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Report to the Chairman, Subcommittee on Nutrition and Investigations, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate

July 1990

FINANCIAL DISCLOSURE

USDA's Systems Limited by Insufficient Top Management Support

RELEASED

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The Honorable Tom Harkin
Chairman, Subcommittee on Nutrition
and Investigations
Committee on Agriculture, Nutrition,
and Forestry
United States Senate

Dear Mr. Chairman:

This report, prepared at your request, evaluates the Department of Agriculture's financial disclosure systems. We determined how Agriculture used those systems to detect and resolve potential conflicts between employees' outside financial interests and their official duties.

As arranged with the Subcommittee, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date it is issued. At that time, we will send copies to the Secretary of Agriculture, congressional committees having an interest in the matters discussed, and other interested parties.

The major contributors to this report are listed in appendix II. Please contact me on 275-5074 if you or your staff have any questions.

Sincerely yours,

Bernard L. Ungar

Bernard L. Ungar
Director, Federal Human Resource
Management Issues

the systems, but they still do not meet certain requirements of various regulations and the 1978 act (e.g. designations of certain positions for disclosure and reviewing disclosure reports in the required time) that allow conflicts of interest to be resolved.

Weaknesses have existed in the systems for more than a decade. They have persisted because key USDA officials have not given a high priority to establishing effective systems. These officials have (1) devoted relatively few people to developing and operating the systems according to statutory and regulatory requirements and (2) received little information, through internal management reports and evaluations, on whether the systems are effective. USDA has allowed weak procedures brought to its attention to go uncorrected, in some cases even after agreeing to correct them.

The current senior USDA official responsible for the program responded favorably to GAO's recommendations and appears committed to making needed improvements.

Principal Findings

Some Employees in Vulnerable Positions Not Required to Disclose

USDA had not obtained confidential disclosure reports from employees in certain positions, generally below GS-13, that GAO believes are vulnerable to conflicts of interest and that meet established criteria for requiring disclosure. Under USDA's decentralized organizational structure, many employees below GS-13 approve millions of dollars in financial assistance to farmers and ranchers every year. For example, about 2,000 county supervisors at grade levels GS-10 through GS-12 in the Farmers Home Administration have loan-approving authority, ranging up to $500,000, but were not required to file disclosure reports. (See pp. 22, 24, and 25.)

USDA officials did not believe the positions posed risks significant enough to justify the additional staff to obtain and review the reports. However, regulations require that disclosure reports be obtained when employees' duties present the potential for conflicts of interest. Moreover, an executive order and Office of Government Ethics regulations require agency heads to provide sufficient resources for effective ethics programs. (See pp. 24 and 44.)

example, one FCIC employee who had interests in a company having a contract to sell and service federally insured crop insurance policies also had audit responsibilities over that company. (See pp. 39-43.)

Weaknesses Are Long-Standing

Since 1977, GAO and other organizations have recommended that USDA address specific weaknesses in the disclosure systems, such as those found in GAO's current review. USDA has made certain improvements. For example, it developed procedures for identifying, in a timely manner, those employees who must file public disclosure reports. In other cases, however, after agreeing to make recommended improvements, such as to regularly audit the ethics program, USDA had not made the improvements. (See pp. 51-53.)

GAO believes that many problems have continued over the years because USDA has not adequately executed its responsibility to establish and maintain effective disclosure systems. In June 1989, the former Assistant Secretary for Administration stopped receiving the written reports regularly submitted by the agencies on their compliance with financial disclosure requirements because he did not consider the reports useful. (See pp. 54 and 49.)

Recommendations

GAO recommends that the Secretary of Agriculture provide the leadership and commitment necessary to ensure that (1) sufficient resources are devoted to the ethics program, (2) specific milestones are established and met for correcting weaknesses in the disclosure systems, and (3) the Director of Personnel is held accountable for developing, implementing, and maintaining systems that adequately meet the requirements of the 1978 act and implementing regulations. GAO is making other recommendations to the Secretary addressing specific weaknesses in the systems. (See pp. 55 and 56)

Agency Comments

USDA generally agreed with GAO's recommendations and outlined 24 actions that it has taken or will take by specific dates to correct identified weaknesses. Such actions include adding staff to the ethics program and requiring more employees to file. USDA's comments are included as appendix I. A summary of the comments and GAO's evaluation is included on pages 56 and 57.

Abbreviations

ARS	Agricultural Research Service
ASCS	Agricultural Stabilization and Conservation Service
DAEO	Designated Agency Ethics Official
FCIC	Federal Crop Insurance Corporation
FmHA	Farmers Home Administration
GM	General Management
GS	General Schedule
OGE	Office of Government Ethics
OIG	Office of Inspector General
OPM	Office of Personnel Management
OS	Office of the Secretary
SELRS	Security, Employee, and Labor Relations Staff
USDA	U.S. Department of Agriculture

(OGE) developed regulations (5 C.F.R. 2634) to implement the public disclosure requirements of title II.[1] OGE issued a standard form (SF-278) and instructions for use in filing disclosure reports. The form and instructions specify that information required by the act is to be reported by employees in seven categories as follows: assets and income sources; transactions; gifts, reimbursements, and travel expenses; liabilities; agreements and arrangements; positions held outside the federal government; and compensation in excess of $5,000 paid by one source. Within these categories, information is required such as the nature of the assets and transactions, the asset and income category of value, type of debt owed, and type of outside position held. The act requires that certain financial interests of relatives, such as spouse and dependent children, be disclosed in the employees' reports.

The OGE regulations authorize agency officials to grant time extensions for good cause totaling not more than 45 calendar days for filing public disclosure reports. OGE for good cause may grant extensions for up to 45 additional calendar days. The act requires the reports to be reviewed within 60 days after receipt. The act provides that the Attorney General may bring a civil action against any employee required to file a report who knowingly and willfully fails to file or falsifies the report.

Confidential Disclosure

The 1978 act does not contain similar detailed requirements for confidential disclosure. Rather, requirements for confidential disclosure in the executive branch are contained in Executive Order 11222, issued May 1965 and OPM regulations (5 C.F.R. 735) issued September 1968. The 1978 act, as amended in December 1985, authorizes the president to establish a confidential financial disclosure system for the executive branch. By Executive Order 12565 of September 1986, which amends Executive Order 11222, the President prescribed a comprehensive system of public and confidential financial disclosure for executive branch officers and employees.

Executive Order 12565 assigned responsibility to OGE for (1) developing, in consultation with the Attorney General and OPM, regulations to provide guidance and criteria for designation of positions subject to confidential disclosure, the type of information to be obtained, and the time

[1] OGE was under the Office of Personnel Management (OPM) until October 1, 1989. On that date, OGE became an independent executive agency as a result of the Office of Government Ethics Reauthorization Act of 1988 (Public Law 100-598, Nov. 3, 1988). In this report, we refer to regulations on confidential disclosure issued in September 1968 as OPM regulations and other regulations, which were developed after OGE was created, as OGE regulations.

noncompliance to the president and Congress when agencies' ethics programs do not fully comply with relevant laws and regulations.[3]

Agencies' Ethics Program Responsibilities

Agency heads and certain key officials, known as designated agency ethics officials (DAEO) and alternate DAEOs, have specific ethics program responsibilities under the 1978 act, as amended; executive orders; and OGE regulations. For example, the OGE regulations (5 C.F.R. 2638) require agency heads to exercise personal leadership in establishing and carrying out agency ethics programs and to provide sufficient resources to enable the agency to effectively administer its ethics program.

The act and regulations require each Secretary or DAEO concerned to sign public disclosure reports if, on the basis of information presented in the reports, the Secretary or DAEO believes the employees filing the reports are in compliance with applicable laws and regulations. Neither the act nor the regulations require the reports to be audited to determine if the disclosures are correct. Rather, as provided in the OGE regulations, they are to be taken at face value unless (1) there is an obvious omission or ambiguity or (2) the reviewing official has independent knowledge outside of the report.

Each agency head must appoint a DAEO and an alternate DAEO and report their names and position titles to OGE. The responsibilities of the DAEO and alternate DAEO include administering a system of periodic evaluations of the ethics program. Their responsibilities also include assuring that

- an effective system for filing, review, and, when applicable, public inspection of disclosure reports as required by the act of 1978 and other applicable laws and regulations is developed and properly administered;
- all disclosure reports are properly maintained and are effectively and consistently reviewed;
- ethics counseling for current and departing agency employees is undertaken;
- employees are trained to understand and implement the agency's ethics program;
- prompt and effective remedies are undertaken to avoid conflicts of interest or the appearance of conflicts of interest, and administrative actions and sanctions are applied as appropriate;

[3]55 Fed. Reg. 1,665 (Jan. 18, 1990). The final regulations were adopted effective May 30, 1990. 55 Fed. Reg. 21,845.

community facilities, provide economic support to farmers affected by disaster, and foster rural economic development. FCIC administers a system of federal crop insurance sold primarily through private insurance companies and guaranteed by FCIC to improve the economic stability of American agriculture.

USDA's regulations (7 C.F.R. 0.735) on employee responsibilities and conduct cover a broad range of topics, such as gifts and gratuities, attendance and leave, use of vehicles, political activity, and public and confidential financial disclosure. USDA included the regulations as an appendix to the USDA Employee Handbook, which is to be given to every USDA employee. The regulations prohibit outside employment and activities that are incompatible with USDA employees' duties and responsibilities. The regulations require that employees obtain advance approval for outside employment or activity, whether paid or unpaid, except as specifically provided in the regulations for employee involvement with specific activities and organizations, such as social, labor, and professional organizations.

Subpart C of the USDA regulations provides criteria and procedures for obtaining and reviewing public disclosure reports (SF-278) required by the act of 1978 and confidential disclosure reports under Executive Order 11222 and OPM regulations. USDA employees must file confidential disclosure reports (USDA Form 392) upon entering positions for which confidential disclosure is required. They are to report changes in, or additions to, the information in these reports by filing supplementary statements as of March 31 and submitting the statements by April 30 each year. The reports and statements must be reviewed and conflict-of-interest determinations must be made within 2 months after receipt. USDA's Ethics Handbook provides specific guidance for review of both public and confidential disclosure reports and resolution of potential conflicts of interest.

To supplement the USDA-wide ethics regulations, ASCS, FmHA, and FCIC issued regulations and instructions on employee responsibilities and conduct, including restrictions on employees' outside financial interests. The ASCS Handbook—Personnel Operations provides that employees cannot have financial interests or outside work that (1) substantially conflicts with their ASCS duties and responsibilities, (2) causes a bias toward their judgment, or (3) otherwise brings discredit to ASCS. Examples of specific prohibitions provided in the ASCS handbook include the following:

The Assistant Secretary for Administration is responsible for ensuring that all employees required to file confidential disclosure reports are identified, and agency heads are responsible for ensuring that the reports are reviewed within 2 months after receipt. USDA regulations assign responsibility to the various agency heads for identifying those employees who are required to file confidential disclosure reports. Agency heads are also responsible for collecting required reports, reviewing all disclosure reports filed within the agency within 2 months after receipt, and reporting to the Assistant Secretary for Administration on the number of reports filed.

In addition to delegating the above responsibilities, USDA designated an associate general counsel as Department Counselor to coordinate ethics counseling and advisory services. The DAEO and alternate DAEO are designated as Department Deputy Counselors, and the agency heads are designated as Agency Deputy Counselors. The Department Counselor's responsibilities include reviewing the public disclosure reports filed for the first time by individuals nominated by the president and subject to Senate confirmation.

USDA's Office of Inspector General (OIG), as part of its overall review and investigative responsibilities, reviews the Department's ethics program and investigates potential conflict-of-interest situations involving USDA employees.

Objective, Scope, and Methodology

As agreed with the Subcommittee, the overall objective of our review was to determine whether the USDA's disclosure systems reasonably assure that conflicts of interest will be detected and resolved. To accomplish this objective, our work was directed at answering the following four questions:

- Have USDA and the various agencies prescribed and followed procedures for designating positions that pose potential conflicts of interest?
- Were required disclosure reports filed by the due dates specified in the act and implementing regulations?
- Do USDA and the agencies have procedures and sufficient staff assigned to thoroughly review reports within prescribed periods and obtain the financial information required and necessary for conflict-of-interest determinations?
- Were actual, apparent, and potential conflicts of interest indicated in financial disclosure reports identified and fully resolved before the USDA reviewing officials approved the reports?

reports. We reviewed the written guidance that had been provided for the reviews. To provide an indication of whether USDA had made thorough reviews of disclosure reports and resolved conflicts of interest, we assessed the procedures used for the reviews and analyzed a random sample of public and confidential disclosure reports (including supporting documentation in report files) filed by USDA employees in 1989 and approved by USDA reviewing officials.

As table 1.1 shows, the random sample of reports we reviewed included 46 public and 19 confidential disclosure reports filed by a total of 65 employees in the Office of the Secretary (OS), ASCS, FmHA, and FCIC in 1989.

Table 1.1: Location of Employees Included in GAO's Sample of Public and Confidential Disclosure Reports

	Public		Confidential[a]	
	Universe	Sample	Universe	Sample
OS	49	14	b	b
ASCS	55	16	17	5
FmHA	49	14	20	6
FCIC	2	2	8	8
Total	**155**	**46**	**45**	**19**

[a]We limited our review of confidential disclosure reports to a sample of these reports filed by GS-15 employees

[b]USDA records revealed no confidential disclosure reports filed by GS-15 employees in OS during 1989, and USDA officials said none were required to file

Our sample of 65 reports was randomly selected from the universe of reports filed in 1989 by employees at GS-15 and above in OS and the three agencies. However, this number was not large enough to allow us to make reliable generalizations about error rates and conflicts of interest for the universe of reports. We had initially selected a sample of 200 reports out of a total of 685 filed at 10 USDA components, the Commodities Futures Trading Commission, and the Farm Credit Administration, which were initially identified by the Subcommittee for review. We determined that a sample size of 200 would be large enough to yield estimates that would be accurate within 10 percent of the combined universe of reports at a 95-percent confidence level.

