



May 20, 2004

G. John Heyer  
Designated Agency Ethics Official  
Committee for Purchase From People  
Who Are Blind or Severely Disabled  
Jefferson Plaza 2, Suite 10800  
1421 Jefferson Davis Highway  
Arlington, VA 22202-3259

Dear Mr Heyer

The Office of Government Ethics (OGE) recently completed its review of the ethics program at the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Ethics Act) Our objective was to determine the ethics program's compliance with applicable statutes and regulations. We also evaluated the Committee's systems and procedures for ensuring that ethics violations do not occur This review was conducted in April 2004

#### HIGHLIGHTS

The Committee's ethics program generally meets OGE's requirements, but there are some areas that require improvement. As we found during our last review in 1995, the Committee's financial disclosure system is not in compliance with ethics statutes and regulations Accordingly, we recommend that you have special Government employees (SGE) file confidential reports as required by 5 C F R § 2634 904(b), keep previously filed SF 278s from these filers confidential, and ensure that employees file new entrant reports within 30 days of assuming a covered position at the Committee

On a positive note, we commend you for providing in-person, one-on-one initial ethics orientations for all employees We further note that you go above and beyond OGE's training requirements by providing specialized training, covering gifts from outside sources, to new employees at two central nonprofit agencies that work closely with the Committee, yet are independent of it.

#### PROGRAM STRUCTURE

The Committee was created in 1971 to administer the Javits-Wagner-O'Day Program, which provides employment opportunities for blind or severely disabled Americans by orchestrating Government purchases of products and services provided by nonprofit agencies employing such

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people The Committee is headed by 15 Presidentially-appointed members, 11 of whom represent other Federal agencies The remaining four are private citizens who serve as SGEs Supporting them are approximately 28 full-time employees

In your capacity as the Committee's General Counsel, you serve as the Designated Agency Ethics Official (DAEO), devoting about 10 percent of your time to administering the ethics program After we notified you during pre-review work that the Committee needed an Alternate DAEO, the Deputy Executive Director agreed to serve in this capacity He was formally designated as Alternate DAEO on April 21, 2004 Although he recently attended OGE's course on public financial disclosure, he will likely serve solely as your back-up for the time being

#### COMMITTEE MEMBERS INCLUDING SGEs

Although there are some problems with the financial disclosure system for Committee members, you do an admirable job training SGEs The only SGEs are the four Committee members, but you also require Committee members from other Federal agencies to submit their financial disclosure reports to you at the same time they submit them to their parent agencies' ethics officials In addition, we are glad to see you are reviewing the reports for potential conflicts of interest by comparing them with the agendas of Committee meetings

#### Financial Disclosure

You have been requiring SGEs to file public reports because they meet the pay threshold, however, you recently determined that they only work approximately 33 days per year Thus, under 5 C F R §§ 2634 201 and 2634 204, they should only be required to file confidential reports Henceforth, until such time as you determine they will work more than 60 days in a calendar year, SGEs should file new entrant confidential financial disclosure reports each year Furthermore, you must ensure that their previously filed SF 278s remain confidential

Another problem is that at the time of our review you did not have reports from any Committee members appointed after May 2003 These missing reports included a new entrant report from one SGE and copies of the most recent annual reports filed by six Committee members from Federal agencies In fact, you did not request reports from these Committee members until the 2004 annual filing cycle In order to ensure that they are not acting on Committee matters in which they have a financial interest, you must take steps to obtain reports from new entrant SGEs within 30 days of their entering a covered position and from new Committee members from other Federal agencies prior to any meetings

Aside from these problems, the financial disclosure system for Committee members appears to be operating effectively We examined all of the confidential financial disclosure reports due from Committee members (both SGEs and representatives from other Federal agencies) by your May 2003

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annual filing deadline and found that they generally had been filed, reviewed, and certified timely and contained no apparent substantive deficiencies <sup>1</sup>

### Education and Training

All SGEs are thoroughly briefed on the ethics rules. As per your training plan, you gave each of the three new SGEs in 2003 an individual initial ethics orientation immediately after he was sworn in. Annual ethics training is provided in the same way as for staff, and all four SGEs completed this training in 2003. You do not provide annual ethics training to Committee members from other Federal agencies since they should receive it from their parent agency.

### FINANCIAL DISCLOSURE SYSTEMS

Like the financial disclosure system for Committee members, the public and confidential systems for regular employees need improvement, especially in the area of new entrant reports. In addition, your written procedures have not been updated since you developed them in response to a recommendation in our last review report. Due especially to the addition of an Alternate DAEO, it is important that you revise your procedures so that they remain an accurate guide for administering the program.

