

2414
120997

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
Expected at 9:30 a.m.
Tuesday, April 5, 1983

STATEMENT OF
CLIFFORD I. GOULD, DIRECTOR
FEDERAL PERSONNEL AND COMPENSATION DIVISION
BEFORE THE
SUBCOMMITTEE ON HUMAN RESOURCES
HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE
ON
REAUTHORIZATION OF THE OFFICE
OF GOVERNMENT ETHICS

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss a 5-year extension of authorization for the Office of Government Ethics (OGE) as called for in H.R. 1650.

The General Accounting Office (GAO) was an advocate for the establishment of an office of Government ethics, long before the Ethics Act of 1978 was passed. We believed in the need for such an office because we were aware of the significant problems agencies were having with their financial disclosure systems. We had identified these problems in a series of reviews begun in 1974. And, based on these reviews, we concluded that weaknesses in agency disclosure systems stemmed primarily from the



120997

025084

low priority agencies gave to standards of conduct and financial disclosure systems. Many employees were unaware of the requirements and, because they were unaware, they often placed themselves in possible conflict-of-interest situations. As a result, both their credibility and that of their agency were open to question.

In February 1977, 1/ we recommended that the President establish an executive branch office of ethics, either as an independent office or as part of another agency. At the same time, we recommended that it be given adequate resources for addressing problems of enforcement and compliance. We suggested that the office be responsible for the following actions:

- Issuing clear standards for ethical conduct and equally clear regulations for financial disclosure.
- Rendering opinions on matters of ethical conduct and disseminating such advisory opinions to all agencies.
- Developing financial disclosure forms to obtain information on relevant employee interests.
- Periodically reviewing the effectiveness of agency financial disclosure systems.
- Providing a continuing program of information and education for Federal officers and employees.

1/"Action Needed to Make the Executive Branch Financial Disclosure System Effective" (FPCD-77-23, Feb. 28, 1977).

--Implementing and managing a financial disclosure system for Presidential appointees.

In an August 1977 report 2/ concerning financial disclosure by high-level executive officials and an August 1978 report 3/ concerning post-Federal employment conflicts of interest, we reiterated our belief in the need for a central ethics office in the executive branch and endorsed the concept described in then-pending legislation (S. 555 and H.R. 13676).

The Ethics in Government Act of 1978 established the OGE within the Office of Personnel Management (OPM). The OGE objective was to provide overall direction of conflict-of-interest policies for the executive branch. The Director of the office was given several specific responsibilities:

- To develop and recommend rules and regulations on conflicts of interest and ethics in the executive branch.
- To monitor and review compliance with public disclosure and other statutory requirements and with internal review requirements.
- To consult with agency ethics officials on individual conflict-of-interest cases and to promote the understanding of ethical standards in executive agencies.

2/"Financial Disclosure for High-Level Executive Officials: The Current System and the New Commitment" (FPCD-77-59, Aug. 1, 1977).

3/"What Rules Should Apply to Post-Federal Employment and How Should They Be Enforced" (FPCD-78-38, Aug. 28, 1978).

--To determine whether financial disclosure reports filed with OGE reveal possible violations of conflict-of-interest laws and regulations and, if they do, to recommend corrective action.

--To provide formal advisory opinions and to assist the Attorney General either in evaluating the effectiveness of the conflict-of-interest laws or in recommending appropriate amendments.

The responsibilities given to OGE generally agreed with those that we had recommended in our earlier reports.

In a recent report, 4/ we discussed OGE's activities in carrying out its responsibilities. We found that in its relationship with executive branch agencies, OGE is filling an affirmative leadership role that we believed was missing prior to passage of the Ethics Act.

OGE, through OPM, has issued regulations setting forth the elements necessary for an agency ethics program, the responsibilities of an agency head to that program, and the duties of a designated agency ethics official.

