U.S. Department of Agriculture
Office of Inspector General
Western Region
Audit Report

REVIEW OF THE CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM ADMINISTERED BY THE FOREST SERVICE

Report No.
08801-3-SF
June 2000

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Washington D.C. 20250

DATE: June 16, 2000

REPLY TO
ATTN OF: 08801-3-SF

SUBJECT: Review of the Confidential Financial Disclosure System Administered By the Forest Service

TO: Mike Dombeck
Chief
Forest Service

ATTN: Linda Washington
Agency Liaison Officer

This report presents the results of the subject audit. Your June 2, 2000, response to the draft report is included as exhibit K with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

We have accepted your management decision for all recommendations except for Recommendation No. 1. We will be able to accept your management decision for Recommendation No. 1 when you provide us with additional information as outlined in the OIG position section of the report.

In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframe for implementation of the recommendation for which a management decision has not yet been reached. Please note that the regulation requires a management decision to be reached on all recommendations within a maximum of 6 months from report issuance. Follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer.

We appreciate the assistance your staff provided to our auditors during the audit.

J. R. Ebbitt

JAMES R. EBBITT
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

REVIEW OF THE CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM ADMINISTERED BY THE FOREST SERVICE FISCAL YEARS 1996 THROUGH 1999

REPORT NO. 08801-3-SF

RESULTS IN BRIEF

Our overall objective for this audit was to perform a limited review of the controls surrounding the Forest Service's (FS) confidential financial disclosure reporting system. Specifically, we reviewed the controls that were designed to ensure that: (1) all FS employees required to file confidential financial disclosure reports filed them; (2) FS management took appropriate action when reviewing and approving confidential financial disclosure reports; and (3) FS management properly resolved conflict-of-interest cases. We also reviewed FS implementation of ethics regulations to determine if the FS required all employees occupying sensitive positions to file confidential financial disclosure reports.

Financial disclosure is a key control over preventing and detecting potential conflicts of interest. As the FS expands the use of collaborative ventures and partnerships with non-Federal entities, the interests of those employees who make decisions regarding contractors and partners need to be disclosed. Currently, the FS has contracts and partnerships with hundreds of private and nonprofit entities for all areas of FS work—research, recreation, land use, fire protection, and timber and rangeland management. Activities in these areas realize hundreds of millions of dollars annually for the contractors and partners.

We found three material weaknesses in the FS' disclosure reporting system (see Chapter 2).

- Controls to identify and track employees designated to file the reports were inadequate. FS units were not updating the tracking system (National Finance Center personnel data base) to show the correct filing status of the employees. Our audit identified 272 designated filers that were not included in the system and tracked by the FS. These 272 filers included contract specialists, realty specialists, and grants and agreements specialists that procure, monitor or regulate the work performed by private contractors and partners.

- Controls to ensure that designated filers actually file their financial disclosure reports within the required timeframes were also not adequate. Although there had been a significant reduction in the percentage of designated filers not filing a report (3 percent versus 14 percent in the previous year), we found about 20 percent of the designated filers were late in submitting their report for review. Our review noted that new employees occupying positions designated to file financial disclosure reports were more at risk for not complying with the filing requirements. The FS needs to develop a followup system to ensure that all reports are filed within the required timeframes with emphasis on new entrants.

- Controls to ensure that reports are properly reviewed also need to be strengthened by having FS ethics officials fully investigate the nature and extent of outside employment/activities noted in the financial disclosure reports. In addition, law enforcement and investigations staff from the FS' Program Investigations Division need to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports.

Because controls were weak, our audit disclosed that four FS employees were able to conceal their interests in non-Federal entities and either grant favors to those entities or potentially receive favors from them. Two other employees who disclosed their interests had in fact made FS decisions favorable to those interests, but ethics officials did not adequately review these disclosures to take action on them. Regarding the latter two employees, we noted the following:

- The first employee also worked as the principal research investigator for a university (an outside position that the employee reported on her financial disclosure report) while submitting her own research proposals for FS funding which she approved as a FS scientist. (The employee also received funding for research performed on land and facilities owned by the employee.) Due to the controversy surrounding the conflict, the employee resigned from the FS which terminated the multi-year FS research project, causing the FS to subsequently lose its investment in the research the employee was conducting.

- The second employee was also vice president (an outside position that the employee reported on his financial disclosure report) and later the president of a local chamber of commerce while helping give environmental approval to a controversial ski resort that the chamber favored. Had public opinion not been so strongly against the proposed ski resort project due to environmental concerns, the employee may have succeeded in obtaining the FS' approval of the project even though it may not have been in the FS' best interest, not to mention the administrative burden that would have been imposed on the FS had the project been approved.

We believe that had the FS adequately reviewed these positions on the employees' financial disclosure reports that the conflicts could have been avoided.

We also found that a significant segment of the FS law enforcement workforce, namely FS law enforcement officers (GS-5 through GS-11) and criminal investigators (GS-9 through GS-11), were not required to file financial disclosure reports at all (see Chapter 1). FS officials did not require filings in these cases because they did not believe the employees had a substantive role in the decision-making process. However, the employees' job descriptions show that the employees are largely self-supervised and self-directed in the field. In such an environment, law enforcement officers who conceal their financial interest in an entity under investigation have an opportunity and an incentive to ignore or even destroy evidence of criminal wrongdoing. Considering the nature of the work conducted by FS criminal investigators and law enforcement officers (employees in both positions have duties which involve investigating or prosecuting non-Federal entities for violations of criminal or civil law), and considering that these FS employees participate personally and substantially in decisions that are ultimately made regarding their work, we concluded that all FS law enforcement officers and criminal investigators should be required to file a confidential financial disclosure report.

KEY RECOMMENDATIONS

We recommend that FS require all law enforcement officers and criminal investigators to file confidential financial disclosure reports. The FS should also establish procedures to periodically review and update the tracking system to ensure that all employees have the proper filing status and to follow up on designated filers, with progressive enforcement leading to disciplinary actions against delinquent filers. Finally, FS ethics officials need to adequately follow up on the nature and extent of outside employment/activities noted in the financial disclosure reports and law enforcement and investigations staff from the FS' Program Investigations Division need to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to

determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports.

AGENCY RESPONSE

In its June 2, 2000, written response to the draft report, the FS disagreed with Recommendation No. 1 that all criminal investigators and law enforcement officers be required to file financial disclosure reports. The FS believes that only criminal investigators and law enforcement officers at the GS-12 grade level and above should be required to file a financial disclosure report. The FS does not believe that lower graded employees exercise the level and type of independent judgment that would affect the economic interests of non-federal entities. Furthermore, while the position descriptions define certain duties that would fall under the criteria of a filer, the FS does not believe that the lower graded employees participate personally and substantially through decision or the exercise of significant judgment in taking government action without approval from a higher-graded supervisor. According to the FS, the lower graded employees also have a low vulnerability to conflict of interest situations.

The FS concurred with the remaining findings and recommendations and agreed to take corrective actions as appropriate.

We incorporated the FS' response, along with our position, in the Findings and Recommendations section of the report. The full text of the response is included as exhibit K.

OIG POSITION

Regarding Recommendation No. 1, we accept the FS' position that lower-graded criminal investigators and law enforcement officers should not have to file a financial disclosure report; however, we disagree with the FS' position that only those law enforcement officers at the GS-12 grade level and higher need to file. The FS does not currently have GS-12 law enforcement officers. Law Enforcement Officers generally start at the GS-5 grade level with promotion potential only to the GS-11 grade level, a level at which they become supervisory law enforcement officers. Due to the nature of their work and their role as supervisors, we believe that all supervisory law enforcement officers should be required to file a financial disclosure report.

Based on its June 2, 2000, written response to the draft report, we accepted the FS' management decisions on all of the report's remaining recommendations.

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INTRODUCTION

BACKGROUND

The President issued on April 12, 1989, Executive Order 12674, "Principles of Ethical Conduct For Government Officers and Employees," in order to establish fair and exacting standards of ethical conduct for all executive branch employees. Section 101 of Part I of the Executive Order states among other things that (1) employees shall not hold financial interests that conflict with the conscientious performance of duty; and (2) employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities. The Executive Order and the Ethics Reform Act of 1989 issued by the Office of Government Ethics (OGE) set uniform standards of ethical conduct for all executive branch employees.

Title I of the Ethics In Government Act of 1978 (as modified by the Ethics Reform Act of 1989) authorized OGE to establish a confidential (non-public) financial disclosure system for executive branch personnel not in the Senior Executive Service. The confidential financial reporting system includes other executive branch employees whose Government duties involve the exercise of significant discretion in certain sensitive areas. These areas include the control of benefits—grants, contracts, permits, etc.—to non-Federal entities. Employees with duties in these areas report their financial interests and outside business activities to their employing agencies by filing an annual Confidential Financial Disclosure Report (OGE Form 450). Each agency, such as the Forest Service (FS), is responsible for administering a confidential financial disclosure reporting system for its employees.

Confidential financial disclosure serves to help prevent conflicts of interest and to identify potential conflicts, by providing for a systematic review of the financial interests of both current and prospective employees. The reports assist agencies in administering their ethics programs and providing counseling to employees. Employees who are in positions that are designated as required to file confidential financial disclosure reports must complete the reports as a condition of employment and are subject to disciplinary action if they refuse to file. According to the National Finance Center (NFC), as of March 13, 1999, 2,431 of the FS' 33,249 employees were designated to file confidential financial disclosure reports.

OBJECTIVES

Our overall objective for this audit was to perform a limited review of the controls surrounding the FS' confidential financial disclosure system. Specifically, we reviewed the controls that were designed to ensure that: (1) all FS employees required to file confidential financial disclosure reports filed them; (2) FS management took appropriate action when reviewing and approving confidential financial disclosure reports; and (3) FS management properly resolved conflict-of-interest cases. We also reviewed FS implementation of ethics regulations to determine if the FS required all employees occupying sensitive positions to file confidential financial disclosure reports.

SCOPE

In order to test the effectiveness of the FS' administration of the confidential financial disclosure reporting system, we randomly selected 300 designated filers from the NFC data base of March 13, 1999. We judgmentally selected another 24 designated filers that the FS had investigated for ethical violations to determine FS' handling of the cases. For the sampled filers, we obtained and reviewed their financial disclosure reports for the three reporting periods October 1, 1996, through September 30, 1998. Of the 324 filers selected from the March 13, 1999, data base, only 307 were required to file financial disclosure reports during our review period. The remaining employees were not required to file confidential financial disclosure reports prior to September 30, 1998. To determine the accuracy of the NFC data base, we reviewed the data base for positions that were designated to file financial disclosure reports but did not have a correct filing status code.

Audit work was performed at the FS Washington Office in Washington, D.C., the FS Northern Regional Office (Region 1) in Missoula, Montana, the FS Pacific Southwest Regional Office (Region 5) in Vallejo, California, and the FS Southern Research Station in Asheville, North Carolina. The regional locations were selected due to their low percentage of filers compared to other regional locations (see exhibit A). Fieldwork was conducted from March 1999 through October 1999.

The audit was conducted in accordance with generally accepted government auditing standards.

