-standing support of the Department of State's International Visitor Leadership Program, OGE continued to meet with delegations of foreign visitors interested in ethics, conflicts of interest, transparency, and other good governance initiatives. During FY 2008, OGE hosted 33 delegations made up of over 375 visitors from over 80 countries. Approximately 80 percent of the surveyed visitors were public officials and the remainder included journalists, academics, and members of non-governmental organizations. From completed surveys of the visitors, OGE found that nearly all visitors reported OGE's presentations helped them to understand the activities of OGE and its role and function in the broader context of good governance. Most indicated they felt the knowledge they gained from the presentations would be useful to them in their countries.

Finally, OGE continued to serve as a resource to the Department of State's Bureau for International Narcotics and Law Enforcement Affairs (INL) and the Department of Justice's Office for Overseas Prosecutorial Development Assistance and Training (OPDAT) for technical assistance to individual country anti-corruption programs. In support of INL, OGE continued to review follow-up reports on anti-corruption prevention efforts made by countries who have agreed to participate in the Follow-up Mechanism of the Inter-American Convention Against Corruption.

#### *Enhanced Internal Administrative Support*

During FY 2008, OGE staff maintained vital services related to budget, finance, human resources, graphics, facilities, property management, travel, procurement, telecommunications, records management, information, and website technologies. To add to this array of services and related reporting requirements, OGE took steps to enhance its ability to attract and retain a highly effective workforce. OGE obtained recertification of its SES pay-for-performance system. OGE also enhanced its ability to continue operations in the event of a natural disaster, attack, or other emergency through participation in the Department of Homeland Security's "Operation Eagle Horizon" exercise. OGE redrafted its Continuity of Operations Plan, updated its building evacuation plan, reviewed the currency of its Shelter-in-Place procedures, and provided emergency training to employees. OGE also continued its compliance with HSPD-12 deadlines.

To improve its business processes, OGE took steps to improve remote connectivity to its information technology (IT) network, oversaw the installation and security requirements for a multi-media workstation system within the Office of Agency Programs, assisted in the development of electronic survey instruments, met NIST security requirements, and successfully completed its redesign and launch of the OGE website. OGE continued its progress in meeting trusted Internet connection requirements and the accompanying transition to WITS3. OGE approved an action plan for refreshing its IT equipment in FY 2009. OGE also successfully tested its Internet Protocol version 6 capability.

## **FY 2009 and FY 2010 Planned Results**

### **Strategic Goal One: Strengthening Ethical Culture Within the Executive Branch**

#### *Objective 1.1: Improving the Effectiveness of Ethics Policy*

OGE will simultaneously undertake two critical and resource intensive activities in FY 2009 and FY 2010: implementation of the President's new executive order requiring new ethics commitments by certain executive branch personnel as well as expected additional executive branch ethics reforms and continued assistance in assuring a smooth Presidential transition through its role in reviewing the incoming administration's nominees for conflicts of interest. OGE has already accomplished all of its goals for the first two quarters of FY 2009 with regard to the Presidential transition and has already issued significant guidance on the new executive order signed approximately two months ago.

#### Accomplishments in the First Two Quarters of FY 2009

OGE employed an intense amount of its resources in early FY 2009 on preparing for and beginning its role in the Presidential transition through effective guidance, training, and clear communication – an effort that has already shown effective returns with OGE on pace to exceed all prior transitions in terms of the number of nominee financial disclosure forms reviewed and cleared through OGE's process. In early FY 2009, OGE finished preparation of important informational materials for distribution in connection with the Presidential transition, including the pamphlets and training materials described in other parts of this report, as well as briefings to the transition teams of both major candidates. The briefings included information on transition, codes of conduct, financial disclosure requirements for members of transition teams, and transition Memoranda of Understanding, as well as information about OGE-specific issues such as the nominee financial disclosure process. Working as early as possible with each candidate's representatives and each transition team minimized impediments to a smooth transition to a new administration. These initial communications successfully familiarized the new leadership with key issues related to ethics policy and emphasized the importance of ethical conduct for incoming Government officials.

OGE also issued policy guidance to help Federal agencies deal with transition issues. This guidance included memoranda addressing the status of Presidentially-appointed, Senate-confirmed (PAS) nominees whom agencies temporarily bring on staff while awaiting Senate confirmation, instructions on processing nominee financial disclosure reports prior to the inauguration, and policy guidance to facilitate the collection of termination reports up to 30 days before departing filers leave office.

Between the election and the inauguration, OGE continued to work with the President-elect's transition team and established clear channels of communication between members of the transition team, OGE, agency ethics officials, and potential PAS nominees. OGE briefed the President-elect's transition team on how team members could help the PAS nominee financial disclosure process run more smoothly by prioritizing the financial disclosure forms. To expedite the process, OGE worked with the transition team in the following ways:

- OGE coordinated with the President-elect's transition team and agency ethics officials to review potential Cabinet members' public financial disclosure reports, resolve any potential conflicts, and craft ethics agreements so the Senate was able to hold hearings before the inauguration.
- In addition to reviewing reports of potential Cabinet members, OGE coordinated with the President-elect's transition team and agency ethics officials to review other high-level PAS nominee financial disclosure reports and resolve any potential conflicts so potential nominees for sub-cabinet positions could advance through the clearance process as expeditiously as possible and be ready for confirmation hearings soon after January 20, 2009.
- OGE confirmed pre-inauguration logistics and deadlines for transmitting certified public financial disclosure reports of potential Cabinet members to the Senate.
- In preparation for transition, OGE created a video for PAS nominees promoting Government ethics and officials' responsibilities not only to adhere to the highest ethical standards, but to engage actively in ethical leadership. OGE posted this video on its website
- OGE also assisted agencies in providing ethics advice to departing officials on the rules regarding seeking employment and post-Government employment.
- OGE established a Presidential transition section on its website to make relevant materials more readily available to members of the transition team and agency ethics officials.
- OGE provided guidance about hiring potential PAS nominees as advisors or counselors and related ethics issues.

During this period of peak activity for OGE due to the Presidential transition, President Obama signed Executive Order 13490 "Ethics Commitments by Executive Branch Personnel" on January 21, 2009. OGE received numerous new responsibilities in the order including providing extensive guidance on implementation of the new order, undertaking analyses and producing reports required by the order, and reviewing and revising executive branch-wide regulations. These new duties also encompass some subject matters outside OGE's current areas of expertise. OGE has put all available resources toward its responsibilities under the new order and has already undertaken the analysis and drafting of five guidance documents to assist agency ethics officials and the public in understanding the scope, application, and relevant exceptions to the new restrictions and requirements. In the second quarter of FY 2009 alone, OGE has:

- Issued guidance memoranda on:
  - The key provisions of the order and the development and distribution of a Pledge form for appointees to sign

- Who is an appointee for purposes of the executive order
- When appointees must sign the ethics pledge
- The scope of the lobbyist gift ban
- The scope of the lobbyist revolving door ban;
- Hosted a meeting with 50 DAEOs and White House ethics officials on the new order; and
- Met with key House and Senate staff on the Lobbying Disclosure Act and the databases maintained by each chamber.

Importantly, the new executive order does not fully execute all of the President's goals and objectives with regard to executive branch ethics reform. OGE expects to have significant new responsibilities in addition to those created by the recently signed order, including requirements that OGE: (1) exercise strong new enforcement authority; (2) serve as the clearinghouse of all public records relevant to ethics in the executive branch and place this information on its website; and (3) promulgate rules and procedures to record all oral and in-person 'lobbying contacts' between registered lobbyists and political appointees and make those records available to the public in a searchable computerized database.