However, after developing our sampling plans and beginning work at USDA headquarters and the agencies, we learned that the listing of required filers provided by USDA and used for our sampling plans was incorrect. USDA headquarters did not regularly obtain lists of required confidential filers for the various agencies. Further, a list that we filed by a total of 246 employees in the three agencies by April 30, 1989, and to be reviewed within 2 months after receipt. The reports that we requested for review included

- a random sample of 55 reports from the universe of reports filed by ASCS headquarters employees and ASCS Kansas City Office employees,
- all 105 reports filed by FmHA headquarters employees, and
- all 86 reports required to be filed by FCIC headquarters and field employees.

Most of the public disclosure reports that we reviewed were filed in 1989 and were to have covered the employees' reportable financial holdings and transactions for calendar year 1988. However, some public disclosure reports in our sample were filed for different periods because the filing employees were newly hired or had terminated their employment. The confidential disclosure reports filed in 1989 that we reviewed were to have covered a reporting period of April 1, 1988, through March 31, 1989.

Our review was made using generally accepted government auditing standards.

payroll system. The employees on that list were identified on the basis of the specific criteria in the act and OGE regulations for who must file public disclosure reports.

SELRS officials said they used the March 1989 list to notify employees during early April to file reports by May 15; thus, employees had over 30 days to prepare and submit reports. Also, every two weeks SELRS received lists of personnel changes. It used these lists to notify new and departing employees of filing requirements.

Employees in Certain Vulnerable Positions Not Required to File Confidential Disclosure Reports

ASCS, FmHA, and FCIC have not required certain employees, generally below GS-13, to file confidential disclosure reports. These employees were in positions that we believe were vulnerable to conflicts of interest and that met OGE and USDA criteria for having to file the reports. USDA operates its various loan and grant programs on a highly decentralized basis, and certain employees at grades below GS-13 make decisions affecting millions of dollars of federal funds annually.

OPM regulations issued in September 1968 and currently in effect provide the criteria for identifying employees who must file confidential disclosure reports. The regulations are as follows:

- Employees must file if they are classified at GS-13 and above and are in positions requiring them to make decisions involving (1) contracting or procurement, (2) administering or monitoring grants or subsidies, (3) regulating or auditing private or other nonfederal enterprise, and (4) other activities where the decision or action has an economic impact on any nonfederal enterprise.
- Employees must file if they are classified at GS-13 and above and are in positions that the agency determines to have duties requiring the incumbent to file disclosure reports in order to (1) avoid possible conflicts of interest and (2) carry out Executive Order 11222, the OPM regulation, and each agency's regulations.
- Employees must file if they are classified below GS-13 and are in positions otherwise meeting the above criteria, when the agency has specifically justified an exception that it is essential to require reporting to protect the government's integrity and avoid employee involvement in possible conflict-of-interest situations.

USDA regulations contain essentially the same criteria and requirements as above for identifying confidential report filers.

farmers and who hire the county executive directors in each of approximately 2,800 ASCS county offices. This committee must meet periodically to determine the eligibility of farmers and ranchers for ASCS assistance.

According to USDA's Department Counselor, employees in ASCS county offices are not federal employees and are not subject to conflict-of-interest laws but are subject to ASCS's regulations on employee responsibilities and conduct. He said that under the Soil Conservation and Domestic Allotment Act of 1935, as amended, ASCS has established rules of conduct for county employees that include specific prohibitions on their outside activities. He said further that the 1935 act provides authority for ASCS to require disclosure reports from the county employees. He said the authority is not specific but can be derived from the act of 1935 (16 U.S.C. 590h), which authorizes the Secretary to issue regulations on the selection of county committee members and their administration of ASCS programs.

OGE also recommended in the April 1982 report previously mentioned that ASCS require county office specialists, who at that time audited the decisions of county committee members, to file confidential disclosure reports. According to the ASCS employee relations chief, the county office specialist position was abolished, and the responsibility for auditing committee members' decisions was reassigned to GS-12 program specialists in the ASCS state offices. As of January 1990, the program specialists were not required to file disclosure reports.

In a July 1988 report, USDA's OIG recommended to the DAEO that ASCS county executive directors be required to file confidential disclosure reports and that ASCS state executive directors make initial reviews of the reports. County executive directors carry out the day-to-day operations of the county offices. Their responsibilities include directing the delivery of certain USDA commodities and supervising the disbursement of millions of dollars in government payments. According to the OIG report, ASCS agreed in May 1988 to require county executive directors to file. However, as of March 1990, ASCS still had not required them to file. ASCS officials said that county executive directors were not required to file in 1989 because ASCS had not developed a disclosure form for these employees. In March 1990, the ASCS chief of employee relations was developing a form.

In addition to recommending financial disclosure for certain ASCS county office positions, USDA's OIG recommended in 1986 that ASCS review the duties and responsibilities of certain employees involved in developing

The cost effectiveness of obtaining disclosure reports and reviewing them is not a factor to be considered under either the act or implementing regulations. The reports are to be obtained when prescribed criteria are met in order to resolve conflicts of interest. Concerning the resource impact of OGE's recommendation, agency heads are responsible under an executive order and OGE regulations for ensuring that sufficient resources are made available for effective ethics programs. In this regard, the FmHA personnel director suggested to the DAEO that if it was necessary to obtain the reports from county supervisors, FmHA state directors could review and sign the reports. We believe this is an option that has merit, as we discuss later.

OGE did not state in its 1986 report that FmHA county committee members, who are paid at rates below GS-13, should file financial disclosure reports. However, we believe the duties of these employees present the potential for conflicts of interest. A three-member county committee exercises independent judgment in determining the eligibility of farmers and ranchers for certain FmHA loans and grants, and their decisions have economic impact on nonfederal entities. In fiscal year 1989, on the basis of eligibility determinations made by about 6,800 county committee members nationwide, FmHA county supervisors approved about 63,700 direct loans worth $2.3 billion, about 70 percent of FmHA's total direct loans.

FCIC Positions

In January 1986, OGE recommended to the DAEO that about 600 permanent and temporary FCIC field employees in the following four positions be required to file confidential disclosure reports. These employees were

- crop insurance field specialists who served as district directors of field office units (GS-11),
- temporary crop insurance specialists (GS-5 through GS-7),
- quality control training specialists (GS-9), and
- crop insurance underwriters (GS-5 through GS-12).

OGE recommended that these positions be covered because a survey done by FCIC in 1983 at the recommendation of the USDA OIG revealed potential conflicts of interest. In that survey, FCIC required all employees to complete a questionnaire on any outside employment of themselves and their relatives. The survey identified 167 potential conflict-of-interest cases involving employees in the above positions, and none of the employees were required to file disclosure reports.

reports who should. However, USDA headquarters (specifically the DAEO) had not required the agencies to regularly review positions and to designate those that met prescribed criteria for confidential disclosure. SELRS officials said they did not monitor or approve the agencies' position designations and did not know why employees in those positions recommended by OGE for confidential disclosure were not required to file reports.

We believe that the designation of positions for confidential disclosure requires stronger direction and leadership from USDA headquarters. Certain USDA programs, such as farm assistance programs administered by FmHA, pose a high risk for potential conflicts of interest. A properly designed and implemented disclosure system that includes a requirement to obtain and review reports from employees who make loan and grant decisions can help employees and management avoid situations posing conflicts between their duties and their outside financial interests.

Agencies Had Not Properly Implemented Reporting Requirements for Covered Employees

Neither ASCS, FmHA, nor FCIC had properly implemented OPM and USDA regulations for obtaining confidential reports from employees in positions designated for confidential financial disclosure (covered positions). The three agencies had not (1) required employees to file initial reports within 30 days after they entered covered positions, (2) obtained certain information needed for conflict-of-interest determinations, and (3) given employees the recommended 30-days' notice for filing reports.

Agencies Not Requiring Reports Within 30 Days

OPM regulations on confidential disclosure require that employees file an initial report within 30 days after they enter covered positions. ASCS, FmHA, and FCIC did not have procedures for notifying all employees new to covered positions to file initial confidential disclosure reports within 30 days.

Newly covered employees did not always file on time. For example, we reviewed reports filed by eight FCIC employees to determine if the reports were complete and if all potential conflicts of interest were resolved. One of the eight employees was hired in August 1986, and he did not file his first disclosure report until April 1987, about 7 months after the required date. That report indicated an apparent conflict of interest between the employee's official duties and arrangements with the purchase and sale of income producing assets for such periods. Such information was needed to ensure that the employees complied with restrictions on their outside interests. To illustrate, employees could have had prohibited transactions, such as the purchase and sale of FmHA-financed property or agricultural commodities, during the year and not be required to disclose the transactions in the annual reports because the employees did not hold the financial interests as of March 31.

Although we limited our review to ASCS, FmHA, and FCIC, SELRS officials said other USDA agencies used the same form and instructions and thus required employees to report financial interests as of March 31 without having to disclose transactions occurring during the year. Our review of selected reports was limited to the information supplied by employees. Therefore, we could not determine whether employees at the three agencies had financial transactions that should have been reported but were not. In 1989, approximately 7,300 USDA employees filed confidential disclosure reports. Because these employees used USDA's standard form and instructions for reporting, they were not required to supply information on their financial transactions that is needed to determine whether conflicts of interest exist.

In addition to the lack of information on financial transactions, the USDA form and instructions had various shortcomings that could affect the completeness of the reported information. For example, the form and instructions did not provide

- clear guidance on whether certain outside employment and financial interests were to be reported by all USDA employees or only those in certain agencies,
- space for reviewers to comment on follow-up work done with filing employees to clarify and supplement the report and the basis for conflict-of-interest determinations, or
- specific requirements for reporting income received from nonagricultural interests held by USDA employees.

Agency employee relations specialists recognized that the form for confidential disclosure and related instructions needed improvement. At an August 1989 meeting of USDA employee relations officials, the ASCS chief of employee relations agreed to work with other employee relations specialists in developing recommendations to SELRS for improving the form and instructions. Since that time, the ASCS chief said that he had obtained comments from several employee relations specialists in other

Receipt Dates Not Recorded

Both the act and OGE regulations state that agency officials are to note on public disclosure reports the date that they are received. The receipt date is necessary to implement and monitor specific requirements in the act including when employees must file (May 15 each year), when the public must be provided access to reports (such as 15 days after receipt for incumbent employees), and when agencies must complete reviews of the reports (60 days after receipt).

SELRS did not record report receipt dates. Rather, when it received reports, its practice was to place a check mark next to the employee's name on a list of those employees who were identified to file. The receipt date was not recorded on the list or the reports, and SELRS officials said they did not otherwise record report receipt dates. Only 1 of the public disclosure reports filed in 1989 and 1988 by the 46 employees in our sample showed receipt dates. According to SELRS officials, they began recording receipt dates during our review.

Time Extensions for Filing Not Documented

The act and regulations establish specific requirements for granting time extensions for employees to file public disclosure reports. The act allows employees to request approval to file the reports up to 90 days beyond the dates for filing required by the act. OGE regulations state that filers may request and be granted extensions of up to 45 days by the agency at which they file reports and up to an additional 45 days by OGE.

SELRS did not maintain records of employees who had requested and were granted time extensions, the reasons for the extensions, or the additional time given to employees to file. SELRS officials said their practice was to accept and grant filers' requests for extensions over the telephone. They said a note indicating each granted extension was placed in the employee's file and discarded after the reports were received.

Because of SELRS' practice, we could not determine whether employees in our sample requested and received time extensions for filing reports in 1988 and 1989. For example, of the 46 employees in our sample, 14 signed their reports from 3 to 212 days after the reports' statutory due dates in 1989. Of these 14, 6 signed the reports more than 45 days after the due dates, the maximum time extension USDA may grant under the act. We asked the SELRS chief, who was responsible for approving extensions in 1989, whether the employees had been granted extensions. He could not remember granting extensions for any of the employees. According to SELRS officials, documentation was thrown away after reports. None of the three agencies had regularly updated their regulations to show, as required by OPM regulations, those positions designated for confidential disclosure.

Although ASCS and FCIC had more recently updated their lists, the list of covered positions in FmHA's regulations (FmHA Instructions 2045-EE dated December 7, 1976) had not been updated in 14 years. The FmHA chief of employee relations said in June 1989 that the regulations would be updated by October 1989 and that certain contract specialists who have contracting and leasing authority in field offices would probably be added to the list of required filers. However, FmHA still had not updated the regulations as of January 1990.

FmHA and FCIC employee relations specialists had computer-generated lists of employees in covered positions. The specialists said they use these lists to monitor filing compliance. The ASCS specialist did not use a similar list for monitoring filing compliance. A list that ASCS provided us of employees who were to file in 1989 was inaccurate. The list included 17 GM-15 employees who filed in 1989, but it excluded 13 other GM-15 employees who filed reports in 1989. Without an accurate list of who must file, ASCS cannot ensure that all covered employees have been notified to file or that they file on time, if at all

The three agencies did not have written procedures for requesting and granting time extensions for filing. Employee relations specialists at all three agencies said employees rarely requested extensions and when they did, the requests and approvals were always handled orally and not documented. Similarly, agencies did not have written procedures on when follow-ups were to be done or how much additional time should be given for filing. The specialists at ASCS and FmHA said they normally contacted late filers by phone to obtain reports. A FCIC official said that she contacted late filers by phone or in writing to obtain their reports. In 1989, 98 (40 percent) of the 246 reports in our sample were not filed by the required date in 1989. (See table 2.2.)

