Department of Energy
Washington, DC 20585

November 24, 2004

MEMORANDUM FOR DISTRIBUTION

FROM: ASSISTANT GENERAL COUNSEL FOR GENERAL LAW

SUBJECT: Field Counsel Duties and Responsibilities

This memorandum updates the previous memorandum on this subject which was issued on August 27, 1996. This memorandum summarizes the specific functions of the ethics program and the corresponding office responsible for handling these functions. The Office of the Assistant General Counsel for General Law (GC-77) is more than happy to assist field counsel in any way we can.

Below is a discussion of duties and responsibilities relating to common standards of conduct issues.

1. Public Financial Disclosure Reports (SF 278)

Field counsel are responsible for distributing SF 278's to termination filers in the field, including those employees duty stationed to the field office but officially assigned to another office.

All filers should submit SF 278's to GC-77 for review. Due to chemical treatment of incoming U.S. mail at Headquarters, we request that field counsel collect annual reports and send them to GC-77 in batches by overnight mail. Filers will be sent reminder notices and written confirmation of receipt of SF 278's by GC-77, as appropriate.

You are asked to encourage those who file SF 278's to follow the instructions carefully. Following review and certification by the DAEO or her designee, you will be sent copies of any advisory memoranda.

GC-77 will review these reports, provide advice regarding 18 U.S.C. § 208 and outside activities, and concur on all waivers of 18 U.S.C. § 208.[1] Copies of all executed 208 waivers must be provided by field counsel to GC-77. Field counsel will be responsible for all necessary authorizations under 5 C.F.R. § 2635.502 for personnel duty stationed in the field.

[1] Waivers of 18 U.S.C. § 208 for personnel duty stationed in the field will be drafted by field counsel as necessary. GC-77 will concur in the waivers and will handle the consultation with OGE.

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2. Confidential Financial Disclosure Reports (OGE Form 450 and OGE Optional Form 450A)

Field counsel are responsible for reviewing and issuing advice relating to all OGE 450's and OGE Optional Form 450A for field office employees[2], including necessary waivers of 18 U.S.C. § 208[3] and authorizations under 5 C.F.R. § 2635.502. Copies of all executed 208 waivers must be provided to GC-77. All orders to divest must be approved by me. Although the regulations state that 5 C.F.R. § 2635.502 authorizations do not have to be in writing, field counsel are strongly advised that all such authorizations be reduced to writing.

3. Training

Field counsel are responsible for training all Department employees in the field, including those employees duty stationed to the field office but officially assigned to another office. For example, personnel detailed to a field office should receive their ethics training at that field office. Likewise, field personnel detailed to Department Headquarters should receive ethics training at Headquarters. At their option, field counsel may elect to use the training materials developed by Department Headquarters or create a different program consistent with 5 C.F.R. 2638, Subpart G. A copy of all training materials used must be submitted to GC-77. Whatever method is selected, the period of training must adhere to the tracking system data entry deadlines described in #4 below.

4. Tracking System for Financial Disclosure Report Filing/Review and Annual Ethics Training [4]

GC-77 has established a centralized database to track the receipt/review of financial disclosure reports and employee completion of the annual ethics training requirements. GC-77 is responsible for all data entry related to the filing and review of SF 278's. Field counsels are responsible for all data entry of information required by the GC-77 tracking system for field employees, including Headquarters employees duty stationed in the field who are required to complete confidential financial disclosure reports. Specifically, all offices, GC-77 and field offices, will data enter dates of receipt and review of all financial disclosure reports received by each office, including OGE Form 450A. Further,

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[2] If the lead legal counsel files OGE Form 450, GC-77 is responsible for review. GC-77 is also responsible for the review of all reports filed by personnel employed by the Office of the Inspector General, regardless of the employee's duty station.

[3] Waivers of 18 U.S.C. § 208 will be drafted by field counsel as necessary, transmitted to GC-77 for concurrence and consultation with OGE.

[4] This section does not apply to the Bonneville Power Administration (BPA). BPA is responsible for providing numbers on training and 450's filed in the previous year to GC-77 by January 10th of each year.

each office will data enter the completion of ethics training for all employees required to take the training duty stationed to their office. GC-77 will establish a schedule for completion of data entry and send regular reminder notices to all employees who fail to complete the requirements.

5. General Conflict-of-Interest Advice

All other conflict-of-interest advice other than that described under #1 above, applicable to field employees, including those duty stationed to the field office but officially assigned to another office, should be given by field counsel. Approval of the outside activities of all non-career members of the Senior Executive Service must receive concurrence of this office.

As stated above, our office will give advice resulting from the review of SF 278's. Should you require assistance, our office will review, discuss, and/or concur in any standards-of-conduct advice, including 5 C.F.R. § 2635.502 authorizations.

Following is a table of general conflict-of-interest issues and the corresponding office responsible for handling these issues when they involve field personnel:

ISSUE	**FIELD COUNSEL**	**GC-77**
Conflicting Financial Interests (18 U.S.C. 208) Advice	All, except SF 278 filers[5]	SF 278 Filers only
18 U.S.C. 208 waiver, concurrence, OGE consultation	Preparation of draft waivers	Concurrence and OGE consultation
Gifts	X	
Outside employment/activities	X	see footnote[6]
Seeking employment and post-employment	X	

[5] GC-77 will provide advice to SF 278 filers who report conflicting financial interests on their new entrant and annual reports. All other advice required will be given by field counsel.

[6] GC-77 will provide advice to SF 278 filers who report such activities on their reports. GC-77 must concur on all outside activity approvals for non-career SES.

Travel	X	
Impartiality (5 C.F.R. 2635.502)	X	
Misuse of position	X	
Honoraria	X	
All divestitures		X
Procurement Integrity	X	
Political activity restrictions	X	

If you have any questions, please contact our office at (202) 586-1522. We are happy to discuss any issues that arise concerning any field employee.

for Susan F. Beard