METHODOLOGY

To accomplish our overall audit objective, we performed the following steps and procedures. We interviewed officials from OGE and the U.S. Department of Agriculture's (USDA) Offices of Ethics and Human Resources Management to identify pertinent laws, regulations, policies, and procedures governing operation of the FS' confidential financial disclosure reporting system. We also received training from OGE on how to review the confidential financial disclosure reports.

At the FS Washington Office and each selected regional office and research station we visited, we interviewed FS personnel including the designated ethics official and reviewed available records to: (1) determine the FS unit's process for administering the confidential financial disclosure system; (2) identify any positions that we considered to be sensitive where the FS unit was not currently requiring its employees to file a financial disclosure report; and (3) determine whether the FS unit had identified and investigated any cases where conflicts of interest were suspected and whether the actions taken were appropriate. We also assessed whether FS units were updating the NFC database to ensure that all designated filers were properly coded and tracked.

In addition, we obtained and reviewed the confidential financial disclosure reports to determine if the reports were filed and reviewed within the required timeframes. For the judgmentally selected employees, we obtained and reviewed the reports of investigation prepared by the FS' Program Investigations Division to determine whether the employees fully disclosed all of their financial interests and outside employment/activities on their confidential financial disclosure reports and whether FS management was properly resolving conflict-of-interest cases.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	ALL FS LAW ENFORCEMENT OFFICERS AND CRIMINAL INVESTIGATORS SHOULD FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

FINDING NO. 1

During our review, we identified two sensitive FS positions--criminal investigators and law enforcement officers—whose occupants were not required to file confidential financial disclosure reports. For criminal investigators, FS only requires that employees occupying this position at the GS-12 grade level and higher file a confidential financial disclosure report. For law enforcement officers, FS does not require any of its employees occupying this position to file a confidential financial disclosure report. As of July 28, 1999, the FS had 460 law enforcement officers and 132 criminal investigators. Sixteen of the criminal investigators were not required to file confidential financial disclosure reports because they were below the GS-12 grade level.

Law enforcement officers who conceal their financial interests in an entity under investigation have an opportunity and an incentive to ignore or even destroy evidence of criminal wrongdoing. Cases of FS timber theft are particularly sensitive in this regard because of the difficulty of obtaining evidence against the perpetrators. Although lower-grade officers do not decide which direction a timber theft investigation will take, the supervisor who relies on their fact-finding efforts can only make decisions based on the facts that are gathered. An investigation that is mishandled in the field can lead to erroneous decisions at the management level, and a case that may have significant merit might otherwise be dropped because evidence was intentionally overlooked.

Regulations[1] require that the employee file a confidential financial disclosure report if the agency concludes that the duties and responsibilities of the employee's position require the employee:

> to participate personally and substantially through decision or the exercise of significant judgment, in taking a Government action regarding …regulating or auditing any non-Federal entity, or other activities in which the final decision or action will have a direct and

[1] 5 CFR 2634.904(a), effective April 7, 1992

> substantial economic effect on the interests of any non-Federal entity; or…to avoid involvement in a real or apparent conflict of interest, and to carry out the purposes behind any statute, Executive order, rule, or regulation applicable to or administered by that employee.

The regulations also state that positions that might be subject to a reporting requirement "include those with duties which involve investigating or prosecuting violations of criminal or civil law."

Regulations[2] define **personal** and **substantial** as follows: "To participate personally means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. **Personal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter.** [emphasis added]"

The FS' Director for Law Enforcement and Investigations stated that he believed that only those criminal investigators at the GS-13 grade level and above should be required to file a confidential financial disclosure report because only at that level does the criminal investigator have a substantive role in the decision-making process.

The FS' Director for Law Enforcement and Investigations also did not believe that any of the law enforcement officers needed to file a financial disclosure report because they generally only patrol the national forests and issue citations. According to the Director, the crimes they encounter are generally of a regulatory nature such as a camper not complying with the forest's rules regarding campfires. The Director further noted that if any criminal activity is suspected, the law enforcement officer refers the matter to a criminal investigator.

[2] 5 CFR 2635.402(b)(4), effective February 3, 1993

However, our review of the position description for FS law enforcement officers (GS-5 or higher) disclosed that the position is responsible for performing full-time law enforcement, including detection, apprehension, detention, and limited investigation activities which are associated with the enforcement of laws, regulations, and rules relating to the protection and safe uses of National Forest System lands and resources. The law enforcement officer is also responsible for detecting and enforcing criminal law offenses including, but not limited to timber theft, wildland arson, livestock trespass, archeological resource protection, and drug control laws that affect National Forest System Lands.

In addition, the law enforcement officer is responsible for conducting full investigations of misdemeanor crimes and offenses of regulatory and Federal criminal laws affecting National Forest System lands and is assigned full felony investigations or portions of felony investigations under the direction of a case agent. The law enforcement officer is also responsible for locating, securing, and protecting crime scenes, collecting and/or seizing evidence, obtaining physical and documentary evidence, interviewing witnesses and suspects, preparing investigative reports, and testifying at hearings and trials. We noted that the standard position descriptions for the GS-5 and GS-7 law enforcement officers are primarily the same as for the GS-9 law enforcement officer and that the lower level law enforcement officers are generally supervised by the GS-11 supervisory law enforcement officers.

Our review of the position description for criminal investigators disclosed that the primary responsibility for criminal investigators is to investigate persons suspected of violating criminal laws of the United States. Although the duties and responsibilities are similar to law enforcement officers, criminal investigators are required to independently plan, conduct, coordinate and finalize more complex and sensitive criminal and/or civil investigations. The investigations may involve a high degree of controversy between Government action and local mores, social customs, economics, politics, interpretation of laws and regulations.

Using the criteria noted above, USDA's Office of Inspector General requires that all its criminal investigators and auditors, regardless of grade level, file annual financial disclosure reports. Considering the nature of the work conducted by FS criminal investigators and law enforcement officers (i.e., employees in both positions have duties which involve investigating or prosecuting violations of criminal or civil law), and considering that these FS employees participate personally and substantially in decisions that are ultimately made regarding their work, we believe that all FS law enforcement officers and criminal investigators should be required to file a confidential financial disclosure report.

We identified the following additional positions that appear to meet Federal regulations requiring the filing of financial disclosure reports based on our review of the position descriptions: aircraft and aviation inspector, construction representative, natural resource specialist, rangeland management specialist/range conservationist, realty specialist, and scenic easement administrator (see exhibit J). The FS needs to reassess each position to determine whether the requirements for filing a confidential financial disclosure report also applies to these positions.

RECOMMENDATION NO. 1

Require all FS law enforcement officers and criminal investigators to file confidential financial disclosure reports.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS did not agree law enforcement officers and criminal investigators at the GS-5, 7, 9, and 11 grade levels should also be required to file financial disclosure reports. According to the FS, it believes these lower graded employees do not exercise the level and type of independent judgment that would affect the economic interests of non-federal entities. Furthermore, while the position descriptions define certain duties that would fall under the criteria of a filer, they do not participate personally and substantially through decision or the exercise of significant judgment in taking government action without approval from a higher-graded supervisor. They also have a low vulnerability to conflict of interest situations. According to the FS, its position that lower graded employees should not be required to file confidential financial disclosure reports is supported by the U.S. Office of Government Ethics. The FS further noted in its response that law enforcement leadership will ensure that at the annual Regional refresher training for all law enforcement officers and criminal investigators, ethics training will be added to the agenda. Further, the USDA Office of Ethics has committed to provide semi-annual training to the Law Enforcement Leadership Team, the group that oversees the integrity of the Law Enforcement national program. Law enforcement will coordinate with FS Ethics Advisor when dates for meetings have been established.

OIG Position

We do not accept FS' management decision on this recommendation. We accept the FS' position that lower-graded criminal investigators and law enforcement officers should not have to file a financial disclosure report; however, we disagree with the FS' position that only those law enforcement officers at the GS-12 grade level and higher need to file. The FS does not currently have GS-12 law enforcement officers. Law Enforcement Officers generally start at the GS-5 grade level with promotion potential only to the GS-11 grade level, a level at which they become supervisory law

enforcement officers. Due to the nature of their work and their role as supervisors, we believe that the supervisory law enforcement officer position clearly meets the definition of a filer under 5 CFR 2634.904(a) and that all supervisory law enforcement officers should therefore be required to file a financial disclosure report. To reach management decision on this recommendation, we need agreement from the FS that it will either require all of its supervisory law enforcement officers to file financial disclosure reports or refer the matter to the USDA Office of Ethics for a determination on whether all supervisory law enforcement officers should file.

RECOMMENDATION NO. 2

For each position noted in exhibit J, reassess whether the requirements for filing a confidential financial disclosure report applies. If determined applicable, require that those FS employees holding the positions file confidential financial disclosure reports.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that it would instruct all Regions, Stations, and Area Ethics Advisors to coordinate with Personnel Operations – Classification Specialists to reassess by November 2000, whether the requirements for filing apply to the following positions: aircraft and aviation inspector; natural resource specialist; rangeland management specialist/range conservationist; and realty specialist. Regarding the remaining two positions, construction representative and scenic easement administrator, the FS stated that these appear to be working titles and that they would first need to look at the position description to determine their actual duties.

OIG Position

We accept the FS' management decision on this recommendation.

CHAPTER 2	CONTROLS OVER THE FS' CONFIDENTIAL FINANCIAL DISCLOSURE REPORTING SYSTEM ARE NOT ADEQUATE

The FS needs to improve controls over its financial disclosure reporting system. Controls were not adequate (a) to identify and track filers to ensure that all employees occupying sensitive positions are designated to file financial disclosure reports, (b) to process the reports to ensure that designated filers file within the required timeframes, and (c) to review the reports to ensure that appropriate actions are taken to resolve conflicts of interests.

Financial disclosure is a key control to prevent and to detect potential conflicts of interest. As the FS continues to expand the use of collaborative ventures and partnerships with non-Federal entities, the interests of those employees who make decisions regarding FS contractors and partners need to be disclosed and scrutinized. Currently, the FS has contracts and partnerships with hundreds of private and nonprofit entities for all areas of FS work. It has formed partnerships with universities and private laboratories for forestry research, and with communities and private corporations for recreational opportunities and fire protection. It also awards timber sales to timber companies, grazing permits to ranchers, and special use permits to private ski and summer resorts and mining companies. Finally, it purchases and exchanges thousands of acres of Federal and private land with real estate developers, landowners and nonprofit groups. Activities in these areas realize hundreds of millions of dollars annually for private contractors and partners.

During our review, we noted that FS units did not enforce a disclosure requirement for 65 positions, including those for contract specialists, realty specialists, and grants and agreement specialists. Although we did not find any conflicts of interest among these employees, we concluded that because the FS is expanding its use of non-Federal entities in FS work, it is incumbent on ethics officials to be aware of potential conflicts within those positions that procure, monitor or regulate the services of the non-Federal entities.