Employees' Signature Dates Indicated Reports Were Often Filed Late

Because of the informality in monitoring filing compliance, USDA headquarters and the three agencies had not collected the data needed to accurately determine whether employees filed public and confidential disclosure reports by due dates. Signature dates that filing employees entered on the reports indicated that some disclosure reports were filed late.

Line Officials Generally Not Involved in Reviews

Although FmHA had instructed its offices to make initial reviews of confidential reports, USDA headquarters, ASCS, and FCIC did not require any involvement of line managers and supervisors in the reviews. SELRS officials said the report responsibility had been centralized in the personnel offices at USDA and agency headquarters because these offices had the experience and knowledge needed for the reviews. ASCS and FCIC officials said the responsibility had been centralized at agency headquarters to protect the confidentiality of the reports. They also said that the involvement of line managers and superiors in the reviews would complicate and delay the process.

Although USDA has centralized the final review responsibility, USDA regulations provide that the initial processing and review of confidential disclosure reports can be delegated to offices where filing employees are assigned. The regulations further provide that (1) if reports are initially reviewed in one office and (2) if the reports show any financial interests, the reports, along with statements from the first reviewer indicating whether the interests appear to have some relationship to the employees' duties, are to be referred to the office identified by the agency heads as having final review responsibility.

We believe that the initial review of reports by USDA line officials responsible for the employees filing the reports could improve the thoroughness of reviews. These officials could compare reported outside financial interests with employees' current duties and responsibilities. Given the small number of staff reviewing reports at USDA and agency headquarters and the delays in completing reviews, the involvement of line offices in the reviews could reduce the overall time required to review reports. Line officials have a valid need for access to confidential disclosure reports filed by employees under their supervision, and we believe the confidentiality of the reports can be protected through appropriate administrative safeguards.

Specialists Generally Did Not Follow USDA Review Guidance

The reviews made at USDA headquarters and the three agencies generally did not include steps in USDA's Ethics Handbook that we believe, if followed, could improve the thoroughness of the reviews. The employee relations specialists doing the reviews said they relied primarily on their experience and their personal knowledge of employees' duties and responsibilities in reviewing the reports and making conflict-of-interest determinations. They generally did not document the work done and the basis for their determinations.

their reviews of disclosure reports because they did not believe it was necessary for making conflict-of-interest determinations. We believe that requests and approvals for outside employment can provide information that is useful to report reviewers when making conflict-of-interest determinations. For example, the descriptions of the outside employment and comments by managers and supervisors responsible for the approvals could point to possible violations of ethics and conflict-of-interest laws and regulations. The report reviewers could also provide a check on whether employees who reported income from outside employment or positions in outside organizations followed USDA regulations that require advance approval of outside activities.

Various other steps recommended in the Handbook were generally not followed in the reviews. If followed, these steps could help ensure that the reviewers make consistent and thorough reviews and that any conflicts of interest are identified. Some of the steps recommended in the Handbook include the following:

- Research corporations listed in the reports, paying particular attention to conglomerates and holding companies that may be involved in various types of activities and assess whether the corporations are involved in products or services which may lead to apparent conflicts of interest.
- Review current position descriptions and performance objectives, and as necessary, find out from the employees or their supervisors if they have other responsibilities not specifically covered by the position descriptions (e.g., details of employees to other positions).
- Determine for land holdings listed in reports the type of property, the number of acres owned, and any interest of the federal government in the land owned by the filing employee. and
- Determine for creditors listed in reports if the filing employee's duties and responsibilities will require the employee to deal with any of the creditors.

One approach to ensuring that steps such as those in the Handbook are followed, thus improving the thoroughness of the reviews, would be to use a review checklist. In our review of other organizations' disclosure systems, we found that checklists were useful for making orderly reviews of disclosure reports, focusing review attention on specific

Financial Disclosure Reviews Missed Certain Errors and Potential Conflicts of Interest

All but 1 of the 65 public and confidential reports in our sample of filers for 1989 had been signed by USDA reviewing officials, indicating that all conflicts of interest had been resolved. On the basis of our reviews of the 64 reports and supporting files, we found that most of the reviews of public and confidential disclosure reports in 1989 missed certain errors. The errors were of varying significance. Some prevented us from determining whether reported financial interests posed conflicts of interest. (See table 2.3.)

Table 2.3: Number of Approved Public and Confidential Disclosure Reports in GAO Sample With Uncorrected Errors

	Number of reports		
Errors	**Public**	**Confidential**	**Total**
None	11	17	**28**
Errors that did not prevent conflict-of-interest determinations	24	1	**25**
Errors preventing conflict-of-interest determinations	11	0	**11**
Total number of reports in sample[a]	46	18	**64**

[a]We reviewed 64 reports to provide an indication of the thoroughness of the reviews done by USDA headquarters and the three agencies Our sample of 246 confidential reports (see tables 2 2 and 3 2) was used to determine whether the reports were filed by the required date and reviewed within the prescribed time period

Generally, in the 11 reports in which errors prevented us from making conflict-of-interest determinations, the errors were omissions of information on the nature or location of the outside financial interest, or the character of employee's ownership and involvement (such as sole or joint owner, partner, or manager) with the reported interests. For example, an employee in the Office of the Secretary reported that her spouse received compensation from two private firms, one of which was a consulting firm. However, the employee's public disclosure report did not indicate the nature of the consulting done, and so the reviewer could not compare the consulting services with the employee's official duties.

Potential Conflicts Not Identified

The reviewers had not assured that all conflicts of interest were identified and fully resolved, as table 2.4 shows.

adjustments, and (3) recommending corrective action to the head of the agency in which noncompliance was found to exist.

The employee did not file a disclosure report in September 1986, 30 days after he was hired, as required. He did not file his first report until April 1987. According to the disclosure report and supporting file, the assistant manager was to receive one-half of his former salary for a 4-year period ending in 1990 and a company car, both from his former employer, a company selling and servicing FCIC-reinsured crop insurance.

The employee's disclosure report was marked "no conflict," signed by the FCIC reviewing official (the personnel officer), and dated as having been reviewed in October 1987, 14 months after the employee began FCIC employment. The report and supporting files did not indicate that the reviewer questioned the employee's arrangement with his former employer. The reviewing official said he did not believe the employee's arrangement posed a potential conflict of interest because the employee had made the agreement before he became a FCIC employee.

We believe that the employee's report contained information indicating a potential conflict of interest involving the arrangement with his former employer that the FCIC reviewing official should have questioned. After we questioned the arrangement, we learned that it had also been questioned by the FCIC manager when the employee was being considered for a higher level FCIC position. The situation had also been investigated by the USDA OIG, which referred the investigative results to the Department of Justice. Justice declined to prosecute and returned the case to USDA.

In June 1988, 22 months after the employee was hired, the USDA Under Secretary notified the OIG that he had determined that no conflict of interest existed and no administrative action was necessary. Meanwhile, the employee notified FCIC that his former employer would be discontinuing its reinsurance contract with FCIC in January 1988. Until then, the employee continued to serve as assistant manager responsible for matters affecting his previous employer, and the FCIC reviewing official took no action to address the potential conflict of interest.

We believe that the employee's arrangement created at least the appearance of a conflict of interest that the FCIC report reviewer should have questioned. We also believe that, on the basis of information in the disclosure report, the reviewer should have referred the case to the agency

In January 1990, OGE asked USDA to furnish required evidence showing that four nominees, including one nominee in our sample, had taken agreed upon actions to resolve potential conflicts of interest. On February 1, 1990, the Department Ethics Counselor said USDA had not obtained all the evidence required.

Table 3.1: Employees Responsible for Reviewing Public and Confidential Disclosure Reports

	Title and grade	Estimated time spent on ethics program	Number of reports
Public reports			
Headquarters[a]	Chief, SELRS (GS-15)	10%	50
	Assistant Chief, SELRS (GM-14)	15	150
	Employee Relations Specialist, SELRS (GM-13)	50	400
Confidential reports			
ASCS	Chief, Employee Relations Branch (GM-14)	5	333
FmHA	Employee Relations Specialist (GM-13)	10	558
FCIC	Employee Relations Specialist (GS-7)	10	86

[a]Does not include reports filed by individuals nominated by the president in 1989 and reviewed outside SELRS

The experience and training of the specialists in ethics laws, regulations, and procedures also varied. For example, according to SELRS officials, the DAEO, alternate DAEO and a deputy ethics official had 10 or more year's experience each reviewing public disclosure reports. Similarly, the employee relations specialists at ASCS and FmHA said they had 10 or more year's experience each reviewing confidential disclosure reports. All of the reviewers said they had received formal ethics training. In contrast, the GS-7 specialist at FCIC was hired in June 1989 and given responsibility for review of the confidential disclosure reports due April 30, 1989. According to the specialist, she had no prior ethics program experience and had received no formal ethics training through January 1990. FCIC officials said she was supervised by a person having training and experience in the USDA ethics program.

The Ethics Reform Act of 1989 and Executive Order 12674, issued in April 1989, assign additional responsibilities to agency ethics officials. For example, the executive order provides for mandatory ethics training for all employees required to file public and confidential disclosure reports. The Chief of SELRS said that as part of his fiscal year 1991 budget request, he had requested one additional staff-year to work on the ethics program.

employees had any financial interests. Also, unlike the FCIC reviewer, the reviewers at ASCS and FmHA did not request employees who had farming and other outside interests to submit a statement showing how those interests related to the employees' duties. The USDA form used for confidential disclosure requires employees who report outside interest to supply these statements. Consequently, the ASCS and FmHA reviewers completed most of their reviews in a very short period of time. For example, on May 14 and May 15, 1989, the FmHA reviewer signed 94, or 90 percent, of the 105 reports in our sample. The employees filing 51 of the 94 reports disclosed that they had no outside financial interests as of March 31, 1989.

Employee Relations Specialists Signed High-Level Officials' Disclosure Reports

In addition to devoting relatively few staff to reviewing disclosure reports as only one part of their duties, USDA had assigned the responsibility for signing certain reports to employees who were not in appropriate positions. These employees were not in positions that allowed them to exercise independent judgement in detecting and resolving conflicts of interest.

The act requires that public disclosure reports be signed by the Secretary concerned or the DAEO after it has been determined that conflicts of interest do not exist or have been resolved. These signatures are required in addition to the signature of the OGE director for certain reports, such as those filed by individuals who are nominated by the president and who must be confirmed by the Senate.

OGE regulations permit DAEOS to delegate the responsibility for signing disclosure reports to appropriate reviewing officials, except for those filed by individuals nominated by the president and subject to Senate confirmation. At USDA headquarters, the public disclosure reports filed by these presidential nominees subject to Senate confirmation were reviewed by the USDA's ethics counselor in its Office of General Counsel and were signed by the DAEO. All other public and confidential disclosure reports were signed by employees in the offices of personnel at USDA and agency headquarters.

At USDA headquarters, a GS-13 employee relations specialist—a deputy ethics official—was responsible for reviewing and signing the vast majority of the public disclosure reports filed annually by USDA senior executives and other high-level officials, including the Department Ethics Counselor. The chief of SELRS, who is the alternate DAEO, was responsible for signing public disclosure reports filed annually by the for Administration on the status of the agencies' reviews of the confidential disclosure reports. USDA had not required similar reports on the public disclosure system.

The reports on the confidential disclosure system were to be submitted to the Assistant Secretary for Administration by May 30 each year and were to show the number of confidential disclosure reports filed, the number closed favorably, and the number not closed. In the latter instance, the agencies were to provide the reasons reports remained open and continue reporting monthly on the status of open cases.

In June 1989, the former Assistant Secretary for Administration stopped receiving the reports because, according to SELRS officials, he did not believe the reports were useful. In response to the Assistant Secretary's concern, the SELRS Chief directed that the status reports not be submitted to the Assistant Secretary for Administration but rather to SELRS.

We agree that the status reports were not designed to provide all the information needed to effectively monitor the agencies' reviews of financial disclosure reports and their resolutions of potential conflicts of interest. We believe the reports would have been more useful if the agencies were required to show, in addition to the information reported, (1) the number of employees who were required to file reports, (2) the number of apparent and potential conflicts of interest found, and (3) the actions taken to resolve the conflicts. Further, some analysis of the reports, together with overall data on trends and patterns of any problems reported by the 18 personnel offices servicing 39 offices and agencies, could have been useful to pinpoint areas requiring the Assistant Secretary's attention.

The reports should also be submitted as required, but the offices had not always done so. For example, in 1989, SELRS had not received monthly reports for FCIC, FmHA, and ASCS even though they had not closed all cases. Of the 18 USDA personnel offices servicing the agencies and required to submit initial reports by May 31, 1989, 1 had done so by that date. Of the remaining 17, 14 submitted reports between June 1989 and January 1990, and 3 had not submitted reports as of January 1990.

Agency Self-Audits Not Done Regularly

To improve monitoring of the ethics program, SELRS established a requirement that the agencies do self-audits each year. In the self-audits, agencies were to complete a three-page checklist to evaluate the ethics program in such areas as filer identification, outside employment procedures, and training.