#### Planned Results for the Last Two Quarters of FY 2009 and FY 2010

OGE received numerous new responsibilities in Executive Order 13490, including providing extensive guidance on implementation of the new order, undertaking analyses and producing reports required by the order, and reviewing and revising executive branch-wide regulations. These new duties also encompass some subject matters outside OGE's current areas of expertise. Specifically, OGE is required to:

- Consult with every executive agency on that agency's procedures designed to ensure that:
  - every appointee in the agency signs the Pledge,
  - each appointee who was a former registered lobbyist within two years of appointment, specifically addresses the two-year recusal commitment in a written ethics agreement approved by White House Counsel,
  - spousal employment and other conflicts not addressed by the Pledge are addressed in ethics agreements or, if agreements are not required, appointees receive ethics counseling on these issues, and
  - agencies comply with the executive order;
- Make available a copy of the Pledge and the executive order to each agency.
- In consultation with the Attorney General and White House Counsel:
  - assist DAEOs in providing advice to current or former appointees regarding the application of the pledge,
  - adopt rules or procedures appropriate to:

- apply the lobbyist gift ban of the Pledge to all executive branch employees,
    - authorize limited exceptions to the lobbyist gift ban,
    - clarify that the gift ban is not violated if gift disposed of in accordance with 2635.205, and
    - ensure that existing rules and procedures on employment negotiations do not affect integrity of government programs, operations;
- In consultation with the Office of Management and Budget, report to the President on:
  - whether full compliance is being achieved with existing laws and regulations governing executive branch procurement lobbying disclosure,
  - steps the executive branch can take to expand to the fullest extent practicable disclosure of procurement lobbying and of lobbying for presidential pardons, and
  - immediate action the executive branch can take, and if necessary, recommendations for legislation on procurement and presidential pardon lobbying disclosure;
- Provide a public annual report on the administration of the Pledge;
- In consultation with the Attorney General, White House Counsel, the Office of Personnel Management and the Office of Management and Budget, report to the President on immediate steps the executive branch can take and, if necessary, legislative proposals necessary to expand to the fullest extent practicable the two-year post government lobbying ban to all executive branch employees involved in procurement processes; and
- Consult with every agency on procedures agencies must establish in order to implement the contractual, fiduciary and ethical commitments of the Pledge, including debarment procedures for former employees.

Thus in the next 18 months, OGE plans to issue some extensive new guidance to improve the effectiveness of ethics policies within the executive branch by undertaking the myriad requirements of the executive order, by continuing to provide leadership on nominee financial disclosure review, by providing support and interpretation to members of the ethics community, by initiating an effort to make OGE's guidance more accessible and understandable, and by focusing and addressing emerging ethical issues.

In addition to the substantial new guidance required by the new executive order specified above, OGE plans to submit for the new administration's clearance an update of the Standards of Ethical Conduct for Employees of the Executive Branch, which are the rules that govern the conduct of approximately 1.5 million Federal executive branch employees. The Standards establish extensive and concrete requirements for the high ethical principals that preserve and protect the public's confidence in the integrity of the executive branch of the Federal Government. OGE's revision will bring additional clarity to the requirements and restrictions contained in the Standards as well as respond to a requirement of Executive Order 13490 to

apply the lobbyist gift ban of the Pledge to all executive branch employees, improving a vital component of the Federal ethics program. In addition, OGE will continue to provide advice to numerous agencies every year on their agency-specific supplemental ethics regulations and to review proposals for supplemental regulations that they submit.

In its ongoing role providing review of the financial disclosure reports of the Government's most senior leaders in the 1,100 to 1,200 Presidentially-appointed, Senate-confirmed positions, OGE continues to work with agencies and the White House Counsel's Office to review, resolve conflicts, and otherwise process PAS nominee financial disclosure reports (and related ethics agreements) in a thorough and expeditious manner since the Presidential inauguration. At the request of the White House, OGE will brief Cabinet members, department and agency heads, and White House Office staff about Government ethics and ethical leadership. OGE also will review and certify financial disclosure reports of very senior White House staff after the White House Counsel's certification. In addition to reviewing financial disclosure reports, OGE will review and respond to requests for Certificates of Divestiture and requests for copies of public financial disclosure reports. The volume of requests for Certificates of Divestiture and requests for copies of public financial disclosure reports usually increases markedly during a transition period and in the first year of a new administration.

In FY 2009 and FY 2010, OGE also will continue to provide support to agencies, Inspectors General, prosecutors, and Congress through analysis, interpretation, and guidance on complex legal issues that arise in the arena of executive branch ethics requirements. OGE regularly provides assistance to investigators and prosecutors concerning the interpretation and application of the conflict of interest laws and ethics rules in the context of specific investigations. This includes such matters as improper gifts, falsification of financial disclosure statements, financial conflicts of interest, and post-employment restrictions. OGE also will continue to ensure that its policy guidance focuses on emerging issues and meets the needs of agency ethics officials. OGE will continue to gather feedback directly from the ethics officials to whom OGE provides this guidance through focus groups, surveys, and ethics program reviews.

In FY 2009 and FY 2010, OGE will undertake a comprehensive effort to make OGE policy and guidance more accessible and understandable to agencies. In recognition that agency ethics officials need to receive information from OGE in a variety of ways, OGE will continue to distribute ethics policy through various approaches and formats, including the following:

- OGE will undertake new policy initiatives, including a proactive program of agency outreach to General Counsels, Designated Agency Ethics Officials, and ethics counselors through one-on-one and group meetings on topics of interest or concern to the agencies.
- OGE will convene focus groups to identify emerging issues and to discuss ways in which OGE, through its policy guidance, can assist agencies in meeting the challenges they present.
- OGE will use technology to make a variety of improvements to the delivery of information to agencies and the public. OGE recently updated its website and will



- OGE will continue to use the electronic notification mailing system (ListServe) to inform the ethics community promptly of upcoming events, releases of substantive policy memoranda, and other items of interest. To ensure that information reaches as many of the 6,000 plus ethics officials as possible in FY 2009 and FY 2010, OGE will continuously explore ways to expand its ListServe readership.
- OGE plans to republish hard copies of its “Compilation of Federal Ethics Laws” booklet that is updated electronically at the conclusion of each Congress to reflect changes to relevant Federal ethics statutes. This publication is a vital tool that improves program efficiency by increasing access to and understanding of current executive branch ethics laws. This initiative to improve access to OGE’s guidance will be dependent on the availability of staff and fiscal resources.
- OGE will continue to administer its annual survey of high-level agency ethics contacts throughout the departments and agencies of the executive branch in order to assess the effectiveness of the services and the support it provides in FY 2009 and FY 2010.
- Finally, OGE will utilize new survey technology and software to administer additional surveys of ethics officials focusing on emerging issues and other topics of particular interest to the executive branch ethics community. The use of this software will enable OGE to collect real-time information from ethics officials and to respond to the survey results in a timely manner.

As part of OGE’s commitment to addressing emerging issues, OGE will continue to monitor and to provide guidance on relevant legislative proposals that may affect the executive branch ethics program, including OGE’s reauthorization. OGE plans to continue seeking an extension of its statutory authority, which expired in 2007. OGE also expects to continue to provide briefings to Congressional staff and to respond to Congressional and OMB requests for comment on draft bills, legislation, bill reports, and testimony. Among the topics that OGE will monitor closely are new proposals to regulate contractor employees’ personal conflicts of interest.

In FY 2009 and FY 2010, OGE also will continue its active involvement in the issue of contractors in the Federal workplace, an issue that recently has drawn the increasing attention of the media, Federal regulators, and the Congress. Ethical risks and issues continue to arise in this area because an increasing number of contractor employees work in Federal buildings alongside Federal employees, yet these contractor employees are subject to different standards than those applicable to Federal employees. New requirements to address contractor employee conflicts of interest became law with the passage of Section 841 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, Pub. L. No.110-417. The legislation contains specific policy requirements applicable to contractor employees who are performing “acquisition functions closely associated with inherently governmental functions” for or on behalf of a Federal agency or department. Additionally, the Act requires the Administrator for Federal

Procurement Policy, in consultation with the Director of OGE, to determine whether revision of the Federal Acquisition Regulations (FAR) is needed to address personal conflicts of interests by contractor employees for other functions being performed by contractors. The Act also requires the Administrator, in consultation with OGE, to develop and maintain a repository of best practices for the prevention and mitigation of organizational and personal conflicts of interest in Federal contracting. OGE has been participating on the Federal Acquisition Regulatory Council’s law team in order to draft regulations in response to the new requirements for contractor employees who are performing “acquisition functions closely associated with inherently governmental functions” (FAR Case 2008-025).

