

2016 Explanatory Notes
Office of Ethics

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OFFICE OF ETHICS

Purpose Statement

The Ethics in Government Act, 5 U.S.C. App 4 (the Act), established the ethics compliance requirements and infrastructure applicable throughout the Executive Branch. Under regulations implementing the Act, the head of each Executive Branch department or agency must exercise personal leadership in establishing, maintaining, and carrying out the agency’s ethics program and make available sufficient resources to ensure the agency’s ethics program can be implemented effectively (5 C.F.R. 2638.202). The Office of Ethics (OE) is the centralized and consolidated office implementing USDA’s ethics program throughout the Department. As such, OE provides ethics services to the Secretary of Agriculture and employees at all levels of USDA concerning advice, training, and guidance about compliance with conflict of interest and impartiality rules. This includes complying with the requirements of the Stop Trading on Congressional Knowledge Act, Pub. L. No. 112-105 (2012) (The STOCK Act), and Office of Government Ethics regulatory requirements (at 5 C.F.R. Parts 2634 through 2641). In 2012, the Secretary of Agriculture ordered the realignment of OE from the Office of Human Resources Management (OHRM), an office under Departmental Management, to the Office of the General Counsel (Secretary’s Memorandum 1076-001, dated June 26, 2012). This realignment supported the Executive Branch’s “best practice” of housing the ethics function within each Cabinet-level Department’s legal offices.

As of September 30, 2014, OE had 21 full-time employees, of which one is located in the field, and 20 are located in Washington, DC.

OE did not have any Office of Inspector General or Government Accountability Office evaluation reports during the past year.

OFFICE OF ETHICS

Available Funds and Staff Years (SYs)

(Dollars in thousands)

Item	2013 Actual		2014 Actual		2015 Enacted		2016 Estimate	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Salaries and Expenses:								
Discretionary Appropriations.....	\$3,405	23	\$3,440	19	\$3,654	21	\$4,565	25
Sequestration.....	-93	-	-	-	-	-	-	-
Rescission.....	-171	-	-	-	-	-	-	-
Transfer Out.....	-	-	-225	-	-	-	-	-
Total Available.....	3,141	23	3,215	19	3,654	21	4,565	25
Lapsing Balances.....	-2	-	-20	-	-	-	-	-
Obligations.....	3,139	23	3,195	19	3,654	21	4,565	25
<u>Obligations under other USDA appropriations:</u>								
OCIO Reimbursement.....	115	1	119	1	119	1	119	1
OCFO Reimbursement.....	115	1	119	1	119	1	119	1
Total, Agriculture Appropriations..	230	2	238	2	238	2	238	2
Total, OE.....	3,369	25	3,433	21	3,892	23	4,803	27

OFFICE OF ETHICS

Permanent Positions by Grade and Staff Year Summary

Item	2013 Actual			2014 Actual			2015 Enacted			2016 Estimate		
	Wash.		Total	Wash.		Total	Wash.		Total	Wash.		Total
	D.C.	Field		D.C.	Field		D.C.	Field		D.C.	Field	
SES.....	1	-	1	1	-	1	1	-	1	1	-	1
GS-15.....	1	-	1	1	-	1	2	-	2	2	-	2
GS-14.....	5	1	6	3	1	4	4	1	5	8	1	9
GS-13.....	7	-	7	7	-	7	6	-	6	7	-	7
GS-12.....	7	-	7	5	-	5	7	-	7	6	-	6
GS-11.....	1	-	1	1	-	1	-	-	-	-	-	-
GS-9.....	1	-	1	2	-	2	2	-	2	2	-	2
Total Perm. Positions.....	23	1	24	20	1	21	22	1	23	26	1	27
Unfilled, EOY....	-	-	-	-	-	-	-	-	-	-	-	-
Total, Perm. Full-Time Employment, EOY.....	23	1	24	20	1	21	22	1	23	26	1	27
Staff Year Est.....	23	1	24	20	1	21	22	1	23	26	1	27

OFFICE OF ETHICS

The estimates include appropriation language for this item as follows (new Language underscored; deleted matter enclosed in brackets):

Salaries and Expenses:

For necessary expenses of the Office of Ethics, [~~\$3,654,000~~]\$4,565,000.