In line with its monitoring and compliance review functions, OGE reviews agencies' ethics programs. These reviews cover ethics programs in organizational subunits; public and

4/"Information on Selected Aspects of the Ethics in Government Act of 1978" (GAO/FPCD-83-22, Feb. 23, 1983).

confidential financial disclosure systems; regulations for standards of conduct; post-Federal employment situations; and agencies' ethics education, training, and counseling programs. OGE's staff also conducts training programs for agency ethics officials. During fiscal year 1983, OGE will expand its training efforts by combining regional compliance reviews with ethics training for field office personnel having ethics-related duties. Based on our prior work on agency financial disclosure systems and other parts of agency ethics programs, we view these oversight and training activities as a very important part of OGE's responsibilities.

OGE's legal staff responds to legal issues raised by agencies, Federal employees, nominees, and the public. OGE also works closely with the Department of Justice on conflict-of-interest matters. For example, the Director of OGE consults with the Justice Department's Criminal Division before issuing an advisory opinion on an actual or apparent violation of any conflict-of-interest law. Through its responses, OGE is providing guidance on actions necessary to avoid conflict of interest or ethical problems.

During the last Presidential transition, OGE's staff assisted the White House by performing early reviews of financial information on prospective appointees. This effort prevented Ethics Act requirements from becoming a bottleneck during the Senate confirmation and appointment process.

In your letter inviting GAO to testify today, you asked whether OGE's staff is adequate and able to perform timely reviews of disclosure reports of nominees and others, particularly in transition years, and whether OGE should be required to schedule and help conduct ethics and conflict-of-interest briefings for all nominees to insure familiarity with the requirements of the law.

During our recent review of selected aspects of the Ethics in Government Act, OGE officials told us that during the transition from the Carter to the Reagan Administration, OGE spent nearly all of its time, for approximately 3 months, in preparing for the transition, and it then spent a full year in reviewing the nominees' disclosure reports. While there was adequate staff to review the reports, concentration on this activity resulted in a cessation of other important OGE activities, such as reviewing agency ethics systems and conducting training sessions for executive branch employees. We are not aware that reviewing nominees' statements during nontransition years causes the same amount of interruption.

In answer to the second part of your question, we do not believe OGE should be required to schedule and help conduct briefings for all nominees to assure familiarity with requirements of the law. We believe these briefings should be conducted by officials from the agency to which each individual is

nominated. We feel that officials from the hiring agency will have much greater familiarity with potential conflict-of-interest problems and with any special agency requirements. For OGE to brief nominees would, in our opinion, create the need for additional staff. OGE, however, could assist agencies in designing the briefings and, as part of its monitoring efforts, could insure agencies conduct briefings.

You also asked several questions concerning the issue of "independence" of OGE. Specifically, you asked whether the Director of OGE should have a fixed term of appointment, whether a specific line item in OPM's budget should be provided for OGE, and whether the Director of OGE should have authority to issue regulations in his own name rather than through OPM. As stated earlier, when GAO initially recommended the establishment of an executive branch office of Government ethics, our preference was an independent office. Though we know of no problems that have actually occurred as a result of the current organization, the changes suggested by your questions would certainly enhance OGE's independence. We would support any appropriate steps designed to accomplish that end.

Further, you asked whether the Ethics Act, as interpreted and applied by OGE, has discouraged highly qualified nominees or others from accepting positions in Government. We addressed that question in our February 1983 report on the Ethics Act.

We reported that opinions on the subject varied. We discussed the issue with officials at the White House, OGE, executive branch agencies, public interest groups, and other organizations. These officials identified a number of factors--legal, political, economic, social, and personal--that might affect a person's decision to accept or reject an offer of Federal employment. However, they could not identify any candidates who had refused Government service specifically because of Ethics Act requirements.

The Counsel to the President--Mr. Fielding--told us that he could not determine at what point in the recruiting process individuals chose to decline public service. He pointed out that many of the problems and restrictions attributed to the Ethics Act actually existed prior to the act. He believes that recruitment problems resulted from the cumulative effect of both the Ethics Act and the criminal conflict-of-interest statutes, not from specific provisions of the Ethics Act. Another White House official told us that prospective candidates are often only generally aware of Ethics Act concepts and do not know the specific requirements of the act.

- - - -

This concludes my prepared comments. I will be happy to answer any further questions you may have.