We examined all financial disclosure reports required to be filed by regular employees in 2003. The 2 public reports and 13 confidential reports (from all employees at the GS-13 or above grade level) were generally filed, reviewed, and certified timely and your report was timely forwarded to OGE. One confidential report had not been certified, but you assured us you had reviewed it upon submission, consequently, you certified it immediately to remedy the oversight. Reports contained a few technical deficiencies, but no apparent substantive ones.

The Committee has no mechanisms for ensuring that new entrants file reports timely. Although one filer was promoted into a confidential filing position in October 2002, she did not file a combined new entrant/annual report until a year later. Another individual was promoted into a covered position in December 2003, she completed annual ethics training for 2003, but still had not filed a new entrant confidential report by the time of our review.

### ETHICS AGREEMENTS

The Committee has only one current ethics agreement, a recusal. Despite your advice that this recusal was unnecessary, one Committee member recused himself, out of an abundance of caution, from matters involving a particular company for which his son-in-law's cousin works. We

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<sup>1</sup>With regard to reports from Committee members from other Federal agencies, your practice is to review them and certify that the filers' disclosures do not reveal any potential conflicts of interest with their duties as Committee members.

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were glad to see that, in order to ensure that the recusal is carried out, you notified the appropriate Committee staff to ensure that the member is excluded from votes involving that company. There are no 18 U.S.C. § 208(b)(1) or (b)(3) waivers.

#### **EDUCATION AND TRAINING**

While your annual ethics training program meets the requirements of 5 C.F.R. part 2638, your initial ethics orientation program exceeds these requirements. In addition, you go above and beyond the requirements by semiannually providing specialized training to new contractor employees at the Committee's two central nonprofit agencies. This training focuses on gifts from outside sources, so that these contractors will know the restrictions placed on their giving gifts to Committee employees.

In 2003, all four new Committee employees received initial ethics orientation promptly. As a part of their general orientation, you brief new employees individually on the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) and other applicable ethics rules. We applaud you for this best practice of providing in-person, one-on-one training. Employees are also given a copy of the Standards and a 1993 summary of these rules.

You satisfy the annual ethics training requirement by having covered employees complete a Web-based training module. In 2003, both public and confidential filers used one of the modules on OGE's Web site. Employees are required to send you certificates of completion by the end of the year, which all 20 covered employees did in 2003. Furthermore, your training plan notes that alternative training methods, such as verbal briefings and video and audio tapes, will be used to train any covered employees with special needs that make computer-based training impractical.

#### **ADVICE AND COUNSELING**

We examined all six pieces of written advice you provided covering 2002 to the present and determined that the advice was thorough, accurate, and appeared to meet employees' needs. You dispense advice, either verbally or in writing, approximately once a month.

Although there is little turnover at the Committee, you do provide post-employment counseling to those employees who take jobs in the private sector. Additionally, you inform any Committee members from Federal agencies who leave Government service that the post-employment rules apply to the Committee as well as to their parent agency.

#### **TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES**

During the period October 1, 2002 through September 30, 2003, the Committee accepted no payments for travel-related expenses from non-Federal sources under 31 U.S.C. § 1353, in fact, it has only made one acceptance during your tenure. You stated this is because virtually all offers come from prohibited sources. The Committee did not submit the last three semiannual reports, all

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negative, to OGE until reminded to do so in February of 2004. However, you believe that such timeliness issues will be resolved by reminders you will receive now that you have recently subscribed to the ethics listserve.

#### ENFORCEMENT

We were unable to assess this area, since to your knowledge the Committee has never had any allegations of violations of either ethics statutes or the Standards and, consequently, never referred a conflict of interest violation to the Department of Justice (DOJ). In the absence of an inspector general (IG), you would probably initially handle any allegations that arise. Under an interagency agreement, the General Services Administration should provide IG services when needed. Your financial disclosure procedures also include a section on enforcement, which states that you will use OGE Form 202 to notify OGE of any conflict of interest referrals to DOJ and any subsequent dispositions of the referrals.

#### RECOMMENDATIONS

We recommend that you

1. Ensure SGEs file confidential reports as required by 5 C F R § 2634.904(b) and previously filed SF 278s from these filers are kept confidential.
2. Ensure employees, including SGEs, file new entrant reports within 30 days of assuming a covered position at the Committee.

In closing, I wish to thank you for all of your efforts on behalf of the ethics program. Please advise me within 60 days of the specific actions planned or taken concerning the recommendations in our report. A follow-up review will be scheduled approximately six months from the date of this report. In view of the corrective action authority vested with the Director of OGE under subsection 402(b)(9) of the Ethics Act, as implemented in subpart D of 5 C F R part 2638, it is important that you take actions to correct these deficiencies in a timely manner. Please contact Christelle Klovers at 202-482-9255, if we may be of further assistance.

Sincerely,



Jack Covalesski  
Deputy Director  
Office of Agency Programs