Lead-Off Tabular Statement

Current Law

Budget Estimate, 2016.....	\$4,565,000
2015 Enacted.....	<u>3,654,000</u>
Change in Appropriation.....	<u>+ 911,000</u>

OFFICE OF ETHICS

Summary of Increases and Decreases

(Dollars in thousands)

	<u>2013 Actual</u>	<u>2014 Change</u>	<u>2015 Change</u>	<u>2016 Change</u>	<u>2016 Estimate</u>
Discretionary Appropriations:					
Office of Ethics.....	\$3,141	+\$299	+\$214	+\$911	\$4,565

Project Statement

Appropriations Detail and Staff Years (SYs)

(Dollars in thousands)

Program	<u>2013 Actual</u>		<u>2014 Actual</u>		<u>2015 Enacted</u>		<u>Inc. or Dec.</u>		<u>2016 Estimate</u>	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Discretionary Appropriations:										
Ethics Services.....	\$3,405	23	\$3,440	19	\$3,654	21	+\$911 (1)	+4	\$4,565	25
Total Appropriation.....	3,405	23	3,440	19	3,654	21	+911	+4	4,565	25
Rescission.....	-93	-	-	-	-	-	-	-	-	-
Sequestration.....	-171	-	-	-	-	-	-	-	-	-
Total Available.....	3,141	23	3,440	19	3,654	21	911	+4	4,565	25
Transfer Out: WCF.....	-		-225		-		-		-	
Lapsing Balances.....	-2		-25		-		-		-	
Total Obligations.....	3,139	23	3,190	19	3,654	21	+911	+4	4,565	25

Project Statement
Obligation Detail and Staff Years (SYs)
(Dollars in thousands)

Program	2013 Actual		2014 Actual		2015 Enacted		Inc. or Dec.		2016 Estimate	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Discretionary Obligations:										
Ethics Services.....	\$3,139	23	\$3,190	19	\$3,654	21	+\$911	+4	\$4,565	25
Total Obligations.....	3,139	23	3,190	19	3,654	21	+911	+4	4,565	25
Lapsing Balances.....	2	-	25	-	-	-	-	-	-	-
Transfer Out.....	-	-	225	-	-	-	-	-	-	-
Total Available.....	3,141	23	3,440	19	3,654	21	+911	+4	4,565	25
Rescission.....	93		-		-		-		-	
Sequestration.....	171		-		-		-		-	
Total Appropriation.....	3,405	23	3,440	19	3,654	21	+911	+4	4,565	25

Justification of Increases and Decreases

(1) An increase of \$911,000 for the Office of Ethics (\$3,654,000 and 21 staff years available in 2015).

Base funds will allow the Office of Ethics (OE), to continue to provide ethics program oversight, execution, and information to the Secretary and other senior policy officials to support the Department's compliance with ethics laws and regulations. Additionally, base funds are necessary to allow the Office of Ethics to serve the key functions of conducting financial disclosure reviews, ethics training, and providing guidance to all employees of the Department. OE's services raise employee awareness of, and compliance with, ethics laws. This maintains the public's confidence in the integrity of USDA's workforce, programs, and initiatives. In addition to the activities and functions specifically described in the budget request, current year and budget year base funds will be used to carry out activities and functions consistent with the full range of authorities and activities delegated to the office. In addition to Departmental Administration funding used for human resources operational services, current year and budget year base funds will also be used to support expedited and enhanced classification, staffing and processing efforts.

The funding change is requested for the following items:

- a. An increase of \$43,000 for pay costs (\$8,000 for annualization of the 2015 pay increase and \$35,000 for the 2016 pay raise).

The proposed funding level is needed to cover pay and benefit cost increases for existing staff. This will ensure adequate resources are available to continue to allow OE to carry out its full range of responsibilities and support program delivery.

- b. An increase of \$868,000 and 4 staff years to support the increased demand for ethics services related to the upcoming Administration transition, 2016 Presidential Election, and implementation of a new financial disclosure reporting system.