OGE also expects to continue its participation on the Federal Acquisition Regulatory Council’s law team to address the requirement that OFPP, in consultation with OGE, determine whether additional revisions to the FAR are necessary to address personal conflicts of interest by contractor employees for other than acquisition functions being performed by contractors. OGE expects this to occur either through work on an earlier published advanced notice of proposed rulemaking (ANPR) on contractor employees’ personal conflicts of interest (FAR Case 2007-017) or through a new case. OGE also expects to continue participating in other related proposed rules relating to contractor conduct, and OGE will provide technical assistance to Congressional staff on legislative proposals to regulate the conduct of contractor employees.

Performance Measures

<b>Objective 1.1</b>						
<b>Improve the Effectiveness of Ethics Policy</b>						
Performance Measures	<u>Performance Targets – Projected</u>					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Percent of ethics officials who rate OGE as responsive to emerging ethics program issues	78%	80%	80%	80%	80%	80%
		<b>81%</b>	<b>84%</b>			
Percent of ethics officials who rate guidance as useful	94%	95%	95%	95%	95%	95%
		<b>93%</b>	<b>93%</b>			
Percent of ethics officials who say they receive the guidance they need to do their jobs effectively	85%	85%	85%	85%	90%	90%
		<b>82%</b>	<b>88%</b>			

FY 2009 performance targets and measures reflect benchmarks established in FY 2007 and set forth in OGE’s FY 2008 performance plan. OGE’s experience in implementing the Strategic Plan and results of ongoing surveys may result in modifications of targets and measures in future annual performance plans.

*Objective 1.2: Enhance Assistance and Oversight of Agency Ethics Programs*

In FY 2009 and FY 2010, OGE will continue to provide legal guidance to agencies on complex ethics matters. While agency ethics officials routinely demonstrate the needed skills to

provide high quality guidance to their agencies' employees, OGE works daily with agency ethics officials to respond to their requests for assistance through legal analyses and interpretations of the complex laws and regulations establishing executive branch ethics requirements. To support this function, OGE will continue to ensure that its desk officer program delivers timely, accurate, and consistent guidance to executive branch ethics officials on the wide range of ethics issues that routinely arise. Desk officers also will continue to identify model practices and programs in other agencies and will offer suggestions for improving program operations. In addition, OGE attorneys will continue handling the most complex questions generated in the executive branch's ethics program. Their assistance to the agencies will continue to be a critical service that helps to ensure consistency and uniformity in the application of the legal authorities governing ethics in the Federal executive branch. In order to ensure that these staff members are providing the highest quality advice, OGE has undertaken an intensive program of internal training sessions to increase and diversify the expertise of its attorneys and desk officers. OGE will continue this internal training program in FY 2009 and FY 2010.

Many agency ethics programs are already meeting the general requirements of the executive branch's ethics system. However, most agencies benefit from OGE's guidance on various aspects of their programs or from training on issues related to the conflicts of interest laws or regulations. Worldwide, more than 6,000 ethics officials are involved in administering the executive branch ethics program. Some have many years of experience, but most have far less. In addition, fewer than 600 of these officials are full-time ethics officials. OGE will continue working to keep the knowledge and skills of these officials current. In FY 2009 and FY 2010, OGE plans to expand the training provided to both new and experienced ethics officials. OGE's goals are to increase significantly the number of ethics officials trained each year, expand the use of technology to deliver training to a geographically dispersed workforce, and increase the variety of training opportunities offered to ethics officials. OGE plans to meet these goals by delivering training through various methods, such as one-on-one coaching, instructor-led training, instructor-led web-based training, and on-site training.

To train new ethics officials as quickly as possible and to familiarize them with the services that OGE provides, OGE also will provide periodic sessions aimed at orienting new ethics officials to their duties and responsibilities. In recognition that many of the part-time ethics officials would benefit from guidance on managing an ethics program, OGE will increase its guidance on the actual administration of the ethics program in addition to planned guidance on the interpretation of ethics authorities. OGE also will begin planning the 17th National Government Ethics Conference, which OGE will host in either the second or third quarter of FY 2010. This conference will provide an invaluable forum for providing intensive training to over 600 agency ethics officials from throughout the Federal executive branch. The reach of this conference will extend even beyond the attendees because OGE will provide attendees with materials to share with other ethics officials and employees at their respective agencies. Realizing these goals will allow OGE to prepare a growing number of novice ethics officials at a time when the Federal Government is experiencing a significant number of retirements.

As the Federal ethics program passes its 30<sup>th</sup> anniversary, more and more experienced ethics officials will leave the Government through retirements. OGE will specifically prepare for this loss of experience and institutional knowledge in FY 2009 and FY 2010 by continuing to

provide new ethics officials with the knowledge and skills they need to run effective ethics programs. To meet these goals, OGE will significantly increase the number of ethics officials trained by:

- expanding the OGE education curriculum to include learning tracks for both novice and experienced ethics officials;
- increasing the number of training sessions offered at OGE’s headquarters;
- increasing the number of regional symposia that OGE offers;
- expanding the cadre of instructors who deliver OGE courses;
- increasing the number of customized training sessions delivered at agency facilities for agency ethics officials;
- increasing the use of technology to deliver training to a geographically dispersed workforce through a variety of means, such as: expanding the use of the OGE website to include multimedia and self-paced training that ethics officials can access on-demand from any location, using web conferencing technologies to deliver live instructor-led training to a geographically dispersed workforce, using podcasts to communicate with the ethics community when OGE needs to distribute important policy messages, increasing the use of video scenarios to teach important real world situations that occur in ethics programs, and increasing the use of computer-based games designed to teach ethics and stimulate interest in the subject;
- increasing the variety of training opportunities for ethics officials by developing and delivering a series of instructor-led workshops to address complex issues and “grey areas” that experienced ethics officials are likely to meet;
- partnering with experienced ethics officials to facilitate the sharing of model practices for program management; and
- partnering with the private sector and not-for-profit ethics organizations to deliver training to the ethics community and other stakeholders.

Agency ethics officials provide ethics training to approximately 1.5 million executive branch employees each year. The instructional skills of the ethics officials largely determine the extent to which employees increase their knowledge and skills. To increase ethics officials’ instructional skills, OGE also will develop and deliver training on techniques that agency ethics officials can use to deliver outstanding training to Federal employees. By training these trainers, OGE’s reach will extend beyond the community of 6,000 ethics officials to the ranks of the entire Federal workforce.

In FY 2010, OGE also plans to undertake a new initiative to increase communication, guidance, and understanding for agency ethics officials. OGE will hold quarterly meetings with

Designated Agency Ethics Officials that will enable OGE and the DAEOs to work through emerging issues, address items of concern, and proactively prevent problems from taking root within agencies' ethics programs. Among other benefits, these interactions will serve to improve transparency between OGE and the agencies it supports.

In FY 2009, OGE will continue conducting the focused review that it began in FY 2008 to evaluate agencies' processes and procedures for collecting, reviewing, and certifying financial disclosure reports. This focused review will continue to include, among other things, an assessment of the reports that nominees for Presidentially-appointed, Senate-confirmed (PAS) positions file. OGE will analyze the results of the focused review to identify model practices and will recommend program enhancements to ethics officials. Identifying model practices and recommending program enhancements during the Presidential transition will be essential at a time when there is a significant increase in the number of financial disclosure reports received from incoming and departing Government officials.

In FY 2009 and FY 2010, OGE will conduct additional focused reviews on emerging issues and other topics in order to enable OGE to leverage its limited resources to reach and assist a broader audience on issues that are of particular importance to the entire executive branch ethics community. At this point, likely topics include self-assessment, succession management, and training.

OGE also will continue to conduct broad-based program reviews to identify, among other things, model practices in agencies' ethics program elements and to assess: (1) the adequacy of staffing, (2) the level of compliance with statutory and regulatory requirements, (3) the policies and practices for pertinent internal controls, (4) the results of specific actions designed to move beyond a goal of basic regulatory compliance, and (5) the involvement of agency leadership in ensuring the success of agencies' ethics programs.