We did find real or potential conflicts of interest in six cases. Because controls were weak, four FS employees were able to conceal their interests in non-Federal entities and either grant favors to those entities or potentially receive favors from them. Two other employees who disclosed their

interests had in fact made FS decisions favorable to those interests, but ethics officials did not adequately review these disclosures to take action on them. One of the employees, who worked as the principal research investigator for a university, submitted her own research proposals for FS funding which she approved as a FS scientist. The employee also received funding for research performed on land and facilities owned by the employee. As a result of resolving the conflict of interest, the employee resigned from the FS which terminated the multi-year FS research project, and the FS subsequently lost its investment in the research the employee was conducting. The other employee, who was also vice president and later the president of a local chamber of commerce, helped give environmental approval to a controversial ski resort that the chamber favored. Had public opinion not been so strongly against the proposed ski resort project due to environmental concerns the employee may have succeeded in obtaining the FS' approval of the project even though it may not have been in the FS' best interest, not to mention the administrative burden that would have been imposed on the FS had the project been approved.

To review the existing controls, we sampled 324 employees who were designated by the FS to file financial disclosure reports for 3 reporting periods starting in fiscal year (FY) 1996. Our objectives were to determine: (1) whether the sampled employee filed a financial disclosure report during each of the reporting periods; (2) whether the sampled employee filed a financial disclosure report timely during each reporting period; and (3) whether officials had properly reviewed and approved the employee's financial disclosure report during each reporting period.

FINDING NO. 2

FS NEEDS TO IDENTIFY AND TRACK FILERS

FS' system to identify and track employees it requires to file confidential financial disclosure reports was not effective as a management tool. The data base the FS relied on to perform this function was not always updated or reviewed for accuracy. We found that of the 470 designated filers at the 8 FS research stations, 199 were not entered into the data base and were not being tracked. At the four sites we visited, we also identified a total of 65 FS employees who occupied sensitive positions for which the FS Washington Office required financial disclosure but who were not asked to file confidential financial disclosure reports because their filing status had not been updated at NFC (see exhibit F). In addition, we identified eight FS employees who were required to file confidential financial disclosure reports but whose filing status had not been accurately entered at NFC (see exhibit H). Overall, our audit identified 272 designated filers that were not included in the system and tracked by the FS.

With over 2,400 employees required to file financial disclosure reports, it is important that the FS have sufficient controls to identify and track its designated filers. The FS primarily uses its personnel data base maintained by NFC to track the filing status of all its employees. For example an employee who is required to file a financial disclosure report receives a special filing status code. The data base is updated periodically to account for employee turnover. To determine the employees who are required to file financial disclosure reports for a reporting period, a listing can be generated using the NFC database showing the name, series, grade, title and location of the employee.

Our audit found that FS units were not reviewing and updating the data base to ensure that it contained the correct filing status of each employee. Without complete and accurate data at NFC, the FS does not have a reliable system for tracking those employees designated to file confidential financial disclosure reports.

a. FS Units Were Not Updating the Filing Status Of Its Employees

At one of the four FS units we visited, we found that the Southern Research Station had not updated at NFC the filing status of 64 of its employees required to file confidential financial disclosure reports (see exhibit G). According to the designated ethics official at the Southern Research Station, 58 of the 64 employees were required to file confidential financial disclosure reports because they were project leaders and/or involved with grants and agreements. Starting with the FY 1997 reporting period, the FS Washington Office required that all positions in the research field such as project leaders or lead scientists who have responsibilities to participate personally and substantially in the grant decision or who exercise significant judgment in administering or monitoring grants, subsidies, licenses or other federally conferred financial or operations benefits for a non-Federal entity file a confidential financial disclosure report.

The designated ethics official at the Southern Research Station stated they did not generally update the filing status for these employees at NFC or on the form AD-332 (Master Record/Individual Position Data) because their filing status could change from year to year considering that they may not always be project leaders or involved in grants and agreements. The personnel officer also stated that it would be very cumbersome for them to have to continually update both the form AD-332 and the NFC data base for these type employees considering that they have such a large number of them.

We contacted the remaining seven FS research stations to determine if they were also not updating their NFC data base. In six of the seven research stations, we also noted similar problems. Overall, we concluded that the NFC data base for designated filers was understated by 199 employees for the 8 FS research stations as follows:

FS Unit	Number of Filers Per FS	Number of Filers Per NFC	Number of Filers Not Tracked
Southern Research Station	75	11	64
Pacific Southwest Forest and Range Experiment Station	44	8	36
Pacific Northwest Research Station	88	57	31
Northeastern Forest Experiment Station & Northeastern Area – State & Private Forestry	67	37	30
Forest Products Laboratory	28	5	23
Rocky Mountain Research Station	142	130	12
North Central Forest Experiment Station	25	22	3
International Institute of Tropical Forestry	1	1	0
Total	470	271	199

b. FS Units Were Not Reviewing the Data Base For Accuracy

At the 4 sites we visited, we identified a total of 65 FS employees who occupied sensitive positions for which the FS Washington Office required financial disclosure but who were not asked to file confidential financial disclosure reports because their filing status had not been updated at NFC (see exhibit F). The positions identified included 27 criminal investigators, 19 contract specialists, 5 realty specialists, and 4 district rangers.

We also identified eight FS employees who were required to file confidential financial disclosure reports but whose filing status had not been accurately entered at NFC (or on the form AD-332). In this case, the errors did not prevent the employees from filing the required financial disclosure reports (see exhibit H).

These conditions occurred primarily because ethics officials at the FS units we visited did not ensure that all employees within their units occupying sensitive positions requiring financial disclosure had been properly designated to file a confidential financial disclosure report.

The FS Washington Office currently requires that employees occupying the following positions at the grade levels specified file a confidential financial disclosure report every year:

Administrative Officer (GS-12 grade level and above),
Contract Officer and Procurement Specialist (GS-11 grade level and above),
Criminal Investigator (GS-12 grade level and above),
District Ranger (GS-11 grade level and above),
Engineer (GS-12 grade level and above),
Forest Supervisor (GS-13 grade level and above),
Public Affairs Officer (GS-12 grade level and above),
Realty Specialist (GS-12 grade level and above), and
Employee Relations Specialists and Personnel Officers who make determinations of conflicts of interest regarding confidential financial disclosure documents.

The Washington Office also requires that all employees regardless of grade level holding any position that has delegated signatory authority for administering or monitoring grants, agreements or subsidies, licenses, or other federally conferred financial or operational benefits on a non-Federal entity or who perform any function or duty under the Surface Mining Control and Reclamation Act of 1997 file a confidential financial disclosure report.

RECOMMENDATION NO. 3

In addition to the FS employees noted in exhibits G and H, also determine nationwide those FS employees whose filing status is not accurately recorded at NFC and on the form AD-332 and make the appropriate adjustments.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that by September 2000, adjustments will be made for all employees noted in the exhibits and field advisors will be instructed to review the status for all filers to ensure that they are accurately coded at NFC.

OIG Position

We accept the FS' management decision on this recommendation.

RECOMMENDATION NO. 4

Establish procedures to ensure that the filing status of those employees required to file financial disclosure reports is accurately recorded on both the form AD-332 and at NFC.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that it would accomplish the following by October 2000. It will initiate a closer working relationship between Ethics Advisors and Washington Office/Field Classification Specialists with training on the appropriate review of position descriptions. According to the FS, this could be accomplished by issuing a policy statement containing "red flags" that will alert classifiers in the review process. It would then conduct a position review to update NFC confidential financial disclosure codes and will also ensure the AD-332 is coded correctly and entered into the NFC database.

OIG Position

We accept the FS' management decision on this recommendation.

RECOMMENDATION NO. 5

Instruct all research stations to enter at NFC the current filing status of all their employees including their research scientists that are required to file financial disclosure reports because they are also project leaders and/or involved with grants and agreements. In addition, instruct all FS units to use the report generated from the NFC database to identify and track those employees required to file confidential financial disclosure reports.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that it would accomplish the following by September 2000. Written instruction will be sent to all research stations instructing them to enter all required filers into the NFC database and to use the NFC generated report to track employees required to file the financial disclosure report. Position descriptions will also be reviewed for content relating to criteria for determining filing status and any containing duties involving project leader/management with grants and agreements will be permanently entered in the NFC database until such time as the duties in the position description change.

OIG Position

We accept the FS' management decision on this recommendation.

RECOMMENDATION NO. 6

Instruct FS units to have their designated ethics official identify on an annual basis all employees in their units holding sensitive positions, including those positions already designated to file by the FS Washington Office, and check to see that each employee is properly designated to file a confidential financial disclosure report on the NFC report discussed in Finding No. 2.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that it would accomplish the following by September 2000. NFC focus reports will be generated to identify all sensitive positions and they will be cross-walked to a current list of confidential financial disclosure filers to ensure that all positions are correctly designated or if not, that employees who are in sensitive positions are notified that they will be required to file in FY 2000. In addition, a letter will be issued to all Regions and Stations requiring them to perform similar functions and all units will be asked to certify back to the Washington Office that they are in compliance.

OIG Position

We accept the FS' management decision on this recommendation.

FINDING NO. 3

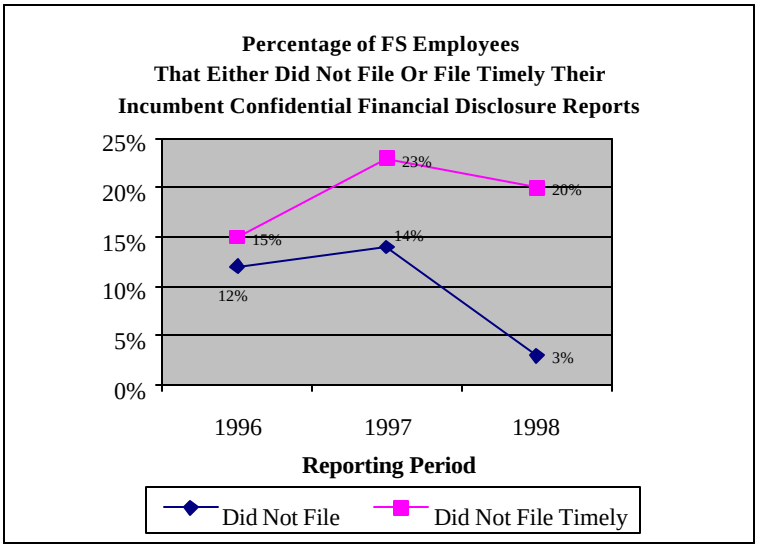
FS NEEDS TO CONTROL TIMELINESS OF FILING

Both employees who hold designated filing positions, as well as employees who are new to those positions do not always file their financial disclosure reports within the required timeframes. Although unit ethics officials took some actions to remind the employees of the deadlines, they did not follow up to ensure the reports were filed. There are no guidelines specifying what form of followup should be required.

To assess FS controls to ensure that designated filers had filed their financial disclosure reports within the required timeframes, we selected a sample of 324 employees that were coded as filers in the NFC database. For the FY 1998 reporting period, 3 percent did not file and 20 percent did not file timely. Of those that did not file, most of the employees we questioned informed us that they were either not asked to file or that they filed but that the reports they filed could not be located (see exhibit B).

a. Incumbent Confidential Financial Disclosure Reports Not Filed Within Required Timeframes

For the FY 1998 reporting period, 303 of the 324 employees selected for review were required to file incumbent confidential financial disclosure reports. Of the 303 employees, our audit found that 10 (or 3 percent) did not file (see exhibit B).[3] As noted in the following chart, this was a significant improvement over FY 1997 when 14 percent did not file required incumbent confidential financial disclosure reports.