This increase will fund four key full time staff positions. The additional staff will enable OE to successfully address the surge in demand for critical ethics services, including:

- Providing time-sensitive and accurate Hatch Act (political activity) advice for USDA's appointees and employees across the country. Requests for political activity guidance rise sharply in volume and complexity every election cycle, particularly during a Presidential election year. Requests for guidance must be met in a time-sensitive and error-free fashion in order for employees to avoid the severe penalties imposed for violations of the Hatch Act.
- Providing post-employment ethics advice and guidance to departing appointees and retiring employees to ensure compliance with conflict of interest rules, ethics recusals, the STOCK Act, and financial disclosure reporting requirements.
- Providing time-sensitive ethics advice to prospective Presidential nominees and incoming officials to prepare their entrant public financial disclosure reports, provide individual ethics counseling, conduct conflicts of interest analyses, and prepare ethics agreements and compliance documentation.
- Providing assistance to USDA's nearly 16,000 financial disclosure report filers and conducting reviews of each report within regulatory time deadlines. In January, 2016, all Public Financial Disclosure Report filers will migrate to the U.S. Office of Government Ethics' new mandatory electronic filing system (INTEGRITY.GOV).

OFFICE OF ETHICS

Geographic Breakdown of Obligations and Staff Years (Dollars in thousands and Staff Years (SYs))

State/Territory	2013 Actual		2014 Actual		2015 Enacted		2016 Estimate	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
District of Columbia.....	3,139	23	3,303	21	3,539	23	4,449	26
Oregon.....	-	-	112	1	115	1	116	1
Obligations.....	3,139	23	3,415	22	3,654	24	4,565	27
Lapsing Balance.....	2		25		-		-	
Total, Available.....	3,141	23	3,440	22	3,654	24	4,565	27

OFFICE OF ETHICS
Classification by Objects
(Dollars in thousands)

	2013	2014	2015	2016
	<u>Actual</u>	<u>Actual</u>	<u>Enacted</u>	<u>Estimate</u>
Personnel Compensation:				
Washington D.C.....	\$2,234	\$1,965	\$2,395	\$3,057
Field.....	-	112	115	116
11 Total personnel compensation.....	2,234	2,077	2,510	3,173
12 Personnel benefits.....	609	603	806	1,044
13.0 Benefits for former personnel.....	14	14	14	14
Total, personnel comp. and benefits.....	2,857	2,694	3,330	4,231
Other Objects:				
23.3 Communications, utilities, and misc. charges.....	13	41	16	18
24 Printing and reproduction.....	26	42	29	31
25.3 Other purchases of goods and services from Federal sources.....	200	391	227	230
26.0 Supplies and materials.....	16	9	21	23
31.0 Equipment.....	29	13	31	32
Total, Other Objects.....	284	496	324	334
99.9 Total, new obligations.....	3,141	3,190	3,654	4,565
Position Data:				
Average Salary (dollars), ES Position.....	\$175,120	\$176,443	\$180,375	\$182,179
Average Salary (dollars), GS Position.....	\$89,517	\$90,107	\$110,934	\$119,632
Average Grade, GS Position.....	13.1	13.1	13.8	14.5

OFFICE OF ETHICS

Status of Program

Current Activities

To implement the U.S. Office of Government Ethics new regulatory conflicts of interest exception (5 CFR 2635.203(m)), USDA's Office of Ethics developed new training modules and implemented a streamlined Department-wide electronic approval process. These new procedures allow agencies to impartially evaluate employees' requests to serve, in their official capacity, on external non-profit scientific societies and professional association boards without violating criminal conflict of interest rules. To widely disseminate information about the new approval process, OE engaged in a widespread training and educational campaign ensuring USDA's leaders and managers were aware of the ambit of the new exemption. During this iterative process, OE received feedback from leaders and managers which resulted in an improved final version of the approval process. The newly-created ethics form, (Form OE-208), is electronically accessible to all employees (and is compliant with the Americans with Disabilities Act, Section 508). This process and form are currently in use Department-wide. The OE Director conducted a presentation on USDA's new process for the Federal Inter-Agency Ethics Council and as a result, this process and form is also being utilized as a model practice for other Federal agencies.