SELRS requested that agencies do the self-audits in 1986. As a result of the self-audits, SELRS advised several agencies on how they could improve their programs. SELRS officials said that due to staffing changes and other problems, they had not required self-audits in 1987 and 1988. In October 1989, the DAEO asked agencies to do self-audits and submit completed checklists by January 8, 1990. By the end of January 1990, all agencies had submitted checklists.

Weaknesses in USDA's Financial Disclosure Systems Are Long-Standing

For more than a decade, audits of USDA's ethics program made by us, OGE, and USDA OIG have identified weaknesses in the filing and review of public and confidential financial disclosure reports and the management oversight of the ethics program. In 1977, for example, we reported that USDA's financial disclosure system did not include specific criteria to ensure that all employees whose jobs affect the agricultural industry were required to file disclosure reports.[1] We also reported that USDA lacked adequate criteria for reviewing disclosure reports. In addition, specific procedures for collecting disclosure reports were missing.

As discussed in chapter 2, OGE and the OIG later issued reports identifying some of the same weaknesses that we had noted in our 1977 report. For example, in 1982, on the basis of a review of the ethics program at USDA headquarters, ASCS, the Food Safety Inspection Service, and the Agricultural Marketing Service, OGE reported that (1) the DAEO was not closely monitoring the agencies, (2) positions that were vulnerable to conflicts of interest were not covered under the confidential financial disclosure system, (3) managers who were most knowledgeable of the employees' duties were not sufficiently involved in reviewing financial disclosure reports, (4) reviews of certain disclosure reports were untimely, and (5) reviewers did not document the reports to show the rationale for their potential conflict-of-interest decisions.

[1] Financial Disclosure System for Department of Agriculture Employees Needs Strengthening (GAO/FPCD-77-17, Jan. 31, 1977)

official position description did not include any reference to ethics program responsibilities and duties.

The alternate DAEO's position description and performance appraisal for 1989 did describe general ethics program responsibilities. For example, these documents mentioned providing staff leadership and advising on actions to be taken on potential conflict-of-interest cases.

USDA officials most responsible for assuring the integrity of USDA's programs and operations have had limited involvement with the disclosure systems. Disclosure reports are a tool these officials and employees under their responsibility should use to prevent conflicts of interest. Yet, USDA had not made the review of disclosure reports an integral part of these employees' responsibilities. Rather, employee relations specialists in USDA and agency headquarters had the review responsibility.

The act, executive orders, and OGE regulations assign responsibility to agency heads and DAEOs for establishing effective ethics programs, which are to include public and confidential disclosure systems. We believe that because of the history of continuing weaknesses in USDA disclosure systems, the Secretary must take a strong leadership role to ensure that the Department has effective disclosure systems and that the DAEO is accountable for establishing and maintaining the systems.

Recommendations

We recommend that the Secretary of Agriculture provide the leadership to improve USDA's ethics program by ensuring that (1) sufficient resources are devoted to the program, (2) specific milestones are established for correcting weaknesses in the financial disclosure systems, and (3) the DAEO—the director of personnel—is held accountable for developing, implementing, and maintaining systems that adequately meet requirements of the 1978 Ethics Act and related executive orders and regulations.

To correct specific weaknesses in the systems, we recommend that the Secretary direct the DAEO to take the following steps:

- Require confidential disclosure reports from all employees in positions that pose conflicts of interest and meet OGE criteria for confidential disclosure.
- Develop and implement procedures, forms, and instructions for (1) requesting confidential disclosure reports from employees in covered positions within 30 days after they enter the positions; (2) obtaining sufficient information, including information on financial transactions, for making conflict-of-interest determinations; and (3) notifying all employees in covered positions of filing requirements in sufficient time.
- Develop and implement procedures for monitoring compliance with due dates for public and confidential disclosure reports and include requirements for recording receipt dates of reports, requesting and granting time extensions for filing, and following up with employees who have not filed reports by required dates.

Although USDA has begun to implement almost all of our recommendations, it did not agree entirely with four of them, two which are discussed below, and two which are discussed in appendix I.

USDA did not agree with our recommendation that ASCS and FmHA county committee members should file financial disclosure reports. USDA said that ASCS committee members are not federal employees and suggested that because of their limited authority, they would not be likely to have conflicts of interest. We believe that, like certain other ASCS and FmHA county employees, the duties of county committee members in these two agencies present the potential for conflicts of interest. Also, these employees meet criteria currently prescribed for requiring confidential financial disclosure. Although they are not federal employees, ASCS county committee members are required to comply with ASCS rules of conduct, and they make decisions affecting financial assistance to nonfederal entities. Similarly, FmHA county committee members determine the eligibility of farmers and ranchers for FmHA financial assistance. Therefore, we believe USDA should require FmHA and ASCS county committee members, and all other USDA employees in positions that are vulnerable to conflicts of interest, to file financial disclosure reports.

USDA said that requiring supervisory officials in line divisions and offices to review all confidential disclosure reports would impair confidentiality. We continue to believe that (1) line officials have a valid need to review disclosure reports filed by employees under their responsibility, (2) their involvement could improve the thoroughness of the review, and (3) the confidentiality of the reports can be protected through administrative safeguards such as restricting access to the reports and storing them in locked cabinets. OPM and USDA regulations impose restrictions on access to and use of the reports, and any improper release or disclosure of information in the reports would violate these regulations. USDA regulations provide also that the initial review responsibility may be assigned to offices where filing employees are assigned. USDA did agree that this procedure was feasible in FmHA, where state directors have responsibility to administer both loan programs and ethics regulations.

USDA's specific comments on our recommendations are included in appendix I.

SUMMARY OF USDA ACTIONS

The Department has taken the following actions:

* Allocated one additional full-time position for an ethics specialist.
* Begun date stamping public financial disclosure reports upon receipt.
* Produced a written plan to correct identified weaknesses.

Agencies have agreed to take the following actions:

* Add confidential filers, at grade GS-12 and below, who meet regulatory criteria:
  - -- Farmers Home Administration (FmHA) county supervisors and assistant county supervisors and
  - -- Agricultural Stabilization and Conservation Service (ASCS) county executive directors.

The Department will take the following actions:

* Determine further resources necessary for the ethics program by June, 1990.
* Request the Office of Government Ethics (OGE) to authorize obtaining confidential financial disclosure reports from county supervisors and assistant county supervisors in FmHA by June, 1990.
* Continue to hold the DAEO accountable for the ethics program, and add an ethics element to his performance plan by October, 1990.
* Modify confidential financial disclosure report to include information on financial transactions and submit to OGE for approval by October, 1990.
* Publish an internal procedure for documenting requests for, and grants of, time extensions for filing by May, 1991.
* Issue guidance for reviewers of financial disclosure reports by December, 1992.
* Document timely follow-up of public financial disclosure reports due by June, 1991.
* Require agencies to verify approval for outside employment reported on public financial disclosure reports, beginning December, 1990.
* Request OGE to authorize staggered dates for filing confidential reports because of volume in excess of 10,000 reports by November, 1990.

RESPONSE TO RECOMMENDATIONS

RECOMMENDATION: The Secretary of Agriculture provide the leadership to improve USDA's ethics program by ensuring that (1) sufficient resources are devoted to the program, (2) specific milestones are established for correcting weaknesses in the financial disclosure systems, and (3) the DAEO--the Director of Personnel--is held accountable for developing, implementing, and maintaining systems that adequately meet requirements of the Ethics Act of 1978 and related Executive orders and regulations.

RESPONSE:

We are adding immediately one staff year to the ethics program. By June, 1990, we will have analyzed the requirements for further staffing of the ethics function as part of the FY 92 budget process. We will require agencies to evaluate their ethics staffing by December, 1990.

By November, 1990, we will propose to OGE that we be permitted to stagger the filing dates for annual confidential financial disclosure reports. A balanced work load would allow us to plan a better flow of the work and facilitate an orderly substantive review.

We have written a plan, using management-by-objectives techniques, to complete the tasks we have identified as necessary to improve the financial disclosure program.

Although the DAEO always has been accountable for the ethics program, by October, 1990, we will add a special element to his performance plan that will be related to the management-by-objectives plan for ethics.

RECOMMENDATION: Require confidential disclosure reports from all employees in positions that pose conflicts of interest and meet OGE criteria for confidential disclosure.

RESPONSE:

You specifically recommended that confidential financial disclosure reports be obtained from the following groups: (1) county executive directors and county committee members in ASCS; and (2) county supervisors and county committee members in FmHA.

We are requiring 2,300 ASCS county executive directors to file confidential financial disclosure reports in 1990 on the special form referenced in your report. This decision more than doubles the number of ASCS employees required to file.

See p. 59.

A regularly conducted internal review of participation by county committee members in ASCS programs would disclose any conflict of interest problems. ASCS county committee members do not take actions on their own cases. The committee has no authority to make general rules, but works only on matters involving individual clients of the agency. Finally, members of county committees do not meet statutory tests to be considered Federal employees.

requests for, and grants of, time extensions for filing of financial disclosure reports. This will include procedures to monitor compliance with due dates and to follow up with employees. We will change our practices with respect to both the public and confidential reporting systems.

RECOMMENDATION: Implement review guidance, such as that contained in the USDA Ethics Handbook, to ensure thorough reviews of public and confidential disclosure reports are made and all conflicts of interest indicated in reports are identified and fully resolved.

RESPONSE:

We will revise and reissue the USDA Ethics Handbook to agencies by December, 1992.

RECOMMENDATION: Require the employees, rather than reviewing officials, to amend disclosure reports that do not contain required information.

See comment 1.

RESPONSE:

Our current practice is to contact filers in person or by telephone to obtain additional information needed by the reviewers. We have experienced no difficulties with this practice where the needed information is easily documented. If the information is complex, or if substantive issues need to be resolved, we make written requests for more information from the filers. This is consistent with the practice of OGE. We propose to continue this method of operation.

RECOMMENDATION: Require line officials who are responsible for the integrity of USDA programs and operations to assist in disclosure report reviews and conflict of interest determinations.

See p. 59.

RESPONSE:

Our practice maintains the confidentiality that both the Executive order and the Ethics Reform Act of 1989 require for non-public reports. If supervisory or line officials were to review all reports, confidentiality would be impaired. The recommendation is feasible in FmHA, where state directors have concurrent responsibility to administer loan programs and the ethics and conduct regulations. In the case of public reports, we propose to continue our present practice of involving line officials when needed. This will allow us to adjudicate the reports within the time frames allowed.

RECOMMENDATION: Require the verification of outside employment approvals as part of the review of financial disclosure reports.

The following are GAO's comments on USDA's letter dated May 24, 1990.

GAO Comments

1. We see no problem with the practice that USDA has described, but it is not the practice that we found to be followed by reviewers at USDA headquarters, ASCS, and FmHA. Rather, the practice was to informally request and receive information, usually by phone, to supplement disclosure reports. For example, none of the reports or supporting files for the 46 public filers in our sample contained written requests for corrections even though substantive changes had been made to some reports. Although we found no problem with the reviewers making minor corrections to reports on the basis of contacts in person or by phone, USDA should ensure that its practices conform with the procedures contained in the 1978 act for obtaining additional information from employees.

2. USDA said it proposed to continue its current practice of requiring certain reviewing officials to review and sign their superiors' disclosure reports for reports that are to be reviewed by OGE. USDA agreed to change its practice where the superiors' reports are not reviewed by OGE. Although our recommendation affects a small number of employees, we continue to believe that the independence and objectivity of the reviews and conflict-of-interest determinations are impaired when employees review their supervisors' disclosure reports. We do not believe that OGE's subsequent reviews of those reports reduce the need for thorough and objective reviews within USDA.

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RESPONSE:

Beginning in December, 1990 we will require agencies to verify that employees have obtained approvals for any outside employment listed on their financial disclosure reports.

RECOMMENDATION: Ensure that employees responsible for reviewing disclosure reports do not review and sign their superiors' reports.

RESPONSE:

Your recommendation applies only to a small number of employees in the Department. In every case in which the affected employee's financial disclosure report is subject to further review at OGE, we propose to continue our current practice. We will adopt your recommendation in all other cases.

RECOMMENDATION: Require that management reports and audits provide information that is useful to top management in evaluating such things as whether required reports were filed and reviewed on time and whether the reviews provide an adequate basis for detecting and timely resolving conflicts of interests.

See comment 2.

RESPONSE:

We agree that management should receive more and better information on the financial disclosure program. We will implement your recommendation by December, 1991. Since OGE has increased its reporting requirements, we will consider tying our effort to those requirements.

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For these reasons, we do not propose to require filing by ASCS county committee members.

We will require reports from all FmHA employees with loan approval authority, including all county supervisors and assistant county supervisors. Since FmHA county committee members do not have loan approval authority, they will not be required to file confidential financial disclosure reports. By June, 1990 we will request OGE approval to obtain confidential financial disclosure reports from the county supervisors and assistant county supervisors, who are graded GS-12 and below. We will ask affected employees to file after we receive OGE approval.

Our actions increase the number of confidential financial disclosure reports filed within the Department from 7,275 to approximately 13,000.

We agree that we should have a more coherent way of identifying positions that should file. By May, 1991 we will require agencies to review all positions to identify additional confidential filers.

RECOMMENDATION: Develop and implement procedures, forms, and instructions for (1) requesting confidential disclosure reports from employees in covered positions within 30 days after they enter the positions; (2) obtaining sufficient information, including financial transactions, for making conflict of interest determinations; and (3) notifying all employees in covered positions of filing requirements in sufficient time for the employees to meet required reporting dates.

