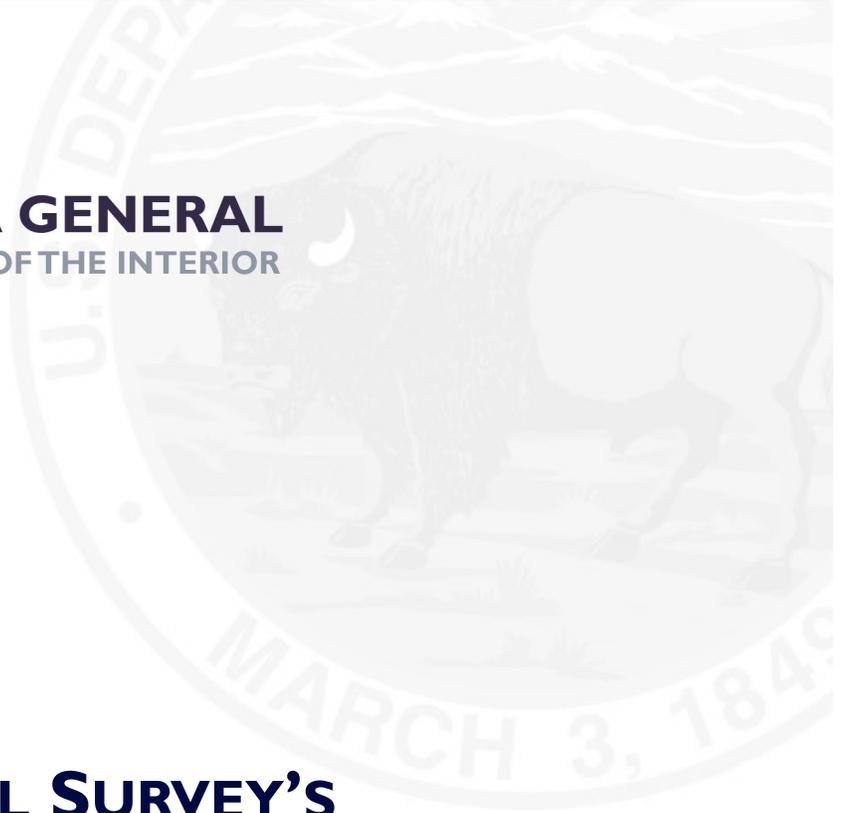




OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR



# **U.S. GEOLOGICAL SURVEY'S ETHICS PROGRAM**

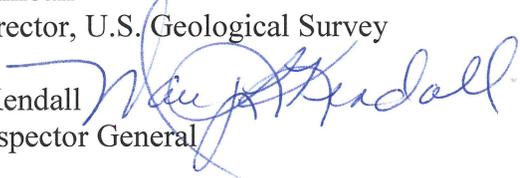


OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

MAR 30 2015

Memorandum

To: Suzette Kimball  
Acting Director, U.S. Geological Survey

From: Mary L. Kendall   
Deputy Inspector General

Subject: Inspection Report – U.S. Geological Survey’s Ethics Program  
Report No. CR-IS-GSV-0006-2014

The Office of Inspector General (OIG) conducted an inspection of the U.S. Geological Survey’s (USGS) ethics program to determine whether USGS appropriately managed its financial disclosure filings and ethics training program. Our inspection revealed several concerns regarding financial disclosure filings, ethics training, and other operational inefficiencies.

We found that USGS inconsistently applied the criteria for confidential financial disclosure filings and did not disseminate financial guidance to employees in a timely manner. We also found that most USGS employees do not receive annual ethics training, and several confidential financial disclosure filers did not complete their required annual ethics training. In addition, the USGS Ethics Office does not use an automated system to deliver or track ethics training, and uses an obsolete system and a manual process to track financial disclosure filers.

### **Background**

The U.S. Department of the Interior’s (DOI) USGS has 8,298 employees and is responsible for providing the Nation with reliable and impartial scientific information. The United States Code (U.S.C.) and the Code of Federal Regulations (C.F.R.) prohibit USGS employees from holding financial interests in the mineral wealth of the United States and from executing any survey or examinations for private parties (43 U.S.C. 31(a), 5 C.F.R. 3501.103, and 5 C.F.R. 3501.104). Prohibited interests include stocks and bonds in oil, gas, and other mining companies that hold significant leases on Federal lands. The USGS Conflict of Interest Policy sets the criteria for limited amounts of financial interests employees may hold in oil, gas, or mining activities on private lands in the United States.

Even though all USGS employees are subject to conflict of interest restrictions, only some are required to file a financial disclosure report. USGS uses the criteria established in the C.F.R. (5 C.F.R. 2634.202 and 5 C.F.R. 2634.904) to determine whether employees meet the eligibility requirements for filing either a public or confidential financial disclosure report. Ethics personnel use these reports, among other tools, to determine whether employees are complying with ethics laws and regulations.

Senate-confirmed Presidential appointees, Senior Executive Service employees, and other senior level employees are required to file a public financial disclosure report (Office of Government Ethics (OGE) Form 278). Less senior employees may also be required to report their financial interests if they operate without substantial supervision or review in certain sensitive areas. Specifically, employees may be required to file a confidential financial disclosure report (OGE Form 450) if their agency determines that their position may influence contracting or procurement; administering or monitoring grants, subsidies, licenses, or other benefits; regulating or auditing non-Federal entities; or other activities that will have an impact on the interests of non-Federal entities. In addition, an agency may require an employee to file a confidential financial disclosure report to avoid involvement in an actual or apparent conflict of interest.