For the second consecutive year, 99.1% of all USDA employees who were required to take annual ethics training timely completed that requirement. This figure represents an exceptionally and historic high level of ethics compliance. Additionally, OE completed another successful year of electronic filing for USDA's approximately 650 public financial disclosure statements (OGE-278) and 14,000 confidential financial disclosure reports (OGE-450). OE staff also responded to over 18,000 individual requests for ethics, STOCK Act, and Hatch Act guidance; and processed thousands of ethics documents including conflict of interest memoranda, outside employment approval requests, gift analyses, STOCK Act advisory opinions, and reviews of non-Federally funded travel requests.

This year OE established its most extensive curriculum of live ethics training which included innovative new long-distance training modules and numerous scheduled live group training courses. Additionally, the OE Director personally led more than 270 "Ethics Moments" over the course of the year at various USDA senior leadership meetings. OE also benefited other Ethics programs within the Executive Branch by conducting ethics presentations at the U.S. Office of Government Ethics' National Government Ethics Summit.

The Office of Ethics serves the entire Department and all component agencies. OE is organized into an Office of the Director and four branches: the Farm, Conservation, and Rural Programs Branch; the Science Ethics Branch; the Marketing, Regulatory, and Nutrition Branch; and the Forestry Ethics Branch.

Selected Examples of Recent Progress:

OFFICE OF THE DIRECTOR

The Office of the Director coordinates ethics services throughout the Department of Agriculture and manages the ethics programs for the Office of the Secretary, Staff Offices, Departmental Management, Foreign Agricultural Service, and Risk Management Agency.

The Office of the Director put a heightened emphasis on providing live group training to raise employee awareness of the ethics rules in 2014. To effectively leverage existing resources, OE teamed, on several occasions, with OHRM's Virtual University to provide long-distance ethics training webinars combined with live trainings on-site in USDA's Jefferson Auditorium. This partnership greatly expanded OE's ability to proactively provide ethics training to employees across the country. In one instance, OE partnered with Virtual University and REE leadership to provide a live training webinar on Ethics, scientific integrity and outside scientific associations. Over 400 employees attended that one session and over 1,000 employees watched the videotaped session. OE also provided new training focusing on the application of the ethics rules to procurement officials and contracting officers. These training sessions, also conducted via live videotaped webinar, have been viewed by a total of over 1,200

procurement staff across USDA. Another training session, covering the political activity rules, was distributed to all USDA employees via an all-USDA email distribution by USDA's General Counsel in advance of the 2014 elections. Due to that one training, OE received numerous requests for additional live training classes. Overall, these collaborative efforts have been highly successful at raising employee awareness of the risks posed by ethics issues.

Moreover, the Office of the Director reviewed approximately 700 new entrant, annual, and termination public financial disclosure reports. The OE Office of the Director also reviewed more than 1,000 confidential financial disclosure reports for its assigned Agencies. The Office of the Director also provided more than 270 training sessions to USDA political appointees and senior officials on ethics, including conflicts of interest, the STOCK Act, post-Government employment, and the political activity rules (the "Hatch Act"). The Office of the Director also distributed more than 100 different one-page "Ethics in Brief" (short synopses of topical ethics rules). OE's Senior Ethics Advisors provided advice and guidance to USDA's senior leadership and agency heads and responded to a daily stream of ethics questions to ensure officials knew and understood their ethics obligations. Additionally, the Office of the Director provides guidance on the ethics rules to investigators within USDA's Office of Inspector General.

The Office of the Director also coordinated and provided timely advice on USDA's charitable programs with Departmental-wide scope, such as the Combined Federal Campaign and the Feds Feed Families Campaign.

FARM, CONSERVATION, AND RURAL PROGRAMS BRANCH

The Farm, Conservation and Rural Program Branch (OE-Farm) provides ethics services to USDA's three field organizations: Farm Service Agency (FSA), Natural Resources Conservation Service (NRCS), and Rural Development (RD). The branch handles about 40% of USDA's Confidential Financial Disclosure Reports (OGE-450). In 2013, the branch reviewed and certified 5,974 of these reports. OE-Farm also reviewed and processed over 100 outside employment/activity requests and closed 438 advice and counsel cases during 2014. The branch presented 19 ethics training sessions to agency personnel.