RESPONSE:

By April, 1992 confidential financial disclosure reports will be filed within 30 days of the incumbents entering the position. We agree that transaction reporting provides a more complete financial disclosure report; therefore, by October, 1990 we will request approval from OGE to amend our form for confidential financial reporting to ask for transaction information. By March, 1991 we will require agencies to notify employees of the filing requirement at least 30 days before the April 30 due date.

RECOMMENDATION: Develop and implement procedures for monitoring compliance with due dates for public and confidential disclosure reports and include requirements for recording receipt dates of reports, requesting and granting time extensions for filing, and following up with employees who have not filed reports by required dates.

RESPONSE:

We have begun recording receipt dates for public reports. By April, 1991 we will require agencies to date stamp confidential reports upon receipt. As you note, we are aware of the penalty for late filing that will become effective in 1991. By May, 1991 we will publish an internal procedure for documenting

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* Make timely and appropriate reports to management through methods established by December, 1991.

The Department will require agencies to:

* Review all Department positions to identify additional confidential filers by May, 1991.

* Review the staffing of their ethics programs to determine whether changes are necessary by December, 1990.

* Make timely and appropriate reports beginning December, 1991.

* Date stamp confidential forms upon receipt by April, 1991.

* Obtain "new entrant" confidential reports in 30 days by April, 1992.

* Give employees timely notice of annual filing requirement by March, 1991.

* Verify approval for outside employment reported on confidential financial disclosure reports by December, 1990.

* Document timely follow-up for confidential reports due by May, 1991

* Obtain FmHA county supervisor and assistant county supervisor confidential reports following OGE approval.

* Obtain ASCS county executive directors confidential reports in 1990.

Comments From the Department of Agriculture

Note: GAO comments supplementing those in the report text appear at the end of this appendix

DEPARTMENT OF AGRICULTURE
OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION
WASHINGTON, D.C. 20250

MAY 24 1990

Mr. Richard L. Fogel
Assistant Comptroller General
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

Thank you for the opportunity to review and comment on your draft report, Financial Disclosure: Agriculture's Systems Limited By Insufficient Top Management Support. This is an opportune time to receive the report. The President only recently appointed me to serve as Assistant Secretary for Administration. Our newly appointed Director of Personnel serves as the Designated Agency Ethics Official (DAEO).

The administrative deficiencies detected by your auditors have been corrected. Several of your findings and recommendations address desirable processing features which are not required by current law or regulation. We will review those recommendations and adopt them where feasible. Our comments on the specific findings and recommendations in your draft report are enclosed.

The Secretary, the DAEO, and I are aware that new requirements have been placed on the ethics program by President Bush's Executive Order of April 12, 1989, and the Ethics Reform Act of 1989. Those requirements will be met. The Secretary supports the initiatives of the President and the Congress to strengthen Government ethics and has directed me to establish a model ethics program in the Department.

Sincerely,

Adis M. Vila

Adis M. Vila
Assistant Secretary
for Administration

Enclosures

- Implement review guidance, such as that contained in the USDA Ethics Handbook, to ensure thorough reviews of public and confidential disclosure reports are made and all conflicts of interest indicated in reports are identified and fully resolved.
- Require the employees, rather than reviewing officials, to amend disclosure reports that do not contain required information.
- Require line officials who are responsible for the integrity of USDA programs and operations to assist in disclosure report reviews and conflict-of-interest determinations.
- Require the verification of outside employment approvals as part of the review of financial disclosure reports.
- Ensure that employees responsible for reviewing disclosure reports do not review and sign their superiors' reports.
- Require that management reports and audits provide information that is useful to top management in evaluating such things as whether required reports were filed and reviewed on time and whether the reviews provide an adequate basis for detecting and resolving conflicts of interest in a timely manner.

Agency Comments and Our Evaluation

In a May 24, 1990, letter, USDA commented on a draft of this report and agreed with almost all of our recommendations. The recently appointed Assistant Secretary for Administration said our draft report arrived at an opportune time and that the Secretary had directed that she establish a model ethics program in USDA.

Overall, we believe that the actions taken and planned, if properly implemented, should address the weaknesses in USDA's disclosure systems. USDA summarized three actions it had taken as of May 1990, including allocating one additional full-time ethics specialist position. It also provided a written plan identifying 21 specific actions it will take between June 1990 and December 1992 to correct identified weaknesses. USDA's plan includes actions to (1) determine additional resources necessary, (2) obtain additional confidential disclosure reports, (3) require all USDA employees filing confidential reports to disclose financial transactions, (4) obtain disclosure reports by due dates, (5) provide guidance for review of disclosure reports, (6) require outside employment to be verified, and (7) require management reports to be submitted on the financial disclosure. USDA said it had appointed a new director of personnel to serve as DAEO and that it would include in the director's performance plan a special element for ethics.

Conclusions and Recommendations

USDA has made certain improvements in its disclosure systems, such as developing procedures to more accurately identify those employees who must file public disclosure reports. As recommended by OGE, USDA has also required certain employees in positions at and below GS-12 to file confidential disclosure reports. Although there have been improvements, the systems still do not meet certain basic requirements of the Ethics Act of 1978 and regulations issued by OGE and OPM. The systems do not, in our opinion, reasonably assure that conflicts of interest will be detected and resolved.

Various procedural weaknesses existed in the systems, and few staff were assigned to administer the systems. We believe that these weaknesses, which have continued to exist in the systems for more than a decade, have persisted because USDA has not adequately discharged responsibilities or devoted sufficient staff to developing, implementing, and operating disclosure systems. To be specific, the systems did not ensure that

- all employees whose duties posed potential conflicts of interest filed confidential disclosure reports;
- confidential disclosure reports provided all the information on employees' outside interests held during any part of the reporting period that was required for making conflict-of-interest determinations;
- procedures were effective for obtaining public and confidential reports by required filing dates;
- a sufficient number of employees was assigned to review public and confidential reports within required periods;
- the reviews of public and confidential disclosure followed a systematic approach and were thorough enough to identify and resolve all conflicts of interest; and
- adequate review and oversight of the disclosure systems was provided by USDA top management to ensure that the requirements of the act, executive orders, and OGE regulations were met at USDA headquarters and the agencies.

These weaknesses reveal a more fundamental management problem—management has devoted insufficient attention and staff to establishing and maintaining disclosure systems that meet statutory and regulatory requirements. This weakness diminished the value of the systems in preventing and detecting conflicts of interest. The systems have not received the attention and resources needed, and they have not disclosed conflicts of interest that were found in earlier reviews by OGE and the USDA OIG and in our current review.

In 1984, on the basis of a review at USDA headquarters and other selected USDA agencies, the USDA OIG reported that (1) USDA guidelines and regulations were insufficient to provide a strong ethics framework for guiding USDA's agencies' programs and (2) due to insufficient audits and oversight by USDA headquarters, not all agencies had regulations tailored to their specific needs or adequate ethics training and awareness programs. The OIG reported that the lack of strong departmental involvement had resulted in inconsistencies among agencies in requiring employees whose duties may conflict with their outside interests to file confidential disclosure reports.

USDA responded positively to certain recommendations made in earlier audit reports. For example, it implemented procedures to identify in a timely manner those employees required to file public disclosure reports. However, USDA did not agree to implement certain recommendations, and had not implemented those recommendations that were agreed to, such as to provide ongoing evaluations of the ethics program and to require ASCS county executive directors to file confidential reports.

More recently, in reporting on USDA's overall management, we said that the highly decentralized organizational structure placed agency and Department-level managers, including the Secretary, in a weakened position to deal with policies and programs requiring the coordinated action of several agencies.[2] We said that overcoming organizational constraints and improving USDA management systems will require strong leadership from top management, and we made various recommendations to deal with organizational and management weaknesses. Regarding the ethics program, the history of reported weaknesses indicates that the leadership must come from the Secretary to ensure that weaknesses are corrected and effective disclosure systems are established.

One means that the Secretary could use to provide leadership to the USDA ethics program would be to designate the DAEO as accountable for establishing a program that meets requirements of the act, executive orders, and regulations and for communicating that accountability in performance contracts. The DAEO's performance elements and standards for 1989 made no mention of the ethics program. In addition, the DAEO's

[2]U.S. Department of Agriculture: Interim Report on Ways to Enhance Management (GAO/RCED-90-19, Oct. 26, 1989)

Periodic Audits Planned but Not Regularly Done

OGE regulations require that the DAEO of each executive agency periodically evaluate that agency's ethics program. OGE recommended in both 1982 and 1986 and the USDA-OIG recommended in 1984 that USDA establish an ongoing, systematic evaluation of its agencies' ethics programs. After the OIG's 1984 report, the DAEO advised OIG that SELRS would do audits at four agencies each year, which SELRS changed in 1986 to two a year, and that he was requiring the various USDA agencies to do self-audits of their ethics programs annually.

SELRS was responsible for doing the audits at the various USDA agencies. Because of limited resources, SELRS had not met its audit schedule. It had last completed audits at ASCS, FCIC, and FmHA in March 1982, October 1982, and March 1984, respectively. During the 3 calendar years 1987 to 1989, SELRS had done an audit at one agency, the Agricultural Research Service (ARS). Although the staff had not done audits since the ARS audit in July 1987, that last audit disclosed significant problems in the confidential disclosure system at that location. Among the problems cited in the February 4, 1988, report to the ARS Director of Personnel were that (1) some employees who were required to file had not been identified to file; (2) some other employees not required to file had filed; (3) certain employees had not been notified to file reports that were due April 30, 1987, until June 16, 1987—about 1-1/2 months after the reports were due; and (4) the review of reports due April 30, 1986, had not been completed at the time of the audit—about 14-1/2 months after the reports were due.

The SELRS reviewers also reported that confidential reports were not filed in a locked cabinet as required but rather were filed in an unlocked cabinet located in an office, permitting access to the reports by unauthorized personnel. Some reports were not signed by a reviewing official but were rubber-stamped with a signature indicating the reports had been reviewed and no conflicts of interest had been found. The reviewers questioned four reports that ARS officials had signed or stamped with signatures because the reports indicated potential conflicts of interest between ARS employees' duties and their reported financial interests. ARS had not provided any basis for establishing that the reported interest did not pose conflicts of interest, a problem that the reviewers said they had found in their last audit at ARS in March 1984.

In March 1990, because of other demands on their time, SELRS had no additional audits scheduled.

USDA agency heads. The chief said that he also signed reports filed annually by certain USDA officials in the Office of the Secretary, such as assistant and deputy assistant secretaries. At ASCS and FmHA, the chiefs of the employee relations branches, both GM/GS-14s, were responsible for signing confidential disclosure reports. At FCIC, the personnel officer (GM-14) was responsible for signing these reports.

Under these arrangements, the reviewers were required to review their supervisors' disclosure reports. For example, the alternate DAEO reviewed the DAEO's reports, which were also later to be reviewed by OGE; and the FCIC director of personnel reviewed the reports filed by his supervisor, the assistant manager for administration.

In 1986, OGE recommended that the alternate DAEO, not the deputy ethics official, sign public disclosure reports. The DAEO disagreed with OGE's recommendation and said the system was working well. He said that he and the alternate DAEO see the financial disclosure reports of all individuals nominated by the president and that the alternate DAEO sees anything else of significance.

We disagree with USDA's policy of requiring subordinate employees to review and sign financial disclosure reports filed by superior officials, including their immediate supervisors. Employees at these organizational levels may not perceive that they can exercise independent judgement in reviewing the reports and determining whether potential conflicts of interest exist.

Top USDA Officials Had Not Regularly Reviewed the Ethics Program

USDA top management had not regularly received internal management reports on the operation and the effectiveness of the ethics program. According to SELRS officials, the DAEO had received audit reports and the responses to those reports. SELRS officials said their communication with the DAEO and other top officials concerning financial disclosure was done informally and as needed. They said, for example, the DAEO was particularly involved in the review of the financial disclosure reports of individuals nominated by the president and in specific problems, such as potential conflict-of-interest situations.

Under USDA's regulations, the Assistant Secretary for Administration is responsible for assuring that all employees required to file reports are identified and all reports are filed in a timely manner. USDA had issued regulations requiring reports to be submitted to the Assistant Secretary

Reviewers Generally Did Not Meet 60 Day Review Requirement

Neither USDA headquarters nor the three agencies kept records on the timeliness with which the specialists completed their reviews in 1989. Thus, it could not be accurately determined whether public disclosure reports were reviewed within the times specified in the act and OGE regulations after the reports were received. The employee relations specialist at USDA headquarters who was responsible for reviewing 400 public disclosure reports in 1989 said that he reviewed about one-third of the reports in June 1989. He said that he completed the review of all but six of the remaining reports in October 1989, more than 4 months after the May 15 date when most reports were due.

According to filers' signature dates on reports, about three-fourths (34 of 46) of the public disclosure reports in our sample were not reviewed within 60 days of signature dates on the reports. We also determined from dates entered by filers that ASCS and FmHA generally completed the reviews of confidential disclosure reports in our sample within 2 months. However, this was not the case for the sample of reports filed at FCIC, as table 3.2 shows.

