

OFFICE OF GOVERNMENT ETHICS

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**Letter to a Designated Agency Ethics Official
dated February 25, 2004**

This is in response to your letter dated November 12, 2003. We appreciate your concern about the accurate reporting of TIAA-CREF retirement plans and mutual funds.

As noted in your letter, the original version of the *Public Financial Disclosure: A Reviewers Guide* was published in 1994. At that time, TIAA-CREF offered only retirement plans for employees of educational institutions and research organizations. The selection of funds for this retirement plan was limited and well known. OGE determined that these funds were all widely held, widely diversified, and would not pose a conflict for most Government employees. Accordingly, the Office decided not to require disclosure of the underlying assets of the retirement plan on the SF 278. The reporting of the retirement plan as a whole would be accepted as an Excepted Investment Fund.

In 1998, TIAA-CREF began offering retail mutual funds to the public. We decided that TIAA-CREF funds purchased outside its retirement plan should be individually listed, consistent with the reporting standards of all other mutual funds. We did not, however, change our reporting requirement regarding TIAA-CREF funds in a TIAA-CREF retirement plan because of our long-standing policies in this area.

We recognize the confusion presented by the different reporting criteria for TIAA-CREF mutual funds. In addition, not all funds offered in the TIAA-CREF retirement plan are diversified mutual funds as that term is defined in 5 C.F.R. part 2640. Therefore, in order to give adequate guidance about potential conflicts of interest, an agency ethics official should know the identity of the funds. When we update the *Public Financial Disclosure: A Reviewers Guide*, we will address both types of TIAA-CREF interests. The new guidance will require filers to list the underlying funds of the TIAA-CREF retirement plan, consistent with our standards for interests in TIAA-CREF retail mutual funds. We understand that this new directive will result in more information being disclosed than under our current policy. Fortunately, this information is usually readily available to filers and, as of this date, we have already determined that each of the underlying funds

of the retirement plan will meet the definition of an Excepted Investment Fund for purposes for the reporting requirements in 5 C.F.R. part 2634.

If you have any further questions regarding this matter please contact my Office.

Sincerely,

Marilyn L. Glynn
Acting Director