In FY 2009 and FY 2010, OGE will continue to emphasize to ethics officials the value of identifying and highlighting for agency employees their successes and innovations in ethics program administration. OGE also will increase its own efforts to publicize identified successes and innovations to further enhance the value of the review process to the broader ethics community through the following means:

- OGE will dedicate a section on its website to highlight model practices identified through its ethics program review process.
- OGE will host working groups of agency ethics officials to facilitate the sharing of model practices identified through OGE's ethics program review process.
- OGE will disseminate model practices through OGE's electronic notification mailing system (ListServe) and its memoranda to agencies.
- OGE will issue individual agency awards to recognize achievements in managing elements of agency ethics programs.

OGE also will continue working with agency ethics officials to identify the most efficient uses of the resources that their agencies have devoted to ethics activities. In FY 2009 and FY 2010, OGE will hold periodic focus groups comprised of agencies that are similarly situated, to enable them to share their training products, program administration tips, and other products that agency ethics officials have found useful and effective. This focus group concept builds on one of the tracks that OGE developed for the 16th National Government Ethics Conference in FY 2008. As part of that track, OGE invited ethics officials to share their ideas and products with other conference attendees.

## Performance Measures

<b>Objective 1.2</b>						
<b>Enhance Assistance and Oversight</b>						
Performance Measures	<u>Performance Targets – Projected</u>					
	<b>FY Actual Results in bold</b>					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Percent of ethics officials who are satisfied with education and training provided by OGE to support ethics officials	64%	70%	75%	80%	80%	80%
		<b>72%</b>	<b>73%</b>			
Percent of ethics officials who view OGE’s program review process as adding value to their own programs*	65%	75%	85%	90%	90%	90%
		<b>57%</b>	<b>100%</b>			
Percent of agencies that conduct internal reviews or audits to evaluate their program’s compliance with applicable ethics laws and regulations	59%	60%	65%	65%	70%	75%
		<b>60%</b>	<b>61%</b>			
Percent of agencies that use self-assessment surveys to evaluate employee perceptions of their agency’s ethics program and ethical culture	24%	25%	30%	40%	40%	50%
		<b>28%</b>	<b>40%</b>			
Percent of ethics officials who are satisfied with information shared on ethics program model practices	55%	65%	70%	75%	80%	80%
		<b>63%</b>	<b>67%</b>			

\* Note: OGE’s analysis of past data suggests respondents to this question may have understood that only agencies participating in reviews in previous years had relevant data. While OGE believes that the program review process adds value to the overall ethics program, OGE has modified the metric to reflect only data for agencies that were reviewed during FY 2008.

### *Objective 1.3: Increase Employee Awareness of Their Ethics Responsibilities*

OGE will continue to provide written materials for dissemination to executive branch employees on pertinent ethics issues. For example, OGE will publish plain English guidance to assist employees in complying with their ethics obligations. This guidance will include updates to the Frequently Asked Questions sections for financial disclosure on OGE's website. OGE also intends to provide recognized experts on complex ethics issues for training at executive branch agency events, as OGE did in FY 2008 when OGE created and presented a course for Administrative Law Judges at the Social Security Administration. OGE anticipates providing this type of highly specialized training for executive branch employees on an ongoing basis. In furtherance of this objective, OGE also will continue its assistance to advisory committees in FY 2009 and FY 2010. In addition, OGE will continue to coordinate with the General Services Administration on advisory committee matters, including ethics training for committee management officers throughout the Government. OGE will continue to conduct employee ethics surveys as part of its program reviews.

In conjunction with OGE's preparation for the Presidential transition in FY 2009, OGE will create new and updated materials for officials leaving the Government. For example:

- In the first quarter of FY 2009, OGE will complete a revision of its post-employment course in order to address changes to the post-employment regulations.
- Beginning in the first quarter of FY 2009, OGE will hold training sessions for ethics officials who provide advice to departing employees.
- OGE will complete its revision of its "seeking employment" course and will deliver this training in the first quarter of FY 2009.
- OGE will continue to develop a suite of training courses and evaluation instruments for agencies to use in training their employees and assessing the effectiveness of such training. OGE will expand this suite of training courses and evaluation instruments in FY 2009 and FY 2010 by developing additional instructor-led, online training, videos, and job aids that agency ethics officials can use to deliver training.
- In FY 2010, OGE will continue to identify exemplary training products that agencies develop. For example, OGE will launch the 2010 Education and Communication awards program and will recognize award winners at the 17th National Government Ethics Conference.
- OGE electronically distributed the award winning products from FY 2008 to the broader ethics community in FY 2009, so that all agencies could have access to the best training products that the Federal ethics community has developed.

Performance Measures

<b>Objective 1.3</b>						
<b>Increase Employee Awareness and Understanding</b>						
Performance Measures	<u>Performance Targets – Projected</u>					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Percent of agencies that incorporate OGE education and training products into their program	66%	70%	75%	80%	90%	90%
		<b>72%</b>	<b>76%</b>			
Percent of participants whose knowledge of the ethics rules increased after participating in OGE conducted training	87%	90%	90%	100%	100%	100%
		<b>100%</b>	<b>100%</b>			
Percent of ethics officials who are satisfied with employee education and training programs provided by OGE	44%	55%	60%	70%	75%	80%
		<b>57%</b>	<b>65%</b>			
Percent of employees who indicate they are familiar with ethics rules	52%	60%	70%	70%	80%	80%
		<b>59%</b>	<b>n/a*</b>			
Percent of employees who indicate that they recognize ethics issues when they arise	59%	65%	70%	75%	80%	80%
		<b>66%</b>	<b>n/a*</b>			
Percent of employees who believe that if ethics concerns are reported to the agency, action is taken to resolve them	51%	55%	65%	70%	75%	75%
		<b>56%</b>	<b>n/a*</b>			
Percent of employees who believe that employees who are caught violating ethics rules are disciplined	42%	45%	45%	50%	55%	60%
		<b>50%</b>	<b>n/a*</b>			
Percent of agencies that incorporate OGE-provided education and training products to promote employee awareness of their ethics responsibilities				80%	80%	80%
			<b>82%**</b>			
Percent of agencies that are satisfied with OGE-provided education and training products designed to promote employee awareness of their ethics responsibilities				80%	80%	80%
			<b>79%**</b>			

\* Note: In previous years, OGE obtained data related to this metric from surveys that it conducted in agencies. Funding for these surveys was not available in FY 2008. OGE has encouraged agencies to conduct self-assessment surveys addressing these items.

\*\* Note: Two new measures have been added for FY 2008 to measure Objective 1.3. In previous years, OGE obtained data related to employee awareness and understanding metrics from employee surveys that it conducted in agencies, and OGE met all objectives. Funding for employee surveys was not available in FY 2008. OGE has encouraged agencies to conduct self-assessment surveys.



*Objective 1.4: Increase OGE's Focus on Senior Officials' Roles in Implementing Ethics Program*

In FY 2009, OGE will develop a training program on ethical leadership specifically for agency leaders. The course will focus on the reasons that ethical leadership is important, the ways that such leadership benefits individual agencies and the Government as a whole, and the types of concrete actions that agency leaders can take to enhance their ethics programs. Throughout FY 2009 and FY 2010, OGE will continue to use a variety of technologies to deliver messages from OGE's Director to executive branch leaders to emphasize significant issues affecting the ethics community. OGE's Director and senior officials also will continue to meet with high-ranking officials at executive branch departments and agencies in connection with various ethics issues and ethics program reviews.

Performance Measures

<b>Objective 1.4 Promote Agency Leadership</b>						
Performance Measures	<u>Performance Targets – Projected</u>					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Percent of employees who believe their agency leaders pay attention to ethics	64%	65%	70%	75%	75%	80%
		<b>69%</b>	<b>n/a</b>	*	*	*
Percent of employees who believe their immediate supervisors pay attention to ethics	75%	75%	75%	80%	80%	80%
		<b>80%</b>	<b>n/a</b>	*	*	*
Percent of ethics officials who indicate that their agency's leaders pay attention to ethics				90%	90%	90%
			<b>92%**</b>			
Percent of ethics officials who indicate that their agency's leadership demonstrates support for the ethics program				90%	90%	90%
			<b>92%**</b>			

\* Note: In previous years, OGE obtained data related to this metric from surveys that it conducted in agencies. Funding for these surveys was not available in FY 2008. OGE has encouraged agencies to conduct self-assessment surveys addressing these items.