Table 3.2: Number of Public and Confidential Reports in Sample Reviewed Late

	Public	Confidential			
	SELRS	ASCS	FmHA	FCIC	Total
Number in sample	46	53	105	83	**241**[a]
Reports reviewed late					
Number	34	4	3	71	**78**
Percentage	74	8	3	86	**32**

[a]Of the 246 reports in our sample, 5 had not been filed as of January 1990 and thus could not be reviewed

SELRS officials said the presidential transition and various changes in ethics laws and regulations had contributed to the delay in reviewing public disclosure reports in 1989. However, 34 of the 46 employees in our sample filed reports in both 1989 and 1988, and SELRS did not review 8 of the 34 reports filed in 1988 within 60 days after the signature dates on those reports. The report reviewer at FCIC said she had several other personnel-related responsibilities, such as handling personnel grievances, facilitating an employee awards ceremony, and managing an employee health benefits awareness project, which prevented her from completing the reviews of confidential disclosure reports within the required time.

Although the FmHA report reviewer had generally met the 60-day requirement, most of the reports reviewed did not show that the filing

Top Management Had Not Devoted Sufficient Attention and Staff to Financial Disclosure Systems

Agency heads are required by executive order and OGE regulations to provide sufficient staff and take other required steps to effectively implement ethics programs. However, USDA had not (1) assigned sufficient staff to complete all reviews of disclosure reports within the times required, (2) provided for regular reviews of the ethics program, or (3) received internal management reports on a regular basis to know how the program was being administered.

Insufficient Staff Assigned to Adequately Administer Ethics Program

USDA had not completed all reviews of disclosure reports within the time period specified in the 1978 Ethics in Government Act and implementing regulations. Despite USDA's size in both number of employees (about 144,000 employees) and budget ($48.3 billion in outlays during fiscal year 1989), few staff were assigned to administer the ethics program, and all of those assigned worked part-time on the program. OGE regulations issued in January 1981 and Executive Order 12674, dated April 12, 1989, require agency heads to provide sufficient staff to effectively implement the act and OGE regulations.

Reviewers' Work Load, Experience, and Training Varied

Staff assigned to review almost all of the public disclosure reports filed at USDA headquarters and all of the confidential disclosure reports filed at ASCS, FmHA, and FCIC were employee relations managers and specialists in the personnel offices of USDA and agency headquarters. In addition to their report review responsibilities, these employees had other ethics program responsibilities, such as updating agency ethics policies and standards and providing ethics training and counseling. The specialists at USDA headquarters were also responsible for auditing the ethics program administered by 18 personnel offices that served 36 USDA agencies and offices. In addition to their ethics program duties, the employee relations specialists had various other personnel duties.

The number of reports assigned to the reviewers varied from fewer than 100 at FCIC to more than 500 at FmHA. The employee relations specialists estimated the percentage of their time spent on the ethics program in 1989, including time spent reviewing reports, ranged from 5 percent for a specialist at ASCS to 50 percent for a specialist at USDA headquarters in 1989. (See table 3.1.)

head, and the agency head should have determined whether remedial action, such as an agreement with the employee that he would not act on matters affecting his former employer, was appropriate.

Cases 4 Through 7

Four employees, all ASCS state executive directors, filed reports showing outside interests that we believe posed potential conflicts of interest. These employees held positions as the manager and/or president of farms that they owned. USDA disclosure files and official personnel files for the four employees did not include approvals of their outside employment. USDA employees who plan to have outside employment, which according to USDA officials includes presiding over and/or managing farms, are required by USDA regulations to obtain advance approval of the outside employment.

We believe that these state executive directors' duties could have posed potential conflicts of interest with their ownership and management of farms. ASCS state executive directors are appointed by the Secretary of Agriculture and are responsible for planning, implementing, and operating ASCS assistance programs within their respective states. Their responsibilities include participating in development of ASCS policies, plans, and programs and recommending program changes based on specific needs within the respective states. USDA report reviewers did not require actions by the four state executive directors to avoid potential conflicts between the duties and their reported farm interests.

Potential Conflicts Identified but Not Fully Resolved

As also shown in table 2.4, three public disclosure reports in our sample disclosed outside financial interests that USDA reviewers identified as potential conflicts of interest but did not fully resolve. The three reports were filed by individuals nominated by the president and confirmed by the Senate and appointed to positions at USDA headquarters.

Written statements had been furnished to OGE describing actions the nominees planned to take to resolve the potential conflicts of interest if appointed to the positions. However, according to USDA officials, the nominees did not furnish written evidence required by the act and OGE regulations that the agreed upon actions were actually taken by the three nominees. OGE regulations require that written evidence of such actions by nominees be provided to OGE and the Senate confirmation committee and that records of these actions be maintained with the individuals' financial disclosure reports at the agency.

Table 2.4: Number of Public and Confidential Reports in GAO Sample With Potential Conflicts of Interest

	Number of reports		
Potential conflicts of interest	Public	Confidential	Total
None	37	17	**54**
Not identified by USDA reviewers	6	1	**7**
Identified by USDA reviewers but not fully resolved	3	0	**3**
Total number of reports in sample[a]	46	18	**64**

[a]We reviewed 64 reports to provide an indication of the thoroughness of the reviews done by USDA headquarters and the three agencies Our sample of 246 confidential reports (see tables 2 2 and 3 2) was used to determine whether the reports were filed by the required date and reviewed within the prescribed time period

As indicated in table 2.4, six public reports and one confidential report disclosed that employees had outside financial interests that USDA reviewers did not identify as potential conflicts of interest. These seven cases are discussed below.

Cases 1 and 2

Two employees in the Office of the Secretary had, in our view, potential conflicts of interest that were not identified as such by USDA reviewers. One employee had program responsibility for small community and rural development and so in our opinion was in a position to influence decisions made concerning FmHA, FCIC, and Rural Electrification Administration programs. On the basis of our review of the employee's disclosure file and his official personnel file and our discussions with USDA officials, we discovered that the employee had not requested or obtained required approval of his outside employment as president of a farm corporation. He had reported the employment in his disclosure report. We believe this corporation could have potentially benefited from the programs under his responsibilities.

The other employee had program responsibility for research programs in food and agricultural sciences and owned a farm, which he rented. The employee could have had access to inside information that could have been used to specifically benefit his farm. The USDA reviewers did not question these financial interests and did not require the employees to take steps to avoid a potential conflict of interest.

Case 3

Another employee, an FCIC assistant manager who was required to file confidential reports, was appointed to his position in August 1986 and assigned responsibilities that included (1) managing a program of on-site reviews of insurance companies having reinsurance contracts with FCIC, (2) ensuring compliance with FCIC policies and procedures for crop loss kinds of likely errors, notifying filers of errors to be corrected, and documenting the reviews and corrections.[3]

Reviewers, Not Filing Employees, Changed Reports

The act and OGE regulations specify that if additional information is needed by public report reviewers, the employee responsible for filing the report is to be contacted to obtain the information. The practice generally followed by reviewing officials at USDA headquarters, ASCS, and FmHA was not to request or receive written information to supplement disclosure reports. This informal approach to changing public disclosure reports was confirmed in March 1989 by the Chief of SELRS. His notice to employees who were to file these reports said that contacts with the filers to obtain additional information would be conducted "as informally as possible, usually by phone." None of the reports and supporting files for the 46 public filers in our sample contained written requests for corrections.

We do not see any problem with reviewers making minor corrections to employees' reports, and this practice can obviously save time. However, we believe that the reviewers' practice of routinely making corrections, such as completing whole sections of reports on the basis of telephone calls, is contrary to the approach outlined in the act for the correction of public financial disclosure reports.

The act requires that employees be requested to provide, within a date specified by the agency, any additional information required. Filing employees are responsible for certifying that the reports they submit are complete and accurate. The falsification of the reports is a violation of provisions of the Ethics Act of 1978 for which the Attorney General may bring a civil suit, and fines up to $5,000 may be assessed. It is also a violation of the criminal statute 18 U.S.C. 1001, which prohibits making false statements to the federal government. USDA is improperly relieving the employees of their responsibility to submit complete reports and correct them as necessary. Also, if the employees are not required to correct the errors, we believe they will be more likely to repeat the errors in later reports.

[3]See Financial Disclosure: Legislative Branch Systems Improved But Can Be Further Strengthened (GAO/GGD-89-103, Sept 8, 1989)

Available in 1982, the Handbook is to assist in providing for uniform administration of the Department's disclosure report review process. The Handbook defines the responsibilities of various USDA officials for obtaining and reviewing public and confidential disclosure reports and provides detailed guidance for the reviews. The Director of OGE reviewed the document and commented to the USDA Director of Personnel in January 1982 that it was a "first-rate guide" to the ethics program. However, reviewers at USDA headquarters and the agencies we visited were either not aware of the Handbook or did not use it in their reviews. According to SELRS officials, the Handbook was handed out at training sessions as guidance, and its use in reviews was not mandatory. Audit reports prepared by SELRS on the agencies' disclosure reviews did not indicate that SELRS staff checked to see if the guidance was being used.

Although it may not be necessary to apply all the steps in all reviews, we believe that the Handbook provides useful review guidance. For example, the Handbook states that reviewers should determine if outside employment indicated on disclosure reports had been approved. We identified 16 disclosure reports (14 public and 2 confidential) of the 64 reports in our sample in which employees indicated they had outside employment of the nature requiring advance approval. In 14 of these 16 cases (13 public and 1 confidential), neither the disclosure files nor the official personnel files contained approvals of the outside employment. The files contained approvals of the employment disclosed in one public and one confidential report.

In 1986, OGE reported that USDA had not adequately provided for the review of outside employment and recommended that USDA update and document the approval of outside employment determinations during the annual review of disclosure reports. USDA did not address the OGE recommendation that USDA review outside employment requests and approvals as part of the review of disclosure reports. Rather, the DAEO agreed to include in letters notifying employees to file public disclosure reports each year that they have an obligation to get advance approval of outside employment. The DAEO said SELRS would request the agencies to do the same for employees who must file confidential reports. USDA headquarters' letter to employees required to file public disclosure reports by May 15, 1989, included this reminder. However, the agencies did not remind employees of this requirement in their notifications to file confidential reports due April 30, 1989.

The specialists responsible for the reviews at USDA headquarters and the agencies said they did not check outside employment records during

Although we used the signature dates on reports to indicate when employees filed, the dates may not have always been reliable. For example, one employee entered May 15, 1989, by his signature on a public disclosure report. The SELRS official responsible for receiving the reports said he remembered the report arriving in November 1989, more than 5 months after the due date. Because signature dates provided the only available indication of when employees filed reports, we used those dates to prepare table 2.2, which shows that some public and confidential reports due in 1989 were signed late.

Table 2.2: Number of Disclosure Reports in GAO Sample Signed by Employees After Report Due Dates

	Public	Confidential			
	SELRS	ASCS	FmHA	FCIC	Total
Number of reports in sample	46	55	105	86	**246**
Reports signed late					
Number	14	11	19	68	**98**
Percentage	30	20	18	79	**40**
Number of days late					
1 to 45	8	4	18	52	**74**
More than 45	6	7	1	16	**24**[a]

[a]As of January 1990, 19 reports had been filed, and 5 (2 at ASCS and 3 at FCIC) still had not been filed.

USDA did not require any reports to be prepared comparing the number of employees required to file reports with the number who did file. Although USDA regulations require the agencies to submit status reports on the review of confidential reports, the regulations do not require the agencies to show how many employees were required to file.

Even so, FmHA showed in a status report submitted to the Chief of SELRS that 558 employees were required to file confidential disclosure reports by April 30, 1989. FmHA reported that 238 of 558 employees (43 percent) had not filed required reports by May 31, 1989, but FmHA officials said that all 558 employees had filed by January 1990. Status reports submitted by ASCS and FCIC did not compare the number of reports required with the number filed in 1989.

Headquarters and Agencies Did Not Follow a Systematic Review Approach

The reviews of disclosure reports at USDA headquarters and the agencies were not always thorough. We believe this lack of thoroughness resulted primarily because the reviewers did not follow a systematic approach in identifying and resolving conflicts of interest.

reports were received and the employees' financial disclosure files contained no documentation showing they had either requested or been granted time extensions from USDA or OGE.

Follow-Up on Late Reports Not Emphasized

Although the act and OGE regulations require time deadlines for filing and review of public disclosure reports, USDA had no written procedures specifying what, when, and how follow-up steps were to be taken to obtain late public disclosure reports. For those employees who had not filed reports due May 15, SELRS officials said the practice was to begin contacting them around June 15 to remind them to file. We could not determine if and when late filers were actually contacted because SELRS did not maintain records of these contacts with any of the 14 employees in our sample who signed their reports after the required filing dates.

The informal practices just described do not permit USDA to effectively monitor filing of public disclosure reports in order to ensure that certain provisions of the act and OGE regulations are met. These provisions specify the dates that required reports must be submitted and actions to be taken, such as granting additional time for filing by USDA and OGE, when employees cannot meet filing deadlines. Under the USDA regulations, disciplinary action may be taken when employees fail to file disclosure reports by due dates. The act limits extensions for filing public reports to 90 days and provides that the Attorney General may under certain circumstances bring civil action against employees who knowingly and willfully fail to file.

The Reform Act of 1989 reemphasized timely filing of public disclosure reports. Beginning with reports due after January 1, 1991, a mandatory penalty of $200 is to be imposed against employees who file reports more than 30 days after due dates or the extension date approved by the agency. SELRS officials said this mandatory penalty would require that they improve their monitoring of employees' compliance with filing dates.

Confidential Disclosure Report Filing

OPM and USDA regulations specify the dates by which covered employees are to file confidential disclosure reports. ASCS, FmHA, and FCIC did not have written procedures for monitoring compliance with the due dates.