A significant number of employees (55 or 20 percent) also did not file their reports timely (see exhibit C).[4] Thirteen of these employees filed their incumbent confidential financial disclosure reports more than 90 days past the due date. As noted in the chart, this was only a slight decrease from the FY 1997 reporting period when 23 percent of the employees filed their incumbent confidential financial disclosure reports late.

Although there was a significant reduction in the number of FS employees who did not file required incumbent confidential financial disclosure reports for the FY 1998 reporting period, the number of FS employees that were late in filing has remained at a consistently high level. We concluded that a lack of adequate followup by the FS units may have contributed to the high delinquency rate.

[3] We could not determine for one of the employees whether the employee actually filed an incumbent confidential financial disclosure report since the report that the FS said was filed could not be located. Therefore, we based our percentage on 302 employees.

[4] For 12 of the 291 employees that we determined actually filed incumbent confidential financial disclosure reports, we could not determine whether the employees filed their reports timely because the FS unit either did not record on the report the date it was received or the report could not be located. Therefore, we based our percentage on 279 employees.

Regulations[5] require that a confidential filer who performs the duties of his position or office for a period in excess of 60 days during the 12-month period ending September 30 (including more than 60 days in an acting capacity) file an incumbent confidential financial disclosure report (OGE Form 450) on or before October 31 immediately following that period. Regulations[6] further state that "the agency reviewing official may, for good cause shown, grant to any employee or class of employees a filing extension or several extensions totaling not more than 90 days." Regulations[7] also state that the appropriate action may be taken in accordance with applicable law or regulation against any individual for failing to file a confidential financial disclosure report or for filing his or her confidential financial disclosure report late.

In Region 5 where there was a high incidence of noncompliance, three of the employees that did not file required confidential financial disclosure reports were criminal investigators. According to the designated ethics official at the regional office, she thought that the Washington Office was responsible for obtaining and reviewing the confidential financial disclosure reports that the criminal investigators filed. However, the designated ethics official for the Washington Office informed us that the region the criminal investigator is assigned to is responsible for obtaining and reviewing the confidential financial disclosure report. Consequently, neither the region nor the Washington Office had obtained the financial disclosure reports.

Regarding Region 5's remaining employees who had not filed their reports, the designated ethics official stated that she did attempt to obtain the confidential financial disclosure reports from the employees by calling and leaving messages as well as contacting the personnel offices at the sites where the employees worked. However, due to other priorities, she did not continue to follow up with the employees until the reports were filed.

Although no guidelines have been established specifying when to followup with an employee that has not submitted his confidential financial disclosure report timely, ethics officials at both Region 5 and the Washington Office stated that they did followup with those employees that

[5] 5 CFR 2634.903(a), effective April 7, 1992
[6] 5 CFR 2634.903(d), effective April 7, 1992
[7] 5 CFR 2634.701(d), effective April 7, 1992

were late filing their reports. For example, according to the designated ethics official for Region 5, she not only contacted the employee, but when necessary, she also contacted the employee's supervisor as well as the human resources staff at the unit where the employee worked. The designated ethics official for the Washington Office stated that she generally sent the employee who was late filing their confidential financial disclosure report two warnings before informing the employee that disciplinary action would be taken if the employee did not file, although no guidelines have been established specifying what that disciplinary action would be.

b. New Entrant Confidential Financial Disclosure Reports Not Filed Within Required Timeframes

There was no system in place to identify those FS employees needing to file new entrant confidential financial disclosure reports. Our audit determined that 12 FS employees, 5 that were newly appointed and 7 that were temporarily assigned to positions requiring financial disclosure, had yet to file a new entrant confidential financial disclosure report (see exhibit E). In addition, our audit determined that 16 FS employees did not file their new entrant confidential financial disclosure reports timely.

Regulations[8] state that the employee shall file a new entrant confidential financial disclosure report no later than 30 days after assuming a new position requiring financial disclosure, if the employee is expected to perform the duties of the position for more than 60 days during the 12-month period. If the employee is not reasonably expected to perform the duties of the position requiring financial disclosure for more than 60 days, the employee need not file as a new entrant. However, if the individual actually performs the duties of such a position for more than 60 days in the 12-month period, then a confidential financial disclosure report must be filed within 15 calendar days after the 60th day of such service in the position.[9]

Ethics officials from two of the three FS units visited stated that they usually waited until the end of the reporting period to identify any new employees needing to file confidential financial disclosure reports. The end of the reporting period was generally when they would obtain from NFC a current listing of those FS employees required to file. In addition, the personnel assistant at one of the FS units we visited informed us that she only recently became aware of the requirement that employees holding temporary assignments to positions requiring financial disclosure needed to file a new entrant confidential financial disclosure report.

[8] 5 CFR 2634.903(b)(1), effective April 7, 1992
[9] 5 CFR 2634.903(b)(2)(iii), effective April 7, 1992

RECOMMENDATION NO. 7

In addition to the FS employees noted in exhibits B, E, and F, determine nationwide those FS employees required to file confidential financial disclosure reports that did not file. Investigate the circumstances concerning their failure to file and take the appropriate corrective action.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS disagreed that corrective action should be taken against those employees who didn't file in years past. However, the FS did agree that it needed to followup on all current delinquent filers. The FS stated that it would therefore accomplish the following by June 2000. In addition to the employees noted in the exhibits, the Washington Office and field unit Ethics Advisors will be directed to identify any employees who were required to file but did not do so and request from them within two weeks a current OGE Form 450. According to the FS, failure to do so will result in disciplinary action. . Furthermore, it will add the past years' delinquencies for each current filer identified into the equation as it determines the appropriate corrective action. Field units will also reply to the Washington Office with a list of identified employees and whether they are now in compliance.

OIG Position

We accept the FS' management decision on this recommendation.

RECOMMENDATION NO. 8

Establish procedures to ensure that new entrant confidential financial disclosure reports are timely filed and reviewed and that the appropriate staff is trained on these procedures. Also, establish guidelines specifying (1) when to follow up with employees that are late filing their confidential financial disclosure reports; (2) at what frequency the followup should occur; (3) at what point should disciplinary action be taken against the employee; and (4) what the disciplinary action should be. In addition, require that the followup be documented in order to support the need for taking disciplinary action against the employee should it be warranted.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that it would accomplish the following by July 2000. It will issue a letter to the Washington Office Operations Group and field units that any new entrant will be given the OGE Form 450 and instructions for completing it and the time requirements for submitting it at the time the new employee is processed into a new position. The USDA Office of Ethics will provide training to Specialists in reviewing the OGE Form 450. The Washington Office Ethics Advisor, in coordination with Personnel Management Specialists, will develop Standard Operating Procedures containing guidelines for the Washington Office and field units that specify timeframes for actions to be completed during the OGE Form 450/450A filing cycle. FS will use the USDA Agency Ethics Standard Operating Procedures model to develop dates for followup for late filers, at what frequency the followup should occur, when disciplinary action should be taken, and what the action will be. A standard instructional letter describing the Standard Operating Procedures will then be issued to all field units. The FS will also explore the possibility of getting this direction into the directives system.

OIG Position

We accept the FS' management decision on this recommendation.

FINDING NO. 4

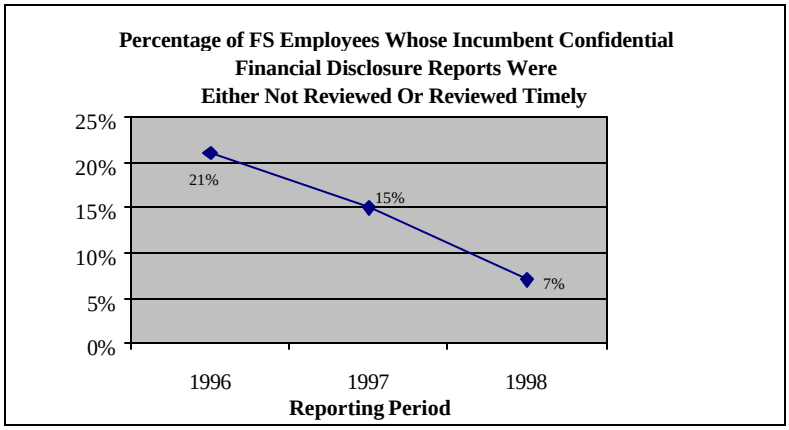
DISCLOSURE REPORTS NEED MORE THOROUGH REVIEWS TO IDENTIFY POTENTIAL CONFLICTS OF INTEREST

The FS did not always timely review the confidential financial disclosure reports that employees filed and did not always identify potential conflicts of interest. For the FY 1998 reporting period, the confidential financial disclosure reports for 7 percent of the employees in our sample were not reviewed within required timeframes. This condition was most prominent in Region 4 where over half of the exceptions occurred. When questioned, the designated ethics official for the region could not account for why the reports were not reviewed timely since the former employee responsible for reviewing the reports was no longer there. We concluded that additional measures were needed to identify and resolve conflicts of interest when reviewing financial disclosure reports.

a. Review of financial disclosure reports

Our audit found that the FS did not timely review the incumbent confidential financial disclosure reports filed by 20 (or 7 percent) of the

291 employees selected for review that we could determine actually filed incumbent confidential financial disclosure reports for the FY 1998 reporting period (see exhibit D).[10] As noted in the following table, this was a significant improvement over the FY 1996 and 1997 reporting periods when the FS did not timely review 21 percent and 15 percent, respectively, of the incumbent confidential financial disclosure reports.



Regulations[11] require that all confidential financial disclosure reports be reviewed within 60 days after the date of filing. Regulations[12] also require that after the final review is completed, the reviewing official will certify that the employee is in compliance with all applicable laws and regulations by signing and dating the employee's confidential financial disclosure report.

b. Additional measures needed to identify and resolve conflicts of interest

Additional measures are needed to ensure that appropriate actions are taken to identify and to resolve potential conflicts of interest. FS ethics officials need to adequately follow up on the nature and extent of outside employment/activities noted in the financial disclosure reports. In addition, law enforcement and investigations staff from the FS' Program Investigations Division need to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports.

[10] We could not determine for four of the employees that filed required incumbent confidential financial disclosure reports whether the reports were reviewed timely because the FS unit either did not record on the report the date it was received or the report could not be located. Therefore, we based our percentage on 287 employees.
[11] 5 CFR 2634.605(a), effective April 7, 1992
[12] 5 CFR 2634.605(b)(2), effective April 7 1992

Reviews to detect conflicts of interest were inadequate. Ethics officials responsible for reviewing the financial disclosure reports for 2 of the 24 employees in our judgmental sample did not follow up on the outside employment/activities the employees reported primarily because the outside employment/activities had already been approved by the employees' supervisor. Furthermore, the FS encouraged its employees to engage in the types of outside employment/activities that the two employees reported on their confidential financial disclosure reports. By not following up on these types of cases, potential conflicts of interest cannot be identified and properly resolved.

Although existing regulations do not specifically require that the reviewing official follow up on the information that employees report on their confidential financial disclosure reports, they do state that the reviewing official may request an intermediate review by the filer's supervisor. Regulations also state if the reviewing official believes that additional information is required, he shall request that it be submitted by a specified date. If the reviewing official concludes, on the basis of the information disclosed in the report and any additional information submitted, that each required item has been completed and that, on the basis of the information contained in such report, the filer is in compliance with applicable laws and regulations, the reviewing official shall sign and date the report.