\*\* Note: Two new measures have been added for FY 2008 to measure Objective 1.3. In previous years, OGE obtained data related to employee awareness and understanding metrics from employee surveys that it conducted in agencies, and OGE met all objectives. Funding for employee surveys was not available in FY 2008. OGE has encouraged agencies to conduct self-assessment surveys.

## **Strategic Goal Two: Preventing Conflicts Of Interest**

### *Objective 2.1: Enhance Assistance to the President and the Congress in the Presidential Appointment Process*

During FY 2009 and early FY 2010, OGE undertakes one of its most important roles: assisting in the smooth transition to a new Presidential administration. Periods of Presidential transition are periods of peak activity for OGE. Due to OGE's extensive preparation and intensive focus of its resources, OGE is on a record pace for reviewing and clearing potential nominee through OGE's financial disclosure review process.

OGE has focused its efforts on reviewing the 1,100- 1,200 incoming administration's Presidentially-appointed and Senate-confirmed (PAS) nominees for conflicts of interest and advising new Government officials of their ethics obligations. OGE is working diligently to ensure the expeditious clearance and certification of financial disclosure reports for key executive branch officials and is identifying potential conflicts of interest between their official duties and their personal financial interests. OGE is working with agency ethics officials to remedy such potential conflicts by negotiating effective ethics agreements and by ensuring compliance with financial disclosure reporting requirements. Although the beginning of a new administration means an intense period of activity for OGE generated by the need to fill all of the highest level positions in the new administration, it is important to note that the transition and the financial disclosure review associated with it does not end with the conclusion of the first year of the administration. Rather the number of nominees declines to a steady, but still considerable amount throughout every year of an administration. Thus, OGE expects to continue this period of peak activity well into FY 2010 and to continue with the ongoing review of hundreds of financial disclosures in the subsequent years of the administration.

OGE has continued to provide agency reviewers with guidance and instruction that will improve their review of financial disclosure reports. In November and December 2008, OGE conducted advanced training in financial disclosure for approximately 120 experienced attorneys and agency ethics officials whose responsibilities include the review of public financial disclosure reports filed by Presidential nominees for Senate-confirmed positions. In February and March 2009, OGE will again present advanced training in the review of public financial disclosure reports filed for PAS positions. OGE also has developed a guidance memorandum addressing the special requirements for ethics agreements for Presidential appointees that are established in the January 21, 2009, Executive Order on "Ethics Commitments by Executive Branch Personnel."

Following the period of peak transition activity, OGE will create additional written guidance on financial disclosure in FY 2010 based on lessons learned from the Presidential transition. Specifically, OGE will provide written guidance on reporting requirements and conflicts analysis as they apply to emerging and complex financial instruments. In addition, OGE will update a guide that provides extensive advice on drafting ethics agreements. This guide helps ensure consistency in ethics agreements throughout the executive branch, making it an important tool for agency reviewers and agency ethics officials. Finally, OGE will submit

proposed amendments to the executive branch regulation on blind and diversified trusts to OMB for clearance. The draft rule will revise OGE's current rule on trusts in order to make it clearer and more accessible to employees. OGE will pursue finalizing this rule as soon as practicable

Even beyond the initial Presidential transition, OGE will continue its efforts to ensure that PAS employees' financial interests will not pose actual or apparent conflicts of interest. OGE will continue to perform a conflicts analysis on approximately 900 annual and termination public financial disclosure reports filed by these employees each year. As part of the standard review, OGE program reviewers will continue to emphasize the importance of agencies notifying public filers once their reports have been reviewed and certified. In those cases where reports have not been certified or are certified late due to filing errors or inconsistencies, OGE program reviewers will continue to ensure that agency officials are making diligent efforts to collect or correct any deficiencies delaying certification. OGE will continue working with small boards, commissions, and other agencies to strengthen their substantive and technical reviews of these public financial disclosure reports.

In FY 2009 and FY 2010, OGE also will continue providing oversight and guidance to the e-filing community. The overall goal is to ensure that the information embedded in these "smart" forms is accurate and meets the standards established by agencies' Chief Information Officers. Toward this end, OGE will continue to participate as a member of the Interagency Ethics Council (IEC) e-Filing Workgroup. In FY 2008, OGE assisted in the creation of a document titled, "eFiling Roadmap & Planning Workbook: Electronically File (eFile) & Manage Financial Disclosure Reports (FDRs)." Once completed, this document will serve as a guide for ethics officials seeking to implement an electronic process for the filing of financial disclosure reports (Standard Form 278 and OGE Form 450) in their agencies. The roadmap details how to get started deciding on, and how to deploy, an e-filing solution based on the experiences of several agencies. The group will finalize this document in FY 2009.

In FY 2009, OGE will continue conducting a focused review that it began in FY 2008 to evaluate agencies' processes and procedures for collecting, reviewing, and certifying financial disclosure reports. This focused review includes an assessment of those reports filed by nominees for Presidentially-appointed, Senate-confirmed (PAS) positions. The results of the focused review will be analyzed to identify model practices and to recommend program enhancements to ethics officials. Identifying model practices and recommending program enhancements in preparation for the Presidential transition is essential at a time when there is a significant increase in the number of new entrant and termination financial disclosure reports received from incoming and departing executive branch officials.

Performance Measures

<b>Objective 2.1</b>						
<b>Enhance Assistance to the President and the Congress</b>						
Performance Measures	Performance Targets – Projected					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Number of agencies using an electronic filing system	2	6	*	*	*	*
		<b>4</b>	<b>9</b>			
Percent of officials who comply with ethics agreements within required time frames	95%	95%	95%	95%	95%	95%
		<b>98%</b>	<b>97%</b>			
Resolves all conflicts and technical reporting issues for nominee financial disclosure reports no later than five days after a nomination is made	90%	90%	90%	95%	95%	95%
		<b>95%</b>	<b>95%</b>			

\* Note: OGE’s E-Gov Initiative was not approved; therefore, OGE’s responsibility changed from implementation to monitoring systems being independently created.

*Objective 2.2: Monitor Continued Compliance With Conflict of Interest Laws*

In FY 2009 and FY 2010, OGE will continue to provide timely review of the approximately 900 PAS annual and termination reports filed with OGE per year for final review and certification. Through review of these reports, OGE will help to ensure that PAS officials continue to be impartial in their decision-making and that they do not hold financial interests that cause apparent or actual conflicts of interest. OGE also will continue to monitor compliance with ethics agreements that resolve issues the Government has identified through the review of financial disclosure reports. Traditionally, the number of ethics agreements that OGE monitors during a transition year is more than double the number that OGE monitors in the later years of a Presidential administration. In recognition of this volume, OGE will dedicate more resources to the ethics agreement compliance program in order to ensure that the monitoring system keeps pace with the increased workload.

In FY 2009 and FY 2010, Inspectors General will continue to be important partners with the ethics community, as they conduct agency investigations of alleged ethics violations. OGE will continue its efforts to foster effective working relationships with the Inspectors General community. OGE will continue to support the Inspectors General community by updating and presenting a course several times throughout each year at the Inspector General Academy on investigating conflicts of interest. OGE also will continue to work with the Department of Justice and Inspectors General on enforcement of ethics requirements. OGE regularly provides assistance to investigators and prosecutors concerning the interpretation and application of the conflict of interest laws and ethics rules in the context of specific investigations. This assistance

will involve guidance on such matters as improper gifts, falsification of financial disclosure statements, financial conflicts of interest, and post-employment restrictions. In addition, OGE will continue to provide educational support to the Inspectors General community, and OGE will ensure that topics of interest to this community are incorporated into the 17th National Government Ethics Conference agenda in FY 2010.