Employee relations specialists at the three agencies were responsible for determining that employees met due dates for confidential disclosure

USDA agencies. However, he said no specific plan or timetable had been established for improving the form and instructions. SELRS officials said they had not established a specific plan or timetable for obtaining complete and timely confidential disclosure reports because they were waiting for OGE to issue final regulations on confidential disclosure. Because USDA is not receiving the information needed for conflict-of-interest determinations, it needs to revise its procedures, forms, and instructions to require those employees in covered positions to report financial transactions for a full year. OGE's proposed regulations, though not yet in final form, include this requirement.[2]

Employees Not Given 30-Days' Notice to File

USDA had not required that notifications to file confidential disclosure reports be given to covered employees by a specific date each year. However, the USDA Ethics Handbook, which provides guidance to the agencies, says covered employees should be notified to file confidential disclosure reports at least 1 month before the April 30 due date. In 1989, ASCS, FmHA, and FCIC notified employees on April 3, April 10, and April 21, respectively. Thus, none of the agencies sent out notices 30 days in advance, and FCIC notified employees only 9 days before the April 30 due date. All but one of the eight FCIC employees in our sample submitted their reports after April 30, 1989.

Headquarters and Agencies Informally Monitored Compliance With Filing Dates

Neither USDA headquarters (SELRS) nor the three agencies (ASCS, FmHA, and FCIC) followed procedures to ensure that employees filed public and confidential disclosure reports by the dates required.

Public Disclosure Report Filing

SELRS informally monitored the filing of public disclosure reports, and the practices generally did not conform with criteria and guidance provided in the act and OGE regulations.

[2]According to OGE officials, several factors have contributed to the delay in issuing final regulations. The Department of Justice disagreed with OGE about whether the regulations should be mandatory for executive branch agencies. For more information on this, see our report Ethics: Office of Government Ethics' Policy Development Role, (GAO/GGD-89-3, Oct. 5, 1988). The Reform Act dealt with this issue by authorizing OGE to require employees to file confidential disclosure reports and to issue regulations prescribing the information to be reported. OGE officials said the Reform Act also imposed requirements for OGE to issue several new regulations, which further delayed the confidential disclosure regulations. The OGE acting director said that he expects the regulations to be issued by June 1991.

his previous employer. Details of this case are discussed later in this chapter.

Employees Not Requested to Disclose Certain Required Financial Information

ASCS, FmHA, and FCIC required covered employees to annually report financial interests held on the last day of the reporting period—March 31. They did not require the employees to disclose changes in interests that occured during the period from the date of employees' last report to March 31, if the interests were no longer held on March 31. Consequently, the agencies did not receive certain information—information we believe required by regulation—to make conflict of interest determinations.

OPM regulations require employees to annually report changes in, and additions to, the financial interests disclosed in the initial reports. In these subsequent reports, interests are to be reported as of a date prescribed by the agency and approved by OGE. If no changes or additions occur in the employees' financial interests, they are to file a report so stating. USDA regulations contain virtually identical requirements and specify that changes in the initial interests are to be reported as of March 31 and submitted no later than April 30 each year.

SELRS officials said they do not believe the current regulations require filers to report all transactions occurring during the year. We agree that the "as of" language stated in the OPM and USDA regulations is unclear as to whether it requires reporting of (1) all changes in financial interests occurring throughout the period from the date of an employee's last report to the current report or (2) only the annual change between the two report dates.

Nonetheless, USDA needs information on employees' financial transactions during the year to effectively monitor compliance with its regulations prohibiting certain outside financial interests. This need was recognized by USDA in its Ethics Handbook. The Handbook says the annual confidential disclosure report ". . . shall specify the employment and financial interests of the employee from the date of the last report through March 31 of the reporting year." We believe the USDA interpretation in its Handbook is appropriate.

Contrary to the Handbook interpretation, USDA did not require employees to report financial interests for the period since the date of their last reports. USDA Form AD-392 and the instructions for confidential disclosure did not instruct employees to report transactions such as

In responding to OGE's report, the DAEO said that all but 8 of the 167 cases had been resolved but did not indicate how they were resolved. FCIC's personnel officer told us that the remaining eight cases, all involving the employment of FCIC employees' relatives, had been resolved by limiting the employees' duties (four cases), redrawing the district lines (one case), reassignment (one case), and determinations that no conflicts of interest existed (two cases).

The FCIC personnel officer did not know why the OGE recommendation on the previously listed positions had not been implemented.

Other Agencies' Positions

In addition to the positions at ASCS, FmHA, and FCIC already discussed, since April 1982, OGE had recommended 14 positions for confidential disclosure. These 14 positions involved numerous employees at 6 agencies.[1] Of the 14 positions, 9 were below GS-13, and 5 were GS/GM-13 or GS/GM-14 positions. The agencies agreed with OGE on the need to require financial disclosure reports for employees in some of the positions, but not in others. For example, OGE recommended that employees in the following positions and agencies be required to file confidential disclosure reports:

- supervisory agricultural commodity graders (GS-11) in the Federal Grain Inspection Service,
- district rangers (GS-12) in the Forest Service, and
- certain supervisory economists (GM-14) in the Economic Research Service.

In April 1986, the DAEO informed OGE that the Federal Grain Inspection Service and the Forest Service agreed to require confidential disclosure reports from employees in the positions recommended by OGE. However, the personnel director at Economic Research Service and the DAEO did not agree that the reports were needed from the economists because they did not believe their duties posed potential conflicts of interest.

USDA headquarters staff have questioned the agencies' practice of designating, for the filing of confidential disclosure reports, all positions at or above GM-13 while designating few, if any, positions at or below GS-12. The staff have pointed out that this practice can result in some employees filing reports who should not and other employees not filing

[1]The six agencies were Food Safety and Inspection Service, Agricultural Marketing Service, Forest Service, Food and Nutrition Service, Federal Grain Inspection Service, and Economic Research Service.

world market prices for rice to determine the vulnerability of the positions to conflicts of interest and the need for disclosure reports. Officials in the personnel offices of USDA headquarters and ASCS did not believe that the employees should be required to file disclosure reports because the employees' duties of developing world market prices were collateral and assigned for a short period of time. The OIG did follow-up work in 1987 and again said that such employees should be required to file. As of January 1990, ASCS still had not required such employees to file.

We do not believe that the collateral and short-term nature of the above employees' duties negated the need for them to file financial disclosure reports. The employees were responsible for making decisions having economic impact on the private sector and thus met OGE criteria for filing disclosure reports.

FmHA Positions

OGE recommended to the DAEO in January 1986 that FmHA require confidential reports from approximately 2,000 county supervisors, who head FmHA's county offices. County supervisors are GS-10 through GS-12 federal employees responsible for approving farm and housing loans up to $500,000.

The DAEO responded to OGE that, if adopted, the OGE recommendation concerning county supervisors would add 2,000 reports to the personnel division's work load and that processing the reports would require an additional 2.3 staff years. The DAEO said that FmHA had only 14 conflict-of-interest/outside-employment cases investigated resulting in 6 disciplinary actions in calendar year 1985. FmHA had 13 cases resulting in 2 disciplinary actions in calendar year 1984. Because of concern about the cost of implementing the OGE recommendation and anticipated budget reductions, the DAEO did not believe the recommendation was cost effective.

We believe that the DAEO's comments demonstrate that USDA has not properly applied criteria prescribed in OPM regulations and used by OGE that employees in positions posing potential conflicts of interest should file confidential disclosure reports. Although the criteria were met for the county supervisors because of their loan-approval responsibilities, USDA did not require these employees to file the reports because of resource considerations.

OGE's proposed regulations on confidential disclosure circulated for comment in December 1986 do not make a distinction between positions above and below GS-13 in the criteria for financial disclosure. OGE officials have advised agencies that grade level should not be a factor in deciding who should file confidential disclosure reports. In its reports on USDA, OGE has applied criteria on employee responsibilities similar to those that are contained in the OPM regulations.

The various USDA agencies, including the three we reviewed, required employees in some or all positions at GS-13 through GS-15 to file confidential disclosure reports. However, few agencies required any employees in positions at and below GS-12 to file. According to reports furnished to USDA headquarters by the agencies, no employees at or below GS-12 were required to file confidential disclosure reports in 24 of 36 USDA components (agencies and offices) in 1989. The other 12 components required some but not all employees at or below GS-12 to file confidential disclosure reports. ASCS and FmHA did not require any employees at GS-12 or below to file in 1989, and FCIC required 3 at GS-12 or below to file.

Since 1982, OGE and the USDA's OIG have both recommended that agencies, including ASCS, FmHA, and FCIC, require employees in certain positions, generally at and below GS-12 and primarily located in county offices, to file confidential disclosure reports. USDA officials at headquarters and the agencies generally have disagreed with OGE and OIG on the need to require employees in these positions to file the reports. In essence, USDA's position has been that the risk of potential conflicts of interest associated with the positions in question is not significant enough to justify the additional staff necessary to obtain and review the disclosure reports.

Although USDA agreed to obtain reports from employees in some agencies as recommended by OGE, as of January 1990, USDA had not requested disclosure reports from any of the employees in ASCS, FmHA, or FCIC positions specified by OGE and/or OIG. We believe that these and other positions meet OGE and USDA criteria for requiring confidential disclosure reports and that the employees' duties make them vulnerable to conflicts of interest.

ASCS Positions

In an April 1982 report, OGE recommended to the DAEO that ASCS county committee members file confidential disclosure reports. A county committee is composed of three members who are elected principally by

USDA Had Not Ensured That All Reports Were Filed as Required and Thoroughly Reviewed

USDA headquarters and the three agencies we reviewed (ASCS, FmHA, and FCIC) did not have procedures to ensure that all disclosure reports were filed and reviewed according to the act and OGE regulations. Although the headquarters staff had recently improved certain practices, other practices that they and the three agencies followed did not ensure that all required reports were filed when due, that the reports were thoroughly reviewed, and that all potential conflicts of interest were fully resolved.

According to USDA, about 7,800, or about 6 percent, of its total employees filed either public or confidential disclosure reports in 1989, and about 93 percent of these reports were confidential. The percentage of ASCS, FmHA, and FCIC employees who filed confidential disclosure reports ranged from less than 2 percent to about 10 percent. (See table 2.1.)

Table 2.1: Number of Employees Filing Public and Confidential Disclosure Reports

	USDA-wide		ASCS		FmHA		FCIC	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total employees[a]	143,534	100	24,891	100	15,487	100	884	100
Type of report filed								
Public	564	0 4	55	0.2	49	0.3	2	0.2
Confidential	7,275	5.1	333	1.3	558	3.6	83	9.4
Total reports	**7,839**	**5.5**	**388**	**1.6**	**607**	**3.9**	**85**	**9.6**

[a]Includes full-time and part-time federal employees and part-time, nonfederal employees, such as county committee members in ASCS county offices. In addition to the above employees, there were 51 USDA advisory committees in existence in 1989. USDA officials said no advisory committee members were required to file disclosure reports because they were not appointed as regular or special government employees. These officials said that USDA had 6 expert/consultants hired at the GS-15 salary level in 1989, and we determined that all of them filed disclosure reports

Headquarters Had Improved Procedures for Identifying Public Report Filers

The 1978 act and OGE regulations provide specific criteria and requirements for identifying who must file public disclosure reports and what must be included in them. The practices followed by the employee relations staff at USDA headquarters resulted in identifying employees who were required to file public disclosure reports and furnishing them with forms (SF-278) and instructions developed by OGE.

SELRS had improved the practices for identifying employees who are required to file public disclosure reports. OGE reported in 1986 that USDA had not identified these employees in an accurate and timely manner. Subsequently, SELRS began using a list generated each year from USDA's obtained from ASCS excluded certain employees who actually filed reports in 1989. Thus, the lists provided to us and consequently used in our sample were not representative of the filing universe, so we could not use the sample to generalize about the universe.

Early in our review, we also learned that USDA's disclosure systems had weaknesses that would prevent us from answering some basic questions about the systems, such as whether USDA employees filed reports on time and whether the reports as filed were complete. USDA had not implemented a requirement contained in the 1978 act that public reports be dated when received and did not maintain records on time extensions that were requested and granted. Therefore, we could not fully evaluate the timeliness of filing and review. Also, the USDA report reviewers, rather than the filing employees, made changes to the reports. Therefore, we could not fully evaluate the accuracy and completeness of the reports filed by USDA employees because the reviewers had changed reports and had not always documented the reasons.

Because of these difficulties and the resulting impact on our reporting objectives, we agreed with the Subcommittee to reduce the scope of our review by limiting the number of USDA agencies and the number of reports to be reviewed. We also agreed that we would focus our attention on determining the extent to which USDA had implemented required financial disclosure systems and that we would use the smaller sample of 65 reports primarily to test the implementation of the systems.

In reviewing the 65 reports, we used a standardized set of questions to determine

- whether employees who filed reports after the original due dates were granted time extensions and whether follow-up actions were taken to obtain late reports;
- whether reports were reviewed within prescribed time periods (60 days for public and 2 months for confidential) after receipt; and
- whether report reviewers identified and resolved errors, such as the omission of required information, and conflicts of interest before the reports were approved and within the time prescribed in the act and OGE regulations.

We selected a larger number of confidential disclosure reports to provide more complete information on the adequacy of the three selected agencies' procedures for obtaining and reviewing reports on time. We selected for review the confidential disclosure reports that were to be

The scope of our review encompassed both public and confidential disclosure systems. As agreed with the Subcommittee, we limited our review to USDA headquarters and three agencies selected by the Subcommittee—ASCS, FmHA, and FCIC. From June 1989 through January 1990, we reviewed the systems in operation at USDA headquarters and these three agencies.