Our audit found that one of the employees, who was a lead scientist at one of the FS' research stations, reported on her confidential financial disclosure report that she was also an adjunct professor at a local university. However, the ethics official who reviewed the employee's confidential financial disclosure report did not follow up to determine the precise nature of the employee's position with the university. An OIG audit (Audit No. 08007-1-SF) later found that the employee served simultaneously as the FS lead scientist responsible for reviewing and approving research work plans and budgets that she had prepared as the university's principal investigator, a conflict of interest. Due to the controversy surrounding the conflict detected by our audit, the employee resigned her position with the FS, and the FS subsequently lost its investment in the research the employee was conducting.

The other employee who was a district ranger, reported on his confidential financial disclosure report that he was also Second Vice President of the local Chamber of Commerce.[13] However, the ethics

[13] The employee served as Second Vice President only during the FY 1996 reporting period. During the FY 1997 reporting period the employee served as First Vice President and during the FY 1998 reporting period the employee serviced as President. However, the employee failed to report these changes on his confidential financial disclosure report.

official who reviewed the employee's confidential financial disclosure report did not follow up to ensure that the employee was not working on any FS projects that may conflict with his duties as Chamber of Commerce Vice President. A FS investigative report (Case No. [ )] disclosed that beginning in FY 1996 the employee also played a key role in the development of the Environmental Impact Statement for a controversial ski resort project that was endorsed by the Chamber of Commerce, a conflict of interest. The employee's supervisor did not caution the employee about the potential for a conflict until FY 1998 when he approved the employee's appointment to Chamber of Commerce President, which the region's designated ethics official advised against. (According to the region's designated ethics official, she had advised the employee's supervisor, when consulted in FY 1998, not to approve the employee's appointment to Chamber of Commerce President due to the potential for a conflict of interest.) If public opinion had not been so strongly against the proposed ski resort project due to environmental concerns (i.e., the FS received more than 11,000 comments on the proposed ski project, most of them against it), the employee may have succeeded in obtaining the FS' approval of the project even though it may not have been in the FS' best interest. Due to the FS' involvement in the eventual conflict, the employee's supervisor received a letter of reprimand and the employee received a 30-day suspension and was reassigned to a nonmanagement position on another national forest.

FS law enforcement and investigations staff need to consult with ethics officials when investigating cases where potential conflicts of interest are alleged. Since FS investigations investigates cases where potential conflicts of interest are alleged, the results of their investigations could confirm any instances of undisclosed financial interest and/or outside employment/activities.

Our review of a current list of completed investigations disclosed four designated filers in our judgmental sample who were investigated for potential conflicts of interest (see exhibit I). In all four cases, the investigations did confirm undisclosed financial interest and/or inappropriate outside employment/activities. However, since law enforcement and investigations staff from the FS' Program Investigations Division did not consult with ethics officials when investigating these cases, they were unaware that the employees had failed to report these items on their financial disclosure reports.

RECOMMENDATION NO. 9

For those employees still with the FS (i.e., J-16, J-18, and J-21), investigate the circumstances concerning their failure to fully disclose all of their financial interests and/or outside employment/activities and take the appropriate disciplinary action.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS stated that it had reviewed the cases referenced in the recommendation. The FS stated that it investigated the circumstances surrounding J-16 and J-21 described in the finding and found that there were no improper actions or evidence of wrongdoing on the part of each of the individuals involved and that the cases are now closed. Regarding J-18, the FS stated that OIG' conclusion that the employee should have disclosed his position as a liaison with a nonprofit was incorrect. According to the FS, serving in an official capacity as a FS liaison, with no fiduciary responsibility, is not a conflict of interest or violation of 18 USC 208(a), a determination supported by the USDA Office of Ethics. According to the FS, this situation is not considered an "outside interest" because the liaison work is part of the employee's official FS duties and therefore need not be reported on the financial disclosure report.

OIG Position

We accept the FS' management decision on this recommendation.

RECOMMENDATION NO. 10

To ensure that no conflicts of interest exist when reviewing the confidential financial disclosure reports, instruct ethics officials to follow up as needed on those outside employment/activities that employees report where conflicts are most likely to be found by contacting the employee, the employee's supervisor, and/or the outside entity that the employee reported on his or her confidential financial disclosure report. In addition, instruct law enforcement and investigations staff from the FS' Program Investigations Division to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports.

Agency Response

In its written response to the draft report, dated June 2, 2000, the FS agreed that it is the responsibility of the Ethics Official to follow-up on disclosed information and that they are instructed to do so. Furthermore, the

Washington Office and field unit Ethics Advisors received extensive training in December 1999, on the OGE Form 450 review process. The expected result is that they will have a better understanding of the review process and knowledge of the resources used in reviewing for conflict of interests. Furthermore, by December 2000, Law enforcement and investigations staff from the FS' Program Investigations Division will be instructed to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports.

OIG Position

We accept the FS' management decision on this recommendation.

EXHIBIT A – PERCENTAGE OF FS EMPLOYEES BY LOCATION CURRENTLY REQUIRED TO FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

LOCATION	NUMBER OF FS EMPLOYEES [14]	NUMBER OF FS EMPLOYEES REQUIRED TO FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS [15]	PERCENTAGE OF FS EMPLOYEES REQUIRED TO FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS
International Institute of Tropical Forestry	78	1	1.28%
Forest Products Laboratory	275	5	1.82%
Southern Research Station	585	11	1.88%
Pacific Southwest Forest and Range Experiment Station	366	8	2.19%
Pacific Southwest Region (Region 5)	5,050	179	3.54%
Northern Region (Region 1)	3,412	136	3.99%
Alaska Region (Region 10)	820	40	4.88%
Pacific Northwest Region (Region 6)	5,811	302	5.20%
Northeastern Forest Experiment Station	378	23	6.08%
North Central Forest Experiment Station	278	22	7.91%
State and Private Forestry Area – Northeastern Area	174	14	8.05%
Eastern Region (Region 9)	2,021	165	8.16%
Southwestern Region (Region 3)	2,326	209	8.99%
Southern Region (Region 8)	3,131	300	9.58%
Rocky Mountain Region (Region 2)	2,000	216	10.80%
Intermountain Region (Region 4)	2,708	325	12.00%
Washington Office	2,861	357	12.48%

[14] Source: Forest Service Washington Office, Human Resources Management, as of March 10, 1999.
[15] Source: National Finance Center, as of February 18, 1999.

LOCATION	NUMBER OF FS EMPLOYEES [14]	NUMBER OF FS EMPLOYEES REQUIRED TO FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS [15]	PERCENTAGE OF FS EMPLOYEES REQUIRED TO FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS
Pacific Northwest Research Station	424	57	13.44%
Rocky Mountain Research Station	551	130	23.59%
Total	33,249	2,500	7.52%

EXHIBIT B – FS EMPLOYEES WHO DID NOT FILE REQUIRED INCUMBENT CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

EMPLOYEE IDENTIFIER	FS UNIT	REPORTING PERIOD EMPLOYEE DID NOT FILE		
		FISCAL YEAR 1996	FISCAL YEAR 1997	FISCAL YEAR 1998
S-71	01	X		
S-161	01	X		
S-18	03	X		
S-21	03	X		
S-36	03	X	X	
S-139	03		X	
S-149	03	X		
S-223	03	X		
S-224	03	X	X	
S-242	03		X	
S-305	03	X		
S-127	04		X	
S-198	04			X[16]
S-201	04		X	
S-41	05		X	
S-115	05	X	X	X[17]
S-177	05		X	
S-178	05		X	
S-218	05	X		X[18]
S-231	05	X	X	
S-255	05		X	
S-259	05		X	
S-287	05			X[17]
S-294	05		X	
S-34	06	X	X	
S-45	06	X		
S-107	06	X	X	

[16] When questioned, the employee could not recall whether or not he actually filed an incumbent confidential financial disclosure report.

[17] Employee filed the OGE Optional Form 450-A, "Confidential Certificate of No New Interests," which was not the appropriate form to file since the employee had yet to file an OGE Form 450. According to 5 CFR 2634.905(d)(2), effective April 7, 1992, the OGE Optional Form 450-A can only be used if the incumbent filers have a previous OGE Form 450 on file with their agencies for the positions they currently hold.

[18] According to the employee, he did not file an incumbent confidential financial disclosure report because he was not asked to file one.

EMPLOYEE IDENTIFIER	FS UNIT	REPORTING PERIOD EMPLOYEE DID NOT FILE		
		FISCAL YEAR 1996	FISCAL YEAR 1997	FISCAL YEAR 1998
S-145	06	X	X	
S-172	06		X	
S-175	06	X		
S-1	08			X[19]
S-49	08			X[19]
S-137	08		X	
S-322	08		X	
S-263	26		X	
S-271	26	X	X	
S-84	51	X		
S-19	52		X	
S-42	52		X	
S-8[20]	60/03	X	X	X[18]
S-62[20]	60/05	X	X	X[18]
S-68[20]	60/05	X	X	X[21]
S-118[20]	60/05	X	X	X[18]
S-48[20]	60/06		X	
Total Number of Occurrences		23 (or12 percent)	29 (or 14 percent)	10 (or 3 percent)

[19] According to the employee, she filed an incumbent confidential financial disclosure report but the report could not be located.

[20] Although shown as a Washington Office employee, employee is a criminal investigator assigned to work at a FS unit outside the Washington Office. The FS unit where the employee works is generally the one responsible for obtaining and reviewing the employee's financial disclosure report.

[21] According to the employee, he filed an incumbent confidential financial disclosure report. However, according to the designated ethics official at both the region where the employee works and the Washington Office, the employee did not file.