Performance Measures

<b>Objective 2.2</b>						
<b>Monitoring Compliance with Conflict of Interest Laws</b>						
Performance Measures	Performance Targets – Projected					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Percent of audited entities that provide public financial disclosure report filers with feedback after their reports have been reviewed	84%	85%	90%	90%	95%	95%
		<b>100%</b>	<b>100%</b>			
Percent of audited entities that have written procedures for following up with delinquent filers	49%	60%	75%	90%	90%	90%
		<b>91%</b>	<b>85%</b>			

*Objective 2.3: Administer an Effective Confidential Financial Disclosure System*

Appropriate implementation of alternative procedures for handling the confidential financial disclosure process promotes efficient allocation of ethics program resources and may permit agencies to focus resources on other important program objectives, such as training, awareness-building, self-assessment, and leadership support. In the Federal executive branch, approximately 284,000 employees file confidential financial disclosure reports (OGE Form 450). In FY 2009 and FY 2010, OGE will update its guidance to the ethics officials who review these reports. OGE will continue to emphasize the availability and advantages of alternative financial disclosure procedures and will assist agencies in developing alternative procedures, and will approve requests for such procedures when appropriate. In addition, OGE will conduct training on financial disclosure requirements. OGE also will continue to maintain Frequently Asked Questions sections for financial disclosure on its website.

Performance Measures

<b>Objective 2.3</b>						
<b>Improved Administration of Confidential System</b>						
Performance Measures	<u>Performance Targets – Projected</u>					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Percent of alternative systems judged by program review to have been effectively implemented	60%	65%	70%	80%	90%	90%
		<b>100%</b>	<b>100%</b>			
Percent of required confidential filers who filed by end of reporting year	70%	70%	75%	75%	80%	80%
		<b>99%</b>	<b>TBD</b>			

\* The Results for FY 2008 are not yet available.

**Strategic Goal Three: Promoting Good Governance**

*Objective 3.1: Increase OGE’s Support of and Cooperation With Federal, State and Local Agencies Implementing Programs That Help Support Good Governance*

In FY 2009 and FY 2010, OGE will continue to support and promote good governance programs across all levels of government. At the Federal level, OGE will continue to work with a number of agencies, directly and through interagency organizations, whose missions include ethics and good governance. Consistent with OGE’s priorities, this work will include engaging agencies in efforts to help address the changes in the Federal workforce that will result from the significant number of expected retirements and from the recruitment and retention of new employees.

OGE’s Director also will continue his active participation in the Inspectors General community as a member of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) (formerly the President’s Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE)), and the CIGIE Integrity Committee, which is responsible for reviewing allegations made against Inspectors General. The Director will also continue to participate in the Inspector General Leadership Development Course. OGE will continue presenting courses to the Inspector General Training Academy to help train Inspectors General staffs on investigating public corruption and ethics cases. OGE also will continue to maintain an active presence in the meetings of the Interagency Ethics Council.

Additionally, OGE will seek out opportunities to develop joint educational materials with other Federal offices and agencies with complementary programs. For example, those seeking post-employment advice might benefit from reminders of the existence of reporting requirements under the Lobbying Disclosure Act and the Foreign Agents Registration Act and from guidance on where to find information about those requirements.

In FY 2009 and FY 2010, OGE will continue its dialogue with State and local government agencies regarding the elements of good governance that the international anti-corruption community has identified. In particular, OGE will share with State and local agencies the evaluation results, recommendations and policy studies in reports of international organizations such as the United Nations, the Council of Europe, the Organization of American States, and the Organization for Economic Cooperation and Development.

OGE will continue to engage actively with the members of the Council on Governmental Ethics Laws (COGEL) on projects of mutual interest directly and through its website forum and will participate in its annual conference. During FY 2008, state and local governments continued to amend or develop their ethics laws and agency authorities at a significant rate. OGE anticipates that these changes will result in additional information-sharing opportunities throughout both FY 2009 and FY 2010.

OGE also will continue working to enhance its assistance to Congress and its participation in the legislative process through active interaction with members, staff, and Congressional agencies such as the Congressional Budget Office, the Government Accountability Office, and the Congressional Research Service.

Performance Measures

<b>Objective 3.1</b>						
<b>Increase OGE’s Support of and Cooperation With Federal, State and Local Agencies Implementing Programs That Help Support Good Governance</b>						
Performance Measures	<u>Performance Targets</u>					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Number of programs/projects involving federal agencies/ organizations	6	8	8	8	10	10
		<b>14</b>	<b>9</b>			
Percent of feedback from federal program/project attendees indicating OGE participation was useful	30%	30%	40%	50%	50%	60%
		<b>95%</b>	<b>100%</b>			
Number of programs/projects involving state/local/ government agencies/ organizations	2	2	2	2	3	3
		<b>5</b>	<b>3</b>			
Percent of feedback from state and local program/project attendees indicating OGE participation was useful	30%	30%	40%	50%	50%	60%
		<b>100%</b>	<b>100%</b>			

*Objective 3.2: Enhance Outreach to the Public and Private Sector and Civil Society*

Through active outreach, OGE will enhance the understanding of the private sector and civil society about the goals and operation of the executive branch ethics program. OGE plans to increase its efforts to work with the media to ensure that accurate information is being provided to the public through the media. OGE will continue to respond directly to letters from members of the public who seek information or assistance on issues that often require referral to other Federal or State entities. In addition, OGE will continue to maintain a “call desk” for telephone and e-mail inquiries from the public. To increase the public’s access to information about OGE and the executive branch ethics program, OGE also will continue to refine and enhance its website. In addition, OGE will continue to identify organizations within the private sector and civil society whose broader understanding of the Federal ethics program would help support public trust in Government, particularly during a Presidential transition. OGE will then identify opportunities to work with these organizations.

In FY 2009 and FY 2010, OGE will continue to serve the public effectively by providing timely and thorough responses to public requests for information, including requests related to public financial disclosure reports, and to respond to requests filed under the Freedom of Information Act and the Privacy Act. OGE typically handles between 30 and 50 such requests per year, and it is likely that this trend will continue. OGE expects to continue providing legal and policy advice to agencies on complex issues under the Freedom of Information Act and the Privacy Act that relate to the Ethics in Government Act. OGE also will respond timely and thoroughly to requests for semi-annual reports of travel payments accepted from non-Federal sources (§ 1353 reports). All executive branch agencies file these reports with OGE semi-annually in order to show the extent to which agencies accept payments for travel, subsistence and related expenses received from non-Federal sources in connection with the attendance of employees at certain meetings and similar functions.



Performance Measures

<b>Objective 3.2</b>						
<b>Enhance Outreach to the Private Sector and Civil Society</b>						
Performance Measures	Performance Targets					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Number of meetings, speeches, presentations and similar outreach efforts to organizations that represent the public, civil society and persons who do business with the Government	8	10	10	10	12	15
		<b>12</b>	<b>13</b>			
Percent of feedback from attendees indicating that interaction with OGE was useful	30%	30%	40%	50%	50%	60%
		<b>100%</b>	<b>100%</b>			

*Objective 3.3: Support U.S. Foreign Policy Anti-Corruption and Good Governance Initiatives*

OGE will continue to provide ethics expertise in support of United States Government foreign-policy anti-corruption objectives, in particular, by responding to requests for assistance from the Departments of State and Justice and supporting long-standing United States working relationships with international organizations such as the Public Governance Directorate of the Organization for Economic Cooperation and Development. Specifically, OGE will continue to serve as a United States Government resource for international ministerial level meetings where corruption prevention is a topic under discussion, provide technical assistance to individual country anti-corruption programs through the support of the Departments of State and Justice, and participate in visits and video conferences that address corruption prevention strategies.

OGE will continue to serve as a principal member of an interagency committee for the review and implementation of the United Nations Convention Against Corruption, assist with the pilot review program and represent the United States in meetings where the development and implementation of a final review mechanism is under discussion. OGE will also assist with programs designed to help countries meet their obligations under the Convention.

OGE will also continue to serve as a representative of the United States Government at the Council of Europe’s Group of States Against Corruption (GRECO) plenary meetings, particularly when a report on the United States is under discussion, and will serve as an expert evaluator of other GRECO members. In FY 2009 and FY 2010, OGE will also serve as a principal member of an interagency group responsible for preparing for GRECO’s third round review of the United States.