We compared the design and operation of USDA's disclosure systems with various legal and regulatory requirements for agency disclosure systems contained in the Ethics in Government Act of 1978, as amended; Executive Orders 11222 dated May 8, 1965, 12565 dated September 25, 1986, and 12674 dated April 12, 1989; OGE regulations on public disclosure (5 C.F.R. 2634) and ethics officials' responsibilities (5 C.F.R. 2638); and OPM regulations on confidential disclosure (5 C.F.R. 735).

We did not evaluate every aspect of USDA's ethics program. Rather, we concentrated on learning how USDA headquarters and the selected components had satisfied financial disclosure requirements and resolved conflicts of interest through its disclosure systems.

We reviewed USDA's regulation (7 C.F.R. 0.735) on financial disclosure and various other regulations, directives, and instructions on financial disclosure in use at USDA and the three agencies at the time of our review. We interviewed USDA's DAEO; his alternate DAEO and his deputies; the Department Counselor; and at each of the agencies, other ethics officials who were responsible for administering the public and confidential disclosure systems. We also interviewed USDA OIG and OGE officials concerning USDA's systems and reviewed reports and related follow-up documents on reviews that USDA OIG and OGE had made of the USDA's disclosure systems since 1982.

We did not independently review USDA positions to determine whether all positions that met criteria contained in the 1978 act and implementing regulations had been designated for financial disclosure. Rather, we reviewed the procedures and criteria that USDA and the three agencies used for designating positions for disclosure. To determine if USDA had properly applied criteria in determining who should file, we relied primarily on the results of work done by the USDA-OIG and OGE on USDA's designation of positions.

We obtained information, mainly through interviews with agency personnel, on the organizational placement, work load, training, and experience of staff who were primarily responsible for reviewing disclosure

- County executive directors may not participate in decisions affecting the approval of cost-sharing under the ASCS agricultural conservation program on farms they or their family members own.[4]
- County committee members may not participate in committee approvals of an adjustment in a tobacco allotment or the transfer and lease of a tobacco allotment for their own farms.[5]

FmHA's Instruction 2045-BB, Employee Responsibilities and Conduct, provides that employees may not purchase FmHA-financed property in government inventory, FmHA-mortgaged property on which foreclosure action has been initiated or taken by the government, or FmHA-financed property being sold after foreclosure. They may not sell personal real estate to an FmHA applicant or borrower or act as an agent for a close relative doing so. FmHA employees and members of their families are not eligible for FmHA loans except, with certain restrictions, rural housing loans.

FCIC Employee Responsibilities and Conduct Procedure also prohibits certain activities by its employees. For example, FCIC employees may not sell or service crop insurance policies or work for private contractors selling or servicing FCIC-insured crop insurance policies. Exceptions to this prohibition may be granted when it had been determined that no actual or potential conflicts of interest exist and certain other conditions are met.

USDA Ethics Officials

The Secretary of Agriculture named the Director of Personnel as USDA's DAEO—the official who has overall responsibility for the USDA ethics program. The Chief of the Security, Employee, and Labor Relations Staff (SELRS) in the Office of Personnel was designated as the alternate DAEO. The DAEO and alternate DAEO serving at the time of our review were designated as such in 1982 and 1984, respectively. The Chief of SELRS and three employee relations personnel are primarily responsible for reviewing and approving public disclosure reports and for monitoring the confidential disclosure systems administered by the 18 personnel offices serving 39 USDA offices and agencies.

[4] Under this program, ASCS shares costs with farmers and ranchers who agree to carry out certain conservation and environmental protection practices that will result in long-term public benefits. County committees work with local groups to identify such practices. Farmers and ranchers file requests for cost-sharing with the county committees.

[5] Under ASCS's production adjustment programs, ASCS establishes marketing quotas for most kinds of tobacco and for peanuts when supply prospects exceed specified levels. Properly established quotas become mandatory for all producers.

- a list of circumstances or situations that have resulted or may result in conflicts of interest is maintained and published for the benefit of all employees; and
- agency standards of conduct are updated when internal or external audits indicate changes are necessary.

In April 1989, President Bush issued Executive Order 12674 emphasizing agency heads' ethics program responsibilities. Among other things, the order assigned specific responsibilities to agencies for providing mandatory annual briefings on ethics and for ensuring that DAEOs have the rank, authority, staffing, and resources necessary for effective agency ethics programs.

USDA's Mission, Size, and Ethics Program Structure

The potential for conflicts of interest in any organization is related to such factors as its mission, size, and relationships to nonfederal entities. USDA is one of the largest organizations in the federal government. It provides billions of dollars annually to support farm incomes; boost production and exports; ensure a safe food supply; manage the nation's forests, water, and land conservation efforts; and improve nutrition.

A complex system of farm support programs exists to accomplish the above objectives. These programs and other USDA programs accounted for a dramatic growth in USDA outlays in recent years. Farm assistance spending alone by ASCS, FmHA, and FCIC increased from $2.4 billion in fiscal year 1979 to $10.3 billion in fiscal year 1989. This spending represents about 21 percent of USDA's fiscal year 1989 outlays, which totaled $48.3 billion.

Local USDA offices are located in almost every county and in many cities in the United States and are responsible for working directly with farmers and ranchers to administer various agricultural laws and programs. The network of USDA employees is viewed as providing a direct link between the Department and farmers and ranchers.

ASCS administers farm commodity, conservation, environmental protection, and emergency programs. State and county committees, whose members are actively engaged in farming, and other county employees administer the ASCS programs locally. FmHA provides credit assistance, on the basis of county committees' eligibility determinations for certain assistance, through various loan and grant programs to rural Americans. The purpose of this assistance is to encourage and support family farm ownership and operation, provide adequate housing, install needed and place for submission of the reports; (2) assuring that agencies designate positions for financial disclosure; and (3) assuring that agencies properly administer their implementing regulations. The order also stated that confidential disclosure reports filed under Executive Order 11222, OPM regulation (5 C.F.R. 735), and individual agency regulations would continue to be held in confidence.

The OPM regulation requires agencies to issue regulations, after OPM has approved them, on employee responsibilities and conduct. The regulations issued by the various agencies are to establish systems for review of confidential disclosure reports and resolution of potential conflicts of interest. Like the public reports, confidential reports must include information on financial interests of certain relatives.

In December 1986, OGE proposed regulations in the Federal Register to revise regulations issued by OPM in September 1968 on confidential disclosure. As of May 1990, OGE had not issued the regulations in final form. Meanwhile, executive branch agencies, including USDA, have continued to cite Executive Order 11222 and the September 1968 OPM regulations as authority for requiring confidential disclosure reports.

Recent Ethics Legislation

The Ethics Reform Act of 1989 (Public Law 101-194, Nov. 30, 1989) amended certain provisions of the 1978 act on financial disclosure in the three branches of government.[2] Financial disclosure provisions of the Reform Act took effect on January 1, 1990, and are applicable to reports filed after January 1, 1991.

The Office of Government Ethics Reauthorization Act of 1988 (Public Law 100-598, Nov. 3, 1988) amended the 1978 act and assigned OGE specific responsibilities for ensuring that (1) executive agencies have established written procedures for obtaining, reviewing, and evaluating disclosure reports, and, if applicable, making them publicly available and (2) the procedures conform with relevant laws, rules, regulations, and executive orders. OGE published interim regulations, effective February 20, 1990, outlining procedures OGE will use for issuing notices of deficiency and corrective orders to agency heads and issuing reports of

[2]The Ethics Act of 1978 prescribed requirements for financial disclosure in separate titles for the legislative, executive, and judicial branches. The Reform Act of 1989 revised certain of these requirements for all three branches and combined the requirements in a single title.

Introduction

Officers and employees in certain positions in the federal government are required to report their financial interests to demonstrate that they are carrying out their duties without compromising the public trust. These reports provide information essential to the administration of conflict-of-interest statutes, ethics regulations, and agency standards of conduct, including any specific statutory and program restrictions on employees' outside financial interests and activities. The information is to be reviewed and any conflicts between employees' reported interests and their official duties are to be resolved.

At the request of the Chairman of the Senate Subcommittee on Nutrition and Investigations, Committee on Agriculture, Nutrition, and Forestry, we determined whether the Department of Agriculture's (USDA) financial disclosure systems reasonably assure that conflicts of interest will be detected and resolved. As agreed with the Subcommittee, we reviewed those systems at USDA headquarters, the Agricultural Stabilization and Conservation Service (ASCS), the Farmers Home Administration (FmHA), and the Federal Crop Insurance Corporation (FCIC).

Financial Disclosure Requirements

Financial disclosure reports filed by officers and employees are either public or confidential. Although the same basic steps are required in obtaining and reviewing the two types of reports, requirements differ as to who must file, when the reports are due, and what must be reported.

Public Disclosure

Title II of the Ethics in Government Act of 1978, as amended, prescribes requirements for public disclosure in the executive branch. Individuals who must file public disclosure reports include (1) those nominated by the president; (2) members of the Senior Executive Service; and (3) employees classified or paid at General Schedule (GS) 16 or above, including special government employees who work in the federal government more than 60 days in a calendar year.

Individuals nominated by the president must file within 5 days of transmittal of the nomination to the Senate for confirmation. Other persons required to file public reports must do so within 30 days after assuming the position or leaving office unless the person has fulfilled filing obligations in a prior government position. Incumbents (those who worked more than 60 days in a prior calendar year) must file on or before May 15. Created by title IV of the 1978 act, the Office of Government Ethics

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Some Essential Information Not Requested

USDA employees filing confidential reports were not required to disclose certain information, such as purchases and sales of income-producing assets during the year, that was necessary for determining whether conflicts of interest existed. USDA required these employees to report financial interests held on March 31 of each year and did not require financial transactions during the year to be reported. (See pp. 28 and 29.)

Filing Timeliness Not Effectively Monitored

USDA headquarters and the agencies had not enforced requirements that reports be filed when due. For 14 of 46 public reports and 98 of 246 confidential reports in GAO's sample, employees signed their reports after the due dates. (See p. 34.)

Report Reviews and Conflict-Of-Interest Determinations Not Timely or Thorough

USDA had not assigned sufficient staff to review public and confidential disclosure reports within the 60 days required. For example, by the end of September 1989, more than 4 months after the May 15 due date for public reports, the employee relations specialist at USDA headquarters still had not completed reviews of about two-thirds of the 400 public reports assigned to him. Specialists at two of the three agencies generally completed reviews within 60 days during 1989. The specialist at the third agency (Federal Crop Insurance Corporation), who was hired in June 1989 and had various duties in addition to reviewing disclosure reports, reviewed 12 of the 83 reports filed in 1989 within the required 60 days. (See pp. 44-47.)

GAO reviewed a random sample of 46 public reports filed in 1989 by employees in the Office of the Secretary and in the three selected agencies and 19 confidential reports filed by GS-15 employees in the three agencies. All but 1 of 65 reports had been approved by USDA when GAO determined that (1) not all of them were complete and (2) not all conflicts of interest were identified and fully resolved. Of these 64, 11 reports (all public) did not disclose all required information on reported interests, such as the nature and location of assets.

In GAO's view, this information was necessary for determining whether conflicts of interest existed. The information in 4 of these 11 reports and in 6 other reports (3 public and 3 confidential) indicated conflict-of-interest situations that USDA did not identify as such or did not fully resolve. For example, seven reports (six public and one confidential) disclosed interests not questioned by the reviewers that GAO believes posed potential or apparent conflicts of interest because the employees had duties that could allow them to influence their outside interests. For

Executive Summary

Purpose

Every American has the right to expect public servants to abide by high ethical standards and not use their offices for personal gain. One of the safeguards the government uses to protect that right is requiring certain employees to disclose outside financial interests and resolve any conflicts between those interests and their official duties.

This report, requested by the Chairman of the Senate Subcommittee on Nutrition and Investigations, Committee on Agriculture, Nutrition, and Forestry, evaluates the Department of Agriculture's (USDA) systems for obtaining and reviewing financial disclosure reports. GAO's objective was to determine whether those systems reasonably assure that conflicts of interest will be detected and resolved. (See p. 15.)

Background

Title II of the Ethics in Government Act of 1978, as amended, and implementing regulations require certain employees to report information on their financial interests outside of their federal positions. The reports must be submitted and reviewed within specific time frames given in the act and regulations. When the reviews disclose conflicts of interest, they are to be resolved by appropriate administrative actions and sanctions, such as having the employee dispose of the outside interest.

The Secretary of Agriculture has named the Director of Personnel, who reports to the Assistant Secretary for Administration, as USDA's key ethics official. Disclosure reports filed by individuals nominated or appointed by the president, and certain other high-level employees and made available to the public are reviewed by the Director of Personnel and employee relations specialists at USDA headquarters. Other disclosure reports, generally filed by employees at and below the GS-15 level and treated as confidential, are reviewed primarily by personnel directors and employee relations specialists within their respective USDA offices and agencies.

GAO reviewed the disclosure systems at USDA headquarters and three component agencies—the Agricultural Stabilization and Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation. Together, these three agencies accounted for federal outlays in fiscal year 1989 of $10.3 billion, about 21 percent of USDA's outlays that year. (See p. 12.)

Results in Brief

USDA's disclosure systems do not reasonably assure that conflicts of interest will be detected and resolved. USDA has taken steps to improve