EXHIBIT C – FS EMPLOYEES WHO DID NOT FILE THEIR INCUMBENT CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS TIMELY

EMPLOYEE IDENTIFIER	FS UNIT	FISCAL YEAR 1998 REPORTING PERIOD		
		DATE REPORT DUE	DATE REPORT RECEIVED	NUMBER OF DAYS REPORT RECEIVED AFTER DUE DATE
Employees Randomly Selected:				
S-163	02	10/30/98	02/18/99	111
S-211	02	10/30/98	12/15/98	46
S-21	03	10/30/98	11/06/98	7
S-223	03	10/30/98	12/28/98	59
S-297	04	10/30/98	03/05/99	126
S-41	05	10/30/98	03/25/99	146
S-47	05	10/30/98	03/25/99	146
S-63	05	10/30/98	11/27/98	28
S-65	05	10/30/98	11/30/98	31
S-117	05	10/30/98	11/13/98	14
S-177	05	10/30/98	11/24/98	25
S-178	05	10/30/98	11/10/98	11
S-179	05	10/30/98	11/02/98	3
S-231	05	10/30/98	01/20/99	82
S-240	05	10/30/98	11/16/98	17
S-255	05	10/30/98	11/24/98	25
S-259	05	10/30/98	12/03/98	34
S-265	05	10/30/98	12/03/98	34
S-294	05	10/30/98	12/07/98	38
S-4	06	10/30/98	11/25/98	26
S-14	06	10/30/98	03/11/99	132
S-45	06	10/30/98	12/09/98	40
S-81	06	10/30/98	05/07/99	189
S-145	06	10/30/98	11/25/98	26
S-154	06	10/30/98	11/02/98	3
S-175	06	10/30/98	12/08/98	39
S-192	06	10/30/98	12/08/98	39
S-157	08	10/30/98	11/02/98	3
S-236	08	10/30/98	11/06/98[25]	7

EMPLOYEE IDENTIFIER	FS UNIT	FISCAL YEAR 1998 REPORTING PERIOD		
		DATE REPORT DUE	DATE REPORT RECEIVED	NUMBER OF DAYS REPORT RECEIVED AFTER DUE DATE
S-252	08	10/30/98	11/04/98	5
S-264	08	10/30/98	11/06/98	7
S-283	08	10/30/98	11/02/98	3
S-302	08	10/30/98	11/06/98	7
S-191	09	10/30/98	11/02/98	3
S-56	22	10/30/98	06/04/99	217
S-285	22	10/30/98	08/05/99	279
S-17	23	10/30/98	01/25/99	87
S-263	26	10/30/98	02/02/99	95
S-271	26	10/30/98	02/08/99	101
S-13	51	10/30/98	11/03/98	4
S-84	51	10/30/98	11/01/98	2
S-93	51	10/30/98	11/19/98	20
S-314	51	10/30/98	11/02/98	3
S-133	52	10/30/98	12/15/98	46
S-46	60/08[22]	10/30/98	11/03/98	4
S-48	60/06[22]	10/30/98	11/20/98	21
S-86	60/06[22]	10/30/98	11/02/98	3
S-195	60/06[22]	10/30/98	11/02/98	3
Employees Judgmentally Selected:				
J-13	05	10/30/98	12/07/98	38
J-14	05	10/30/98	01/09/99	71
J-15	05	10/30/98	04/22/99	174
J-16	05	10/30/98	11/30/98	31
J-17	05	10/30/98	12/07/99	403
J-19	06	10/30/98	12/03/98	34
J-24	26	10/30/98	02/10/99	103

[22] Although shown as a Washington Office employee, employee is a criminal investigator assigned to work at a FS unit outside the Washington Office. The FS unit where the employee works is generally the one responsible for obtaining and reviewing the employee's financial disclosure report.

EXHIBIT D – FS EMPLOYEEES WHOSE INCUMBENT CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS WERE NOT REVIEWED TIMELY

EMPLOYEE IDENTIFIER	FS UNIT	FISCAL YEAR 1998 REPORTING PERIOD		
		DATE REPORT RECEIVED	DATE REPORT REVIEWED	IF REVIEWED, NUMBER OF DAYS IT TOOK TO REVIEW REPORT
Employees Randomly Selected:				
S-273	02	09/18/98	03/11/99	174
S-139	03	09/29/98	01/11/99	104
S-149	03	10/14/98	02/12/99	121
S-224	03	10/05/98	01/11/99	98
S-23	04	09/16/98	03/08/99	173
S-38	04	09/28/98	03/09/99	162
S-70	04	09/28/98	03/08/99	161
S-94	04	10/01/98	03/08/99	158[23]
S-99	04	10/05/98	03/08/99	154
S-147	04	09/15/98	03/08/99	174
S-170	04	09/18/98	03/08/99	171
S-201	04	10/06/98	03/08/99	153
S-213	04	10/19/98	03/09/99	141
S-300	04	09/16/98	03/08/99	173
S-259	05	12/03/98	12/03/98	0[18]
S-27	08	10/22/98	10/22/98	0[18]
S-131	22	10/23/98	04/29/99	188
S-110	52	09/14/98	01/21/99	129
S-248	60/04[24]	09/28/98	03/08/99	161
Employees Judgmentally Selected:				
J-12	04	09/16/98	03/09/99	174

[23] Although the initial review of the employee's incumbent confidential financial disclosure report was completed within the required 60 days, it was never subsequently reviewed and approved by the final reviewing official. We considered the review timely only if (1) the initial review of the confidential financial disclosure report was completed within 60 days after it was received and (2) the final reviewing official signed and dated the confidential financial disclosure report certifying that the employee was in compliance with all applicable laws and regulations.

[24] Although shown as a Washington Office employee, employee is a criminal investigator assigned to work at a FS unit outside the Washington Office. The FS unit where the employee works is generally the one responsible for obtaining and reviewing the employee's financial disclosure report.

EXHIBIT E – FS EMPLOYEES WHO EITHER DID NOT FILE OR FILE TIMELY THEIR NEW ENTRANT CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

EMPLOYEE IDENTIFIER	FS UNIT	NEW ENTRANT DATE OR DATE TEMPORARY POSITION HELD	IF TEMPORARY POSITION, NUMBER OF DAYS POSIITION HELD	DATE REPORT DUE	DATE REPORT RECEIVED	IF FILED, NUMBER OF DAYS REPORT RECEIVED AFTER DUE DATE
J-2	01	04/12/98		05/12/98	10/14/98	155
N-65	01	09/02/98		10/02/98	DID NOT FILE	
N-62	01	01/03/99 – 05/02/99	119	02/02/99	DID NOT FILE	
N-63	01	01/03/99 - 05/03/99	120	02/02/99	DID NOT FILE	
N-64	01	01/03/99 – 04/24/99	111	02/02/99	DID NOT FILE	
S-246	01	01/04/99		02/03/99	03/12/99	37
S-95	02	01/18/98		02/17/98	09/24/98	219
J-5	03	10/12/97		11/11/97	02/24/98	105
S-136	03	12/21/97		01/20/98	10/16/98	269
S-140	03	06/21/98		07/21/98	10/19/98	90
S-65	05	12/08/96		01/07/97	11/13/97	310
S-117	05	01/05/98		02/04/98	11/13/98	282
S-91	05	01/03/99 - 04/25/99	112	02/02/99	DID NOT FILE	
N-47	05	01/31/99 - 05/31/99	120	03/02/99	DID NOT FILE	
N-48	05	02/14/99 - 06/06/99	112	03/16/99	DID NOT FILE	
N-45	05	02/28/99		03/30/99	DID NOT FILE	
J-19	06	08/17/97		09/16/97	12/03/98	443
S-24	06	10/26/97		11/25/97	09/21/98	300
S-181	06	10/26/97		11/25/97	09/23/98	302
S-9	06	11/09/97		12/09/97	10/16/98	311
S-239	06	03/15/98		04/14/98	10/02/98	171
S-252	08	07/19/98		08/18/98	11/04/98	78
S-296	51	01/04/98		02/03/98	10/02/98	241
S-121	51	11/22/98		12/22/98	DID NOT FILE	
S-133	52	02/15/98		03/17/98	12/15/98	273
S-122	52	10/25/98 - 02/28/99	127	11/24/98	DID NOT FILE	
S-33	54	02/14/99		03/16/99	DID NOT FILE	
S-234	60	09/13/98		10/13/98	DID NOT FILE	

EXHIBIT F – FS EMPLOYEES AT SITES VISITED HOLDING POSITIONS REQUIRING FINANICAL DISCLOSURE NOT ASKED TO FILE CONFIDENTIAL FINANCIAL DISCLOSURE REPORTS

EMPLOYEE INDENTIFIER	FS UNIT	GRADE LEVEL
Contract Specialists		
N-1	Region 1	GS-11
N-2	Region 1	GS-11
N-3	Region 1	GS-11
N-4	Region 1	GS-11
N-5	Region 1	GS-11
N-6	Region 1	GS-11
N-7	Region 5	GS-11
N-8	Region 5	GS-11
N-9	Region 5	GS-11
N-10	Region 5	GS-11
N-12	Region 5	GS-12
N-13	Region 5	GS-12
N-14	Region 5	GS-12
N-15	Region 5	GS-12
N-16	Region 5	GS-12
N-17	Region 5	GS-12
N-67	Region 5	GS-12
Supervisory Contract Specialists		
N-60	Region 5	GS-12
N-154	Region 5	GS-12
Criminal Investigators[25]		
N-18	Washington Office/Region 2	GS-12
N-19	Washington Office/Region 2	GS-12
N-20	Washington Office/Region 3	GS-12
N-21	Washington Office/Region 5	GS-12
N-22	Washington Office/Region 5	GS-12
N-23	Washington Office/Region 5	GS-12

[25] Although shown as a Washington Office employee, criminal investigators are generally assigned to work at a FS unit outside the Washington Office. The FS unit where the employee works is generally the one responsible for obtaining and reviewing the employee's financial disclosure report.

EMPLOYEE INDENTIFIER	FS UNIT	GRADE LEVEL
N-24	Washington Office/Region 5	GS-12
N-25	Washington Office/Region 5	GS-12
N-26	Washington Office/Region 5	GS-12
N-27	Washington Office/Region 5	GS-12
N-28	Washington Office/Region 5	GS-12
N-29	Washington Office/Region 5	GS-12
N-30	Washington Office/Region 5	GS-12
N-31	Washington Office/Region 5	GS-12
N-32	Washington Office/Region 9	GS-12
N-33	Washington Office/Region 9	GS-12
N-34	Washington Office/Region 9	GS-12
N-35	Washington Office/Region 10	GS-12
N-36	Washington Office/Region 10	GS-12
N-37	Washington Office	GS-12
N-38	Washington Office/Region 1	GS-12
N-39	Washington Office/Region 5	GS-13
N-40	Washington Office/Region 9	GS-13
N-41	Washington Office/Region 9	GS-13
N-42	Washington Office/Region 10	GS-13
N-43	Washington Office	GS-13
Supervisory Criminal Investigator[25]		
N-61	Washington Office/Region 4	GS-13
Deputy Director of Engineering		
N-44	Region 1	GS-14
Deputy Forest Supervisor		
N-45	Region 5	GS-14
District Rangers		
N-46	Region 5	GS-13
N-47	Region 5	GS-13
N-48	Region 5	GS-13
N-49	Region 5	GS-13

EMPLOYEE INDENTIFIER	FS UNIT	GRADE LEVEL
Employee Relations Specialist		
N-68[26]	Region 5	GS-12
Forest Supervisor		
N-50	Region 5	GS-14
Grants & Agreements Specialist		
N-152[27]	Region 1	GS-11
Mining Engineers		
N-51[28]	Region 1	GS-11
N-52[28]	Region 1	GS-12
Personnel Management Specialist		
N-53[26]	Southern Research Station	GS-12
Public Affairs Officer		
N-54[29]	Region 1	GS-12
Realty Specialists		
N-55	Washington Office	GS-12
N-56	Washington Office	GS-13
N-57	Washington Office	GS-13
N-58	Washington Office	GS-13
N-59	Region 5	GS-12
Reclamation Specialist		
N-153[28]	Region 1	GS-11

[26] Employee makes determinations of conflicts of interest regarding financial disclosure documents.
[27] Employee has full authority to negotiate instruments within the limits of delegated authority.
[28] Employee performs functions or duties under the Surface Mining Control and Reclamation Act of 1997.
[29] Employee also serves as the administrative officer for the Helena National Forest.