OGE will continue to assist the United States Government in reviewing the steps taken by members of the Organization of American States' Follow-up Mechanism to the Inter-American Convention Against Corruption (MESICIC) to implement recommendations received during the first round of evaluation.

Also in FY 2009 and FY 2010, OGE will work closely with the Department of State to plan, organize and participate in specific as well as general corruption prevention programs for the APEC Anticorruption and Transparency Task Force and the U.S.–China Joint Liaison Group's Anti-corruption Working Group.

Finally, during both fiscal years, OGE will continue to support the Department of State's International Visitor Leadership Program by meeting with delegations of foreign visitors interested in OGE's work.

#### Performance Measures

<b>Objective 3.3</b>						
<b>Support U.S. Foreign Policy Anti-Corruption and Good Governance Initiatives</b>						
Performance Measures	Performance Targets					
	Baseline	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Number of programs/projects OGE participates in at the request U.S. foreign policy agencies/ organizations	7	7	7	8	8	8
		<b>21</b>	<b>21</b>			
Percent of feedback from program/project participants indicating that interaction with OGE was useful	30%	30%	40%	50%	50%	60%
		<b>90%</b>	<b>100%</b>			

#### *Enhanced Internal Administrative Support*

In FY 2009 and FY 2010, OGE will continue its efforts to recruit and retain a highly qualified workforce. OGE will continue with essential administrative services such as budget and financial services, travel, procurement, printing, graphics, and personnel security. OGE also will improve its business processes. As a primary goal for this upcoming period, OGE's administrative staff will focus their efforts on improving OGE's human resources and facilities functions. In FY 2009, OGE also will initiate the replacement of its aging IT equipment.

OGE is also requesting funds to address a concern about OGE's Continuity of Operations Plan (COOP) that the Department of Homeland Security (DHS) raised in FY 2008. DHS raised the concern while evaluating OGE's performance in an emergency simulation exercise that DHS named "Eagle Horizon." Specifically, DHS raised the concern that OGE did not have an emergency alternate worksite outside the Washington, D.C., metropolitan area. In the event of a

major emergency, DHS was concerned that OGE would not be able to continue its operations if the emergency precluded OGE personnel from coming to work in Washington, D.C. However, as a small agency with fewer than 100 employees, OGE has never had sufficient funds to arrange for such an alternate facility. Instead, OGE established a more cost-effective telework arrangement that allows its employees to work from their homes in emergency situations. While satisfying OGE's basic needs during the recent emergency simulation, OGE's telework concept failed to meet certain evaluation criteria of DHS's 2008 Eagle Horizon exercise that related to alternate site requirements. OGE expects that these evaluation criteria will remain the same for future emergency simulation exercises. For this reason, OGE is requesting funding to address DHS's stated concern.

OGE is also requesting funding for the implementation of an electronic system for Official Personnel Files in order to comply with an initiative of the Office of Personnel Management (OPM). As a small agency, OGE has been able to manage an effective paper system for Official Personnel Files. However, OGE is attempting to comply with OPM's mandate for converting to an electronic system.

### **Conclusion**

The United States Office of Government Ethics will use the requested \$13,665,000 in FY 2010 budget to support its mission of fostering high ethical standards for executive branch employees and, thereby, to enhance the public's confidence that the Government's business is conducted with impartiality and integrity. OGE will employ its resources to achieve its strategic goals of strengthening the ethical culture within the executive branch, preventing conflicts of interest, and promoting good governance. OGE will pay special attention in FY 2010 to ongoing issues naturally attendant to the first year of a new administration, to the role of leadership in creating and maintaining high standards for an ethical culture in the Government, and to the issues arising out of the anticipated retirements of career Federal employees and the need to recruit and retain individuals within the Federal workforce, including within the executive branch ethics community itself. With the requested amount, OGE is prepared to undertake mission-critical tasks and an array of new and continuing initiatives in FY 2009 and FY 2010 that will allow OGE to reach its strategic goals in an efficient and cost-effective manner.



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

April 13, 2009

The Honorable David R. Obey  
Chairman  
Committee on Appropriations  
United States House of Representatives  
H-218, The Capitol  
Washington, DC 20515-6015

Dear Mr. Chairman:

Pursuant to 31 U.S.C. § 720, I am pleased to provide, on behalf of the Office of Government Ethics (OGE), a statement of the actions taken in response to the recommendations made by the Government Accountability Office (GAO) in its report entitled "Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements" (GAO-08-855).

The GAO report recognized OGE's previous efforts to emphasize the need for agency ethics officials to document ethics advice provided to current and former employees. OGE agreed that it would be useful to continue to emphasize this point and also to encourage agency ethics officials to provide information about such advice to agency Inspectors General when needed. Therefore, enclosed please find copies of: (1) OGE's August 26, 2008 letter to GAO enclosing a Memorandum, of the same date, strongly encouraging agency ethics officials to document ethics advice and also encouraging them to provide agency Inspectors General with information when needed about such advice; and (2) OGE's April 13, 2009 letter to GAO explaining additional measures that OGE has taken relevant to the recommendations in the report.

If you have any questions regarding this matter, please contact me at 202-482-9292, or have a member of your staff contact Richard Thomas, Associate General Counsel, at 202-482-9278.

Sincerely,

Robert I. Cusick  
Director

Enclosures

cc: The Honorable Jerry Lewis  
Ranking Member

The Honorable José Serrano  
Chairman  
Subcommittee on Financial Services and General Government

The Honorable Jo Ann Emerson  
Ranking Member  
Subcommittee on Financial Services and General Government



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

April 13, 2009

The Honorable Daniel K. Inouye  
Chairman  
Committee on Appropriations  
United States Senate  
S-131, The Capitol  
Washington, DC 20510

Dear Mr. Chairman:

Pursuant to 31 U.S.C. § 720, I am pleased to provide, on behalf of the Office of Government Ethics (OGE), a statement of the actions taken in response to the recommendations made by the Government Accountability Office (GAO) in its report entitled "Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements" (GAO-08-855).

The GAO report recognized OGE's previous efforts to emphasize the need for agency ethics officials to document ethics advice provided to current and former employees. OGE agreed that it would be useful to continue to emphasize this point and also to encourage agency ethics officials to provide information about such advice to agency Inspectors General when needed. Therefore, enclosed please find copies of: (1) OGE's August 26, 2008 letter to GAO enclosing a Memorandum, of the same date, strongly encouraging agency ethics officials to document ethics advice and also encouraging them to provide agency Inspectors General with information when needed about such advice; and (2) OGE's April 13, 2009 letter to GAO explaining additional measures that OGE has taken relevant to the recommendations in the report.

If you have any questions regarding this matter, please contact me at 202-482-9292, or have a member of your staff contact Richard Thomas, Associate General Counsel, at 202-482-9278.

Sincerely,

Robert I. Cusick  
Director

Enclosures

cc: The Honorable Thad Cochran  
Ranking Member

The Honorable Richard J. Durbin  
Chairman  
Subcommittee on Financial Services and General Government

The Honorable Susan Collins  
Ranking Member  
Subcommittee on Financial Services and General Government



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

April 13, 2009

Jess Ford  
Director  
International Affairs and Trade  
Government Accountability Office  
441 G Street, NW., Room 4440C  
Washington, DC 20548

Dear Mr. Ford:

This is to supplement the letter to you, dated August 26, 2008, from Don W. Fox, General Counsel, Office of Government Ethics (OGE)(enclosed). That letter addressed the immediate action taken by OGE to implement the recommendations concerning the documentation of ethics advice and coordination between agency ethics officials and agency Inspectors General (IGs), which were contained in GAO-08-855, Post-Government Employment Restrictions and Foreign Agent Registration (July 2008). Specifically, the letter enclosed a copy of a Memorandum to all Designated Agency Ethics Officials (DAEOs), dated August 26, 2008, strongly encouraging DAEOs to document ethics advice and also encouraging them to provide IGs information when needed about such advice.