SCIENCE ETHICS BRANCH

Science is a key component to the overall mission of USDA. The Science Ethics Branch (SEB) provides ethics guidance to approximately 16,000 employees of the Agricultural Research Service (ARS), Economic Research Service (ERS), Forest Service (Research and Development), National Institute of Food and Agriculture (NIFA), and NRCS (Soil Survey and Resource Assessment and Science and Technology). Science is collaborative in nature, routinely presenting complex ethics issues involving relationships with universities, stakeholders and private industry. These partnerships are designed to augment research programs, expedite research results to the private sector, exchange knowledge and new technology, and stimulate business and economic development. OE staff provide expert advice to USDA scientists on ethics issues pertaining to cooperative research and development agreements with universities across the country. The SEB reviewed all Cooperative Research and Development Agreements (CRADAs) for the Agricultural Research Service to ensure no conflicts of interest were created.

The SEB received more than 3,000 outside/official duty requests for review and in-depth analysis. The Branch researched and prepared in excess of 2,800 written and oral advisories to resolve critical, sensitive ethics issues in a timely manner. During the 2014 financial disclosure season, the SEB assisted in conducting reviews of all Forest Service, Research and Development, positions designated for financial disclosure. SEB completed the review of more than 1,500 financial disclosure reports. Additionally, SEB received more than 4,000 Conflict of Interest Certifications (OE Form SEB-102) from USDA scientists. Finally, SEB reviewed over 1,400 travel reports and provided nearly 900 separate ethics advisories to USDA's scientists.

MARKETING, REGULATORY, AND NUTRITION BRANCH

The Marketing, Regulatory, and Nutrition Branch (MRNB) serves almost 20,000 USDA employees. The branch responds to hundreds of written and verbal requests for conflict of interest determinations on various ethics topics such as: gifts from outside sources; gifts between employees, seeking outside employment and/or outside activities,

misuse of position, post-employment, Hatch Act, nepotism, letters of recommendation, widely attended gatherings, and foreign gifts, among other ethics subjects. During 2014, the MRNB completed the review of more than 3,300 confidential financial disclosure reports. The Branch also presented 17 ethics training sessions on a number of subjects. In addition, the Branch worked with FSIS leadership to update procedures and implement the discontinuation of a form and a process that were no longer properly addressing the agency's needs (Form AD-1202). The branch also provided ethics training to Federal advisory committee members, both those designated as representatives and special government employees.

FORESTRY ETHICS BRANCH

The Forestry Ethics Branch (FEB) focuses on the provision of ethics services to USDA's largest Agency, the U.S. Forest Service, which covers 35,000 employees, 155 National Forests, 20 national grasslands. Forest Service Research and Development scientists are provided ethics services by the OE Science Ethics Branch.

Although the smallest of OE's branches, FEB continued to push for technological growth and innovate ways to engage customers. One example of this was the development of pre-recorded training aimed at use on mobile devices. Content was developed that was convertible to Mp3/Mp4 and other formats to facilitate the widest possible dissemination. These Mp3/Mp4 recordings were developed in-house utilizing existing staff resources.

The FEB has spent significant time working with agency regional human resource offices to ensure that the appropriate Forest Service employees file financial disclosure forms and receive ethics training. As a result of these efforts, for the second consecutive year, approximately 100% of the Forest Service's nearly 1,500 filers satisfied their annual training and filing requirements.

The FEB ensures that all of the more than 140 Forest Service Advisory Committee charters are reviewed and that they include the necessary ethics language before being approved and published. The FEB also provides special government employees, representatives, and Designated Federal Officials (Federal employees who lead these committees) with relevant ethics training.

OFFICE OF ETHICS

Summary of Budget and Performance

Statement of Agency Goals and Objectives

USDA has a centralized Ethics Program, the Office of Ethics (OE), which fulfills the statutory requirements of the Ethics in Government Act of 1979 as amended by the Stop Trading in Congressional Knowledge Act of 2012 (STOCK Act) and the regulatory requirements of the Office of Government Ethics at 5 CFR § 2634 and following. Until 2012, OE was located either in the Office of Human Resources Development under Departmental Administration or directly under Departmental Administration. In June of 2012, the Secretary ordered the realignment of OE to report directly to the General Counsel.

The mission of OE is to provide ethics services necessary to support all activities of USDA. That includes setting ethics policy, and providing ethics advice, counseling, training, review of disclosure reports, and conflict of interest analysis for all employees within the Department

USDA Strategic Goal: Create a USDA for the 21st century That Is High-Performing, Efficient, and Adaptable.