EXHIBIT G – FS EMPLOYEES AT THE SOUTHERN RESEARCH STATION WHOSE FILING STATUS HAD NOT BEEN UPDATED AT NFC AND/OR ON THE FORM AD-332

EMPLOYEE IDENTIFIER	EMPLOYEE IS PROJECT LEADER	EMPLOYEE INVOLVED WITH GRANTS AND AGREEMENTS	EMPLOYEE REQUIRED TO FILE	FILING STATUS NOT UPDATED AT NFC	FILING STATUS NOT UPDATED ON FORM AD-332
N-70	X	X	X	X	
N-71		X	X	X	X
N-72	X	X	X	X	
N-73		X	X	X	X
N-74	X	X	X	X	X
N-75		X	X	X	X
N-76		X	X	X	X
N-77		X	X	X	X
N-78		X	X	X	X
N-79	X	X	X	X	X
N-80		X	X	X	X
N-81		X	X	X	X
N-82	X	X	X	X	X
N-83	X	X	X	X	X
N-84		X	X	X	X
N-85		X	X	X	X
N-86	X	X	X	X	X
N-87	X	X	X	X	X
N-88		X	X	X	X
N-89		X	X	X	X
N-90	X	X	X	X	X
N-91		X	X	X	X
N-92		X	X	X	X
N-93		X	X	X	X
N-94	X	X	X	X	
N-95		X	X	X	X

EMPLOYEE IDENTIFIER	EMPLOYEE IS PROJECT LEADER	EMPLOYEE INVOLVED WITH GRANTS AND AGREEMENTS	EMPLOYEE REQUIRED TO FILE	FILING STATUS NOT UPDATED AT NFC	FILING STATUS NOT UPDATED ON FORM AD-332
N-96	X	X	X	X	X
N-97		X	X	X	
N-98		X	X	X	X
N-99		X	X	X	X
N-100	X	X	X	X	
N-101	X	X	X	X	X
N-102	X	X	X	X	X
N-103		X	X	X	X
N-104		X	X	X	X
N-105		X	X	X	X
N-106		X	X	X	X
N-107		X	X	X	X
N-108	X		X	X	X
N-109		X	X	X	X
N-110		X	X	X	X
N-111	X		X	X	X
N-112	X	X	X	X	X
N-113		X	X	X	X
N-114	X	X	X	X	X
N-115		X	X	X	X
N-116		X	X	X	X
N-117		X	X	X	X
N-118		X	X	X	X
N-119	X		X	X	X
N-120		X	X	X	X
N-121		X	X	X	X
N-122	X	X	X	X	X
N-123		X	X	X	X
N-124		X	X	X	X

EMPLOYEE IDENTIFIER	EMPLOYEE IS PROJECT LEADER	EMPLOYEE INVOLVED WITH GRANTS AND AGREEMENTS	EMPLOYEE REQUIRED TO FILE	FILING STATUS NOT UPDATED AT NFC	FILING STATUS NOT UPDATED ON FORM AD-332
N-125		X	X	X	X
N-126	X	X	X	X	X
N-127	X		X	X	X
N-128			X	X	X
N-129			X	X	X
N-130			X	X	X
N-131				X	X
N-132			X	X	X
N-133			X	X	X

EXHIBIT H – FS EMPLOYEES AT SITES VISITED WHOSE FILING STATUS HAD NOT BEEN ACCURATELY ENTERED AT NFC AND/OR ON THE FORM AD-332

EMPLOYEE IDENTIFIER	FS UNIT	EMPLOYEE REQUIRED TO FILE A CONFIDENTIAL FINANCIAL DISCLOSURE REPORT		
		PER FS	PER NFC	PER FORM AD-332
N-142	Region 5	Yes	No	No
N-143	Region 5	Yes	No	No
N-144	Region 5	Yes	No	No
N-145	Region 5	Yes	No	No
N-146	Region 5	Yes	No	No
N-147	Region 5	Yes	No	No
N-150	Washington Office	Yes	No	Yes
N-151	Washington Office	Yes	No	No

EXHIBIT I – FS EMPLOYEES WHO DID NOT FULLY DISCLOSE ON THEIR CONFIDENTIAL FINANCIAL DISCLOSURE REPORT ALL OF THEIR FINANCIAL INTERESTS AND/OR OUTSIDE EMPLOYMENT/ ACTIVITIES

EMPLOYEE IDENTIFIER	FS UNIT	FINANCIAL INTERESTS AND/OR OUTSIDE EMPLOYMENT ACTIVITIES NOT DISCLOSED[30]
J-14	05	We determined from the report of investigation (Case Nos. [ )] that the employee's wife had a business that he helped get FS contracts, a business the employee did not report on his financial disclosure report. We were unable to determine from the report of investigation the value of the wife's business or the amount of income it produced in order to conclude whether or not it met the dollar threshold for inclusion on the financial disclosure report, although it likely did meet the threshold. The employee has since retired from the FS.
J-16	05	We determined from the report of investigation that the employee occasionally worked as a volunteer support team member for an outside entity that does business with the FS. (According to the report of investigation, it was alleged that as forest supervisor, the employee was instrumental in helping the entity obtain FS contracts.) In addition, due to her role as support team member, the employee and her husband received free gifts from the entity including seed coupons (valued at $50 each) totaling $400 and admission to the entity's seminars valued at $4,360. The employee received half of the seed coupons during FY 1996 and the remaining half during FY 1997. The employee along with her husband attended a total of four seminars, two seminars during FY 1996 valued at $495 each and two seminars during FY 1997 in which the first seminar was valued at $695 and the second seminar was valued at $495. The employee reported neither her volunteer position nor the free gifts she and her husband received from the entity on her financial disclosure report. Based on the criteria previously mentioned, the employee would not need to report her volunteer work with the outside entity and would only need to report the value of the seminars she and her husband attended since the seed coupons did not meet the threshold for reporting purposes (i.e., the value of each coupon was less than $100 and would therefore not be included in the aggregate amount). However, because the entity was doing business with the FS, we believe that the employee needed to report both her relationship with the outside entity as well as the seed coupons. Furthermore, we noted that regulations[31] prohibit an employee from soliciting or accepting any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties. Regulations[32] also prohibit an employee from engaging in outside employment or activities, including seeking or negotiating for employment that conflict with official Government duties and responsibilities.

[30] Regulations (5 CFR 2634.301(a), 2634.302(a), and 2634.309(a), effective April 7, 1992) require that filers report on their confidential financial disclosure report all assets (including their spouses) held for investment or for the production of income with a value greater than $1,000 at the end of the reporting period or which produced more than $200 in income during the reporting period. Regulations (5 CFR 2634.304, effective April 7, 1992) also require that filers report on their confidential financial disclosure report the source and a brief description of all gifts and travel-related reimbursements they received from any one source during the reporting period aggregating $250 or more in value. Regulations (5 CFR 2634.304(d), effective April 7, 1992) also state that any gift or reimbursement with a fair market value of $100 or less need not be aggregated for purposes of the reporting requirement. In addition, regulations (5 CFR 2634.307(a), effective April 7, 1992) require filers to report all positions they held outside the U.S. Government at any time during the reporting period. Positions include an officer, director, trustee, general partner, proprietor, representative, executor, employee, or consultant of any of the following: (1) corporation, company, firm, partnership, trust, or other business enterprise; (2) a nonprofit organization; (3) a labor organization; and (4) an educational or other institution outside the Federal Government.

[31] 5 CFR 2535.101(b)(4), effective February 3, 1993

[32] 5 CFR 2635.101(b)(10), effective February 3, 1993

EMPLOYEE IDENTIFIER	FS UNIT	FINANCIAL INTERESTS AND/OR OUTSIDE EMPLOYMENT ACTIVITIES NOT DISCLOSED[30]
J-18	05	We determined from the report of investigation (Case No. [ )] that the employee, a forest supervisor, was a FS liaison (formerly a nonvoting member) for a nonprofit organization that does business with the FS, a position that the employee did not report on his financial disclosure report. We subsequently interviewed the employee primarily because of conflict-of-interest allegations made against the nonprofit organization in which he was FS liaison. The employee told us that he did not report on the financial disclosure report his relationship with the nonprofit organization because he did not believe he was required to based on the criteria for reporting outside positions (i.e., he was not an officer, director, trustee, general partner, proprietor, representative, executor, employee, or consultant of the nonprofit organization.) Although regulations do not specifically require that it be reported, we concluded that the employee should have reported his relationship with the nonprofit organization considering that as FS liaison he is responsible for attending all of the organization's board meetings. Furthermore, we determined from the board meeting minutes that the employee not only served on the organization's strategy and planning committee but also participated in the recruitment of new board members.
J-21	08	We determined from the report of investigation that the employee, who was a district ranger, also served as President of his local Chamber of Commerce during FY 1998, a position that he did not report on his financial disclosure report.

EXHIBIT J – FS POSITIONS THAT APPEAR TO MEET FEDERAL REGULATIONS REQUIRING FINANCIAL DISCLOSURE WHOSE OCCUPANTS WERE NOT REQUIRED TO FILE

POSITION	DESCRIPTION
Aircraft and Aviation Inspector	According to the nonstandard position description for a GS-12, the employee occupying this position is responsible for conducting surveillance and inspections associated with aircraft contractors. For example, through inspection and surveillance, the employee decides whether the maintenance program of private contractors and commercial operators using FS aircraft is being performed in compliance with Federal Aviation Regulations, general safety standards, and the terms of contract specifications. The employee also prepares bid specifications for the major overhaul of aircraft engines, airframes, and accessories.
Construction Representative	According to the nonstandard position descriptions for both a GS-9 and GS-11, the employee occupying this position is responsible for conducting inspections and investigations of construction activities to ensure that contractors (and permittees) are complying with the terms of their contracts (and permits).
Natural Resource Specialist	According to the nonstandard position descriptions for both a GS-9 and GS-11, the employee occupying this position is responsible for determining whether permittees are complying with the terms of their permits and making recommendations to correct discrepancies. According to the nonstandard position description for a supervisory natural resource specialist at the GS-11 level, the employee is responsible for inspecting logging operations to ensure that contract stipulations are observed and investigating reports of improper logging activities such as improper cutting practices and cutting of unauthorized timber.
Rangeland Management Specialist/ Range Conservationist	According to the position description for a GS-9 and the nonstandard position description for a GS-11, the employee occupying this position is responsible for recommending the issuance of permits and inspecting permittees' operations and enforcing permittees' compliance with the terms of their permits.
Realty Specialist	According to the standard position descriptions for both a GS-9 and GS-11, the employee occupying this position is responsible for conducting appraisals. In addition, the GS-9 realty specialist is involved in land acquisition and exchange cases and the GS-11 realty specialist is responsible for directing the special uses activity program which includes inspecting permittees' compliance with the terms of their permits. The FS currently requires only realty specialists at the GS-12 grade level and above to file confidential financial disclosure reports.
Scenic Easement Administrator	According to the nonstandard position description for a GS-11, the employee occupying this position is responsible for administering scenic easements, conservation easements, reserve interest deeds, and special-use permits on the river corridors. The employee also exercises significant judgment in negotiating and making decisions and commitments on contracts and inspects private lands covered by scenic easements to determine compliance with the terms of easement deeds and recommends corrective actions. The employee also prepares responses to appeals and investigates compliance with permits.