Beyond this immediate action, OGE continues to emphasize the importance of documenting ethics advice and cooperating with IGs through numerous training, program review, and IG outreach activities. A brief description of relevant activities follows:

A. Training

OGE provides training for executive branch ethics officials through a regular program of training courses offered in Washington, D.C., regional conferences, and national government ethics conferences. Over 1300 ethics officials registered for OGE training courses in the first half of FY 2009. The importance of documenting ethics advice is emphasized in OGE training courses by its instructors who stress the importance of providing written ethics advice in accordance with OGE guidance. Courses that specifically address the documentation of ethics advice include:

- Compliance Plus Workshop
- Certifying 450 Reports
- Certifying 278 Reports
- New Ethics Official Orientation



- Elements of a Complete Ethics Program
- Introduction to Conflicts of Interests
- Conflict-Free Post-Employment Activities

Additionally, at OGE's 16th National Government Ethics Conference in September 2008, OGE intentionally worked to create opportunities for meaningful exchange between ethics officials and IG personnel. Before the conference, OGE worked with the IG community to ensure that the conference agenda would include topics of interest to IG personnel. IGs were also encouraged to invite more of their representatives to attend the conference than had done so in the past. The IG community's attendance and participation in the conference provided an opportunity for IG personnel to develop better working relationships with agency ethics officials. Additionally, the conference provided a supportive environment for the ethics and the IG communities to collaborate and develop strategies for assisting one another in carrying out their respective responsibilities. Overall, the emphasis was on identifying common needs and ways to meet these responsibilities through future cooperation.

The 17<sup>th</sup> National Government Ethics Conference, planned for April 2010, will build on the 2008 efforts. Specifically, OGE will include at least one conference panel on developing a working relationship between ethics officials and IGs. In addition, OGE again will encourage IGs to invite more of their representatives to attend the conference. (See also the discussion of IG training activities below, under "C. Outreach to the Inspector General Community.")

#### B. Program Reviews

OGE's reviews of executive branch ethics programs include an assessment of an agency's written ethics advice and the relationship between ethics officials and Inspectors General. OGE's review of an agency's written ethics advice focuses on five factors: (1) accuracy, (2) timeliness, (3) transparency, (4) accountability, and (5) consistency. To determine whether an agency's written advice successfully addresses these factors, OGE reviews the agency's processes and written procedures for rendering ethics-related advice and reviews selected samples of written ethics advice.

OGE's Compliance Plus initiative, launched in the Fall of 2008, enhances the program review process by focusing on an agency's model practices and sharing them throughout the executive branch ethics community. Some advice-related model practices that OGE has identified and shared include:

- establishing a written policy outlining when it is appropriate to keep written records of advice rendered;
- providing post-employment advice to all employees, including providing written materials;
- developing and maintaining a computer-based, searchable index of advice that is accessible by all ethics officials at an agency; and,

- publishing ethics-related advice in the form of articles in agency newsletters and magazines that are available to all agency employees.

Another area regularly addressed in an OGE program review is an agency's system of enforcement. Program reviews assess whether ethics officials and IGs understand their respective roles within the system of enforcement. Through on-site discussions with ethics officials and IGs, OGE assesses whether ethics officials have reviewed information developed by the IGs to determine if prompt corrective action is needed to remedy an actual or potential conflict of interest situation. OGE also assesses whether the ethics officials use the services of the IGs as necessary.

Program reviews also look at how responsibility for specific enforcement-related functions is shared between ethics offices and IGs. In furtherance of this part of the review, OGE often suggests that agencies develop a memorandum of understanding--another model practice--between ethics offices and IG offices to delineate the officials' roles with regard to enforcement-related functions.

#### C. Outreach to the Inspector General Community

OGE has enhanced the connections between the IG and ethics communities through outreach and participation in activities of mutual interest. The Director participates actively in the Council of the Inspectors General on Integrity and Efficiency, even as he previously participated in the former President's Council on Integrity and Efficiency (PCIE) and Executive Council on Integrity and Efficiency (ECIE). In addition to attending meetings and sharing concerns, the Director of OGE has made OGE staff available to render specific assistance. For example, in September 2008, a senior OGE attorney made a presentation to the ECIE on the new post-employment rules, with a focus on matters of particular interest to IGs working on procurement fraud. Moreover, the Director has made clear to the IG community that OGE is available for consultation on all ethics matters. In fact, OGE staff are consulted frequently by IG offices concerning ethics questions arising from investigations, including investigations of possible post-employment violations.

OGE also has developed a two-hour training module for IG investigators, which focuses on issues relevant to ethics investigations. This module was developed originally for the IG Academy, as part of a larger course titled "Inspector General Public Corruption Investigations Training Program." One of the primary points covered in this training is that IG investigators have an important resource available to them in the various documents maintained by agency ethics officials, including not only written advice, but also financial disclosure statements, outside activity requests, waivers, and ethics training records. OGE attorneys delivered this class to the IG Academy four times during 2008, and OGE has an ongoing commitment to deliver this training when requested by the Academy. Additionally, OGE will be presenting similar training in the coming months to IG offices at the Department of Health and Human Services and the National Aeronautics and Space Administration.

Mr. Jess Ford  
Page 4

As I am sure you will agree, the activities listed above reflect a serious and abiding commitment to fostering cooperation between ethics officials and IGs, as well as to promoting best practices among ethics officials, including the documentation of ethics advice.

Finally, I am enclosing copies of our letters to the appropriate Committees of Congress pursuant to 31 U.S.C. § 720. If you have any questions about any of the matters discussed above, please contact Richard Thomas, Associate General Counsel, at 202-482-9278.

Sincerely,

Robert I. Cusick  
Director

Enclosures



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

August 26, 2008

Jess Ford  
Director  
International Affairs and Trade  
Government Accountability Office  
441 G Street, NW., Room 4440C  
Washington, DC 20548

Dear Mr. Ford:

Pursuant to the July 21, 2008 letter to you from the Director of the Office of Government Ethics (OGE), in response to the draft Government Accountability Office report, "Post-Government Employment Restrictions and Foreign Agent Registration," enclosed please find a copy of a memorandum distributed to Designated Agency Ethics Officials encouraging them to document ethics advice and to work closely with their Inspectors General to share information about ethics advice as needed.

If you have any questions concerning this matter, please contact Richard M. Thomas, Associate General Counsel, at 202-482-9278.

Sincerely,

Don W. Fox  
General Counsel

Enclosure



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

August 26, 2008  
DO-08-025

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Don W. Fox  
General Counsel

SUBJECT: New GAO Report; Documenting Ethics Advice

One element of an agency ethics program is that the Designated Agency Ethics Official "shall ensure that . . . [r]ecords are kept, when appropriate, on advice rendered." 5 C.F.R. § 2638.203(b)(8). Accordingly, on numerous occasions, the Office of Government Ethics (OGE) has emphasized the need to document advice given to individual employees and former employees, where practicable. E.g., OGE List Serve Message to Agency Ethics Contacts, No. 279 (January 17, 2008); DAEOgram DO-05-019 (November 17, 2005); Ethics Program Review Guidelines 18-19 (October 2004).

A recent Government Accountability Office (GAO) report further highlights the importance of implementing regular practices for recording ethics advice. See GAO, Post-Government Employment Restrictions and Foreign Agent Registration: Additional Action Needed to Enhance Implementation of Requirements 12-16 (July 2008), <http://www.gao.gov/new.items/d08855.pdf>. The GAO report noted specifically that officials from the Department of Justice and several agency Inspector General offices reported "that the lack of consistent documentation of specific advice given to departing and former senior federal employees on post-government employment restrictions presents a challenge to enforcing post-government employment restrictions." Id. at 13.

Consistent with the recommendations in the GAO report, OGE strongly encourages agency ethics officials to document ethics advice provided to current and former employees. Additionally, ethics officials should establish close working relationships with their respective Inspector General offices. This includes providing Inspector General personnel with information when needed about the ethics advice given to specific individuals. This also may include providing training and other assistance to help Inspector General personnel understand better the criminal conflict of interest laws, standards of conduct, and pertinent supplemental agency regulations.