USDA Strategic Objective: Develop a customer-centric, inclusive, and high-performing workforce by investing in and engaging employees to improve service delivery. (Objective 5.1)

<u>Agency Strategic Goals</u>	<u>Agency Objectives</u>	<u>Programs that Contribute</u>	<u>Key Outcome</u>
To provide effective ethics services in support of all programs and activities of USDA, consistent with the strategic goals of USDA and the priorities of the Secretary of Agriculture.	<p>Ensure USDA has a model ethics program that complies with the requirements of the ethics program for the executive branch, as required by OGE regulations.</p> <p>Ensure that employees are trained in ethics, receive prompt and accurate advice, and fully disclose financial information and transactions and outside relationship information on required financial disclosure forms.</p>	Ethics Services Program	Provide effective ethics services in a timely and responsive manner to support USDA activities, consistent with the priorities established by the Secretary of Agriculture.

Key Performance Measures:

	2013 Actual	2014 Actual	2015 Target	2016 Target
Provide timely ethics training to USDA employees required to receive training.	99%	99%	100%	100%
Complete financial disclosure reviews within 60 days of filing.	95%	95%	100%	100%
Financial disclosure reports filed within regulatory time limits.	99%	99%	100%	100%
Dollars (in thousands)	\$3,141	\$3,440	\$3,654	\$4,565

Selected Past Accomplishments toward Achievement of the Key Outcome:

- Reviewed and certified more than 650 new entrant, annual, and termination public financial disclosure reports as well as Periodic Transaction Reports as required by the STOCK Act.
- Reviewed and certified more than 16,000 confidential financial disclosure reports for USDA employees.
- Provided more than 200 training sessions to USDA political appointees and senior officials on ethics topics, including STOCK Act and post-Government employment) and the political activity rules (the "Hatch Act"). OE also distributed more than 100 different one-page "Ethics in Brief," which are short synopses of topical ethics rules.
- Provided a representative to the USDA Scientific Integrity Committee and implemented new procedures to obtain approval for outside service in an official capacity.
- Provided advice and guidance to USDA's employees on thousands of occasions and responded to a daily stream of ethics questions to ensure officials knew and understood their ethics obligations.
- Conducted ethics presentations for executive branch ethics officials at the U.S. Office of Government Ethics National Ethics Summit which was attended by over 400 attendees from over 60 Federal agencies and conducted ethics presentations for leaders in the Federal ethics community at Inter-Agency Ethics Council meetings.

Selected Accomplishments Expected at the 2016 Proposed Resource Level: OE will provide effective ethics services in a responsive manner in order to ensure that agency officials can implement their programs with integrity.

Strategic Goal Funding Matrix
(Dollars in thousands)

<u>Program/ Program Items</u>	<u>2013</u> <u>Actual</u>	<u>2014</u> <u>Actual</u>	<u>2015</u> <u>Enacted</u>	<u>Increase or</u> <u>Decrease</u>	<u>2016</u> <u>Estimate</u>
Department Strategic Goal 5: Create a USDA for the 21st century That Is High-Performing, Efficient, and Adaptable.					
Department Objective 5.1: Develop a customer-centric, inclusive, and high-performing workforce by investing in and engaging employees to improve service delivery.					
Ethics Services.....	\$3,405	\$3,440	\$3,654	\$911	\$4,565
Staff Years.....	23	19	21	4	25
Total Cost, Strategic Goal	3,405	3,440	3,654	911	4,565
Staff Years, Strategic Goal	23	19	21	4	25

Full Cost by Department Strategic Goal
(Dollars in thousands)

Department Strategic Goal: Create a USDA for the 21st century That Is High-Performing, Efficient, and Adaptable.

<u>Program/ Program Items</u>	<u>2013</u> <u>Actual</u>	<u>2014</u> <u>Actual</u>	<u>2015</u> <u>Enacted</u>	<u>2016</u> <u>Estimate</u>
Administrative costs (direct).....	\$2,855	\$2,694	\$3,330	\$4,231
Indirect costs.....	284	496	324	334
Total Costs.....	3,139	3,190	3,654	4,565
FTEs.....	23	19	21	25