EXHIBIT K – AUDITEE RESPONSE TO DRAFT REPORT

United States Department of Agriculture | **Forest Service** | **Washington Office** | **14th & Independence SW**
P.O. Box 96090
Washington, DC 20090-6090

File Code: 1430
Route To: 6170

Date: JUN 2 2000

Subject: Office of Inspector General Official Draft/Final Report, Review of the Confidential Financial Disclosure System Administered by the Forest Service, Report No. 08801-3-SF, April 14, 2000

To: James R. Ebbitt
Assistant Inspector General for Audit
Office of Inspector General

We have completed our review of the Office of Inspector General (OIG) official Draft Audit Report entitled *Review of the Confidential Financial Disclosure System Administered by the Forest Service*, Report No. 08801-3-SF. We concur with all of the audit findings and recommendations with the exception of Recommendation No. 1. The Forest Service believes that only Law Enforcement Officers and Criminal Investigators at the GS-12 level and above should be required to file a confidential financial disclosure report. Our position is explained in the response to Recommendation No. 1.

Enclosed is our response to the OIG report. If you have any questions, please contact Linda Washington, the External Audit Liaison, on (202) 205-1466.

for Cathrine L Beatty
VINCETTE L. GOERL
Chief Financial Officer
Deputy Chief, Office of Finance

Enclosure

cc: Deputy Chief for Operations
Peggy St. Peter, Human Resource Management

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United States Department of Agriculture
Forest Service

Office of Inspector General (OIG)
Review of the Confidential Financial Disclosure System
Administered by the Forest Service
April 14, 2000

Forest Service Review Comments
May 26, 2000

GENERAL COMMENTS CONCERNING THIS REPORT: The Forest Service agrees with many of the recommendations, however, we disagree with the recommendation that all Law Enforcement Officers and Criminal Investigators be required to file. In future reviews, we suggest that a key to the coding of employees in the exhibits be provided with the draft report. Overall, the report reflects issues that we are prepared to address in an aggressive manner to bring the Forest Service into compliance with ethics requirements.

OIG RECOMMENDATION NO. 1: Require all Forest Service Law Enforcement Officers and Criminal Investigators to file confidential financial disclosure reports.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 1:

Forest Service does not agree that all Law Enforcement Officers (LEO) and Criminal Investigators (CI) at the GS-5/7/9/11 level be required to file. However, the Forest Service agrees that Criminal Investigators at grades GS-12 and above, by virtue of their recurring involvement and roles in outside investigations, should continue to file financial disclosure reports. We believe that these lower-graded employees do not exercise the level and type of independent judgment that would affect the economic interests of non-federal entities. While the position descriptions define certain duties that would fall under the criteria of a filer, they do not participate personally and substantially through decision or the exercise of significant judgment in taking government action without approval from a higher-graded supervisor. We feel they have a low vulnerability to conflict of interest situations. This position is supported by the Office of Government Ethics in 5 CFR 2634.905 (a)(b-1, 2), Exclusions from Filing Requirements. Law Enforcement (LE) leadership will ensure that at the annual Regional refresher training for all LEO's and CI's, ethics training will be added to the agenda. Further, the USDA Office of Ethics has committed to provide semi-annual training to the LE Leadership Team, the group that oversees the integrity of the LE national program. Date to be accomplished: LE will coordinate with the Forest Service Ethics Advisor when dates for meetings have been established.

OIG RECOMMENDATION NO. 2: For each position noted in exhibit J, reassess whether the requirements for filing a confidential financial disclosure report apply. If determined applicable, require that those Forest Service employees holding the positions file confidential financial disclosure reports.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 2:

Forest Service concurs with Recommendation 2, however, questions the titles of two of the positions; Construction Representative and Scenic Easement Administrator. They appear to be working titles and we will need to look at the Position Description (PD) to determine actual duties. Forest Service will instruct all Regions, Stations and Area Ethics Advisors to coordinate with Personnel Operations - Classifications Specialists, to reassess whether the requirements for filing apply to the following positions: Aircraft and Aviation Inspector; Natural Resource Specialist; Rangeland Mgmt. Specialist/Range Conservationist; Realty Specialist. Date to be accomplished: November 2000.

OIG RECOMMENDATION NO. 3: In addition to the Forest Service employees noted in the exhibits G and H, also determine nationwide those Forest Service employees whose filing status is not accurately recorded at NFC and on the form AD-332 and make the appropriate adjustments.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 3:

Forest Service concurs with Recommendation 3. Adjustments will be made for all employees noted in the exhibits and field advisors will be instructed to review the status for all filers to ensure that they are accurately coded at NFC. Date to be accomplished: September 2000.

OIG RECOMMENDATION NO. 4: Establish procedures to ensure that the filing status of those employees required to file financial disclosure report is accurately recorded on both the form AD-332 and at NFC.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 4:

Forest Service concurs with Recommendation 4. Forest Service will initiate a closer working relationship between Ethics Advisors and WO/Field Classification Specialists with training on the appropriate review of PD's accomplished at the outset. This could be accomplished by issuing a policy statement containing "red flags" that will alert classifiers in the review process. Forest Service will then conduct a position review to update NFC confidential financial disclosure codes and will also ensure the AD-332 is coded correctly and entered into the NFC database. Date to be accomplished: October 2000.

OIG RECOMMENDATION NO. 5: Instruct all research stations to enter at NFC the current filing status of all their employees including their research scientists that are required to file financial disclosure reports because they are also project leaders and/or involved with grants and agreements. In addition, instruct all Forest Service units to use the report generated from the NFC database to identify and track those employees required to file confidential financial disclosure reports.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 5:

Forest Service agrees with Recommendation 5. Written instruction will be sent to all research stations instructing them to enter all required filers into the NFC database and to use the NFC generated report to track employees required to file the financial disclosure report. Position descriptions will be reviewed for content relating to criteria for determining filing status and any containing duties involving project leader/management with grants and agreements, will be permanently entered into the NFC database until such time as the duties in the position description change. This will be consistent with all other PD's determined to be filers. Date to be accomplished: September 2000.

OIG RECOMMENDATION NO. 6: Instruct Forest Service units to have their designated ethics official identify on an annual basis all employees in their units holding sensitive positions, including those positions already designated to file by the Forest Service Washington Office, and check to see that each employee is properly designated to file a confidential financial disclosure report on the NFC report discussed in Finding No. 2.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 6:

Forest Service concurs with Recommendation 6. NFC focus reports will be generated to identify all sensitive positions and they will be cross-walked to a current list of confidential disclosure filers to ensure that all positions are correctly designated or if not, that employees who are in sensitive positions are notified that they will be required to file in FY2000. A letter will be issued to all Regions and Stations requiring them to perform similar functions on an annual basis and all units will be asked to certify back to the WO that they are in compliance. Date to be accomplished: September 2000.

OIG RECOMMENDATION NO. 7: In addition to the Forest Service employees noted in exhibits B, E, and F, determine nationwide those Forest Service employees required to file confidential financial disclosure reports that did not file. Investigate the circumstances concerning their failure to file and take the appropriate corrective action.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 7:

Forest Service disagrees that corrective action should take place for those employees who didn't file in years past. However, we do agree that follow-up will be initiated on all current delinquent filers. We will add the past years' delinquencies, for each current filer identified, into the equation as we determine appropriate corrective action. In addition to

the employees noted in the exhibits, the Washington Office and field unit Ethics Advisors will be directed to identify any employees who were required to file but did not do so, and request a current OGE 450's within two weeks of notification. Failure to do so will result in disciplinary action. Field units will reply to the WO with a list of identified employees and whether they are now in compliance. Date to be accomplished: June 2000.

OIG RECOMMENDATION NO. 8: Establish procedures to ensure that new entrant confidential financial disclosure reports are timely filed and reviewed and that the appropriate staff is trained on these procedures. Also, establish guidelines specifying (1) when to follow-up with employees that are late filing their confidential financial disclosure reports; (2) at what frequency the follow-up should occur; (3) at what point should disciplinary action be taken against the employee; and (4) what the disciplinary action should be. In addition, require that the follow-up be documented in order to support the need for taking disciplinary action against the employee should it be warranted.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 8:

Forest Service agrees with Recommendation 8 and will issue a letter to WO Operations Group and field units that any new entrant will be given the OGE 450 and instructions for completing and the time requirements for submitting, at the time the new employee is processed into a new position. The USDA Office of Ethics will provide training to Specialists in "Reviewing OGE Form 450." WO Ethics Advisor, in coordination with Personnel Mgt. Specialists, will develop Standard Operating Procedures containing guidelines for the Washington Office and field units that specify timeframes for actions to be completed during the OGE 450/450a filing cycle. Forest Service will use the USDA, AESOP (Agency Ethics Standard Operating Procedures) model to develop dates for follow-up for late filers; at what frequency the follow-up should occur; when disciplinary action should be taken; and what the action will be. A standard instructional letter describing the SOP will then be issued to all field units. We feel a consistent approach will facilitate the entire OGE 450 process. We will also explore the possibility of getting this direction into the directives system. Date to be accomplished: July 2000.

OIG RECOMMENDATION NO. 9: For those employees still with the Forest Service (i.e., J-16, and J-18, and J-21), investigate the circumstances concerning their failure to fully disclose all of their financial interests and/or outside employment/activities and take the appropriate disciplinary action.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 9:

Forest Service has reviewed the cases referenced in Recommendation 9. For J-16 and J-21, investigations into the circumstances described above were completed and in each case our investigative unit found that there were no improper actions or evidence of wrongdoing on the part of each of the individuals involved. Cases are now closed. In reviewing your comments in the draft report for J-18, we find that your conclusion that

the employee should have disclosed his position as a liaison with a nonprofit to be incorrect. Serving in an official capacity as a Forest Service liaison, with no fiduciary responsibility, is not a conflict of interest or violation of 18 USC 208(a). Office of Ethics supports this determination. This situation is not considered an "outside interest" because the liaison work is part of the employee's official Forest Service duties and therefore need not be reported on the financial disclosure report. An OIG Investigator substantiated employee's claim that the trip to Australia was paid for by the Forest Service. Date to be accomplished: Complete.

OIG RECOMMENDATION NO. 10: To ensure that no conflicts of interest exist when reviewing the confidential financial disclosure reports, instruct ethics officials to follow up as needed on those outside employment/activities that employees report where conflicts are most likely to be found by contacting the employee, the employee's supervisor, and/or the outside entity that the employee reported on his or her confidential financial disclosure report. In addition, instruct law enforcement and investigations staff from the FS' Program Investigations Division to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports.

FOREST SERVICE RESPONSE TO RECOMMENDATION NO. 10:

In Recommendation 10, Forest Service agrees that it is the responsibility of the Ethics Official to follow-up on disclosed information and they are instructed to do so, but that to go further in identifying any "undisclosed" financial interests goes beyond the intent of what the USDA Office of Ethics expects in regard to an Ethics Officials responsibilities. They are not in positions required to "investigate." The Washington Office and field unit Ethics Advisors received extensive training in December 1999, on the 450-review process. The expected result is that they will have a better understanding of the review process and knowledge of the resources used in reviewing for conflict of interest. Units will be instructed to coordinate with Law Enforcement when necessary. Law enforcement and investigations staff from the FS' Program Investigations Division will be instructed to consult with ethics officials when investigating cases where potential conflicts of interest are alleged to determine whether employees fully disclosed all of their financial interests and outside employment/activities on their financial disclosure reports. Date to be accomplished: December 2000.