The USGS Ethics Office annually develops financial guidance to further explain the specific limits and exclusions applicable to USGS employees. The USGS Financial Guide contains a list of the prohibited and limited financial holdings for USGS employees, as well as exceptions. The USGS Ethics Office typically distributes the Financial Guide annually to all USGS employees.

In addition, the C.F.R. requires that all Federal agencies have an ethics training program (5 C.F.R. 2638.701). The training program must include, at a minimum, an initial agency ethics orientation for all new employees and annual ethics training for “covered” employees. Covered employees include all confidential financial disclosure filers and public financial disclosure filers. USGS adheres to the minimum requirements by only requiring covered employees to take annual ethics training, even though, as explained above, all USGS employees are subject to the extensive restrictions on financial holdings.

The DOI Ethics Office is managed by the Designated Agency Ethics Official, the principal ethics official for DOI and all of its bureaus, including USGS. The DOI Ethics Office has oversight over the bureau ethics programs, each of which is managed by a deputy ethics counselor. In addition to its deputy ethics counselor, the USGS Ethics Office also includes an assistant ethics counselor, an ethics program specialist, and an ethics program assistant.

On November 21, 2013, the Designated Agency Ethics Official issued a memorandum to all Department employees because she determined that more employees than necessary were filing confidential financial disclosure reports. The purpose of the memo was to provide guidance on additional exclusions for filing confidential financial disclosure reports to reduce the number of unnecessary filers. Although cost savings was not specified in the memo as a reason for the reduction, our inspection discovered that the cost of each electronic financial disclosure report, \$20 per filer, was referenced as a factor when the DOI Ethics Office disseminated the memo among bureau deputy ethics counselors.

## **Findings**

Our inspection revealed several concerns with the USGS ethics program regarding financial disclosure filings, ethics training, and other operational inefficiencies.

### *Inconsistent Application of Confidential Financial Disclosure Filing Criteria*

We found that USGS does not have detailed guidance necessary to ensure a consistent process for determining who is required to file confidential financial disclosure reports. The USGS deputy ethics counselor delegates the responsibility of making confidential financial disclosure determinations to the associate directors and regional directors of USGS programs across the country. In some cases, the associate directors and regional directors are not involved in making those determinations because they delegate this responsibility down to their assistants. Because different people are making the determinations for each region or mission area, and without detailed guidance for making these determinations, there is an inconsistent application of the confidential financial disclosure filing criteria.

Each year, the deputy ethics counselor sends out an email that includes the C.F.R. criteria along with a spreadsheet containing a list employees and their filing status, to the associate directors and regional directors. All supervisors are asked to update the spreadsheet if there are any changes, specifically if any employees now meet the criteria or no longer meet the criteria. Some directors are familiar with their employees' duties and if they meet the criteria, but others do not and delegate this responsibility to their assistants or the next level of authority to make the determinations. While the C.F.R. criteria is distributed every year, providing detailed guidance on how to apply the C.F.R. criteria would ensure consistency among the various offices.

As an example of an error in applying the criteria, in 2014, OIG's Office of Investigations investigated a GS-15 USGS scientist, who was involved in issuing a cooperative agreement to the university where her husband was the principal investigator under the agreement. In 2008, the regional director had removed this scientist from the list of employees required to file a confidential financial disclosure report, although she continued to be substantially involved in issuing this cooperative agreement. Had she filed financial disclosure reports during this time, she would have been required to disclose her husband's position with the university, alerting officials to a possible conflict of interest.

### *Financial Guide Was Not Properly Distributed to USGS Employees*

The USGS Financial Guide explaining the specific prohibitions and limitations applicable to USGS employees was not disseminated by email in 2013, as done for the past 10 years. The assistant ethics counselor had sent the updated Financial Guide to the deputy ethics counselor on December 2, 2013, along with an email with attached supporting documents on financial holdings. When we inquired about the Financial Guide dissemination, we were told that the deputy ethics counselor had not sent it to USGS employees as of June 2014.

The Financial Guide for USGS employees, dated December 1, 2013, was posted to the Ethics Office webpage on the USGS intranet on January 9, 2014. We later found the deputy ethics counselor did not send out the Financial Guide to USGS employees until September 22, 2014, after OIG followed up on its subsequent dissemination. In addition, the emailed guide was sent out as a "reminder" rather than informing employees that it was the new guide for the year, as was done in previous years. In order for employees to comply with the restrictions on

prohibited and limited financial holdings, they need to be aware of and understand the restrictions.

Further, the USGS deputy ethics counselor informed us that there is no requirement for the USGS Ethics Office to prepare and distribute an annual Financial Guide for USGS Employees. We found this statement to be inaccurate because the Financial Guide specifically states that the updated Financial Guide will be distributed to all USGS employees every year and posted on the Ethics Office webpage on the USGS intranet.

### *Most USGS Employees Do Not Receive Annual Ethics Training*

Only financial disclosure filers are required to receive ethics training on an annual basis, potentially leaving 90 percent of USGS employees unaware of Federal and USGS ethics requirements beyond the new hire orientation. While there are 8,298 USGS employees, only 802 employees are required to file financial disclosure forms (both public and confidential forms) and receive annual ethics training. This leaves 7,496 employees without a requirement to receive annual ethics training, including some supervisors, some with entrance on duty dates going back to the 1960s.

We found that a major reason for only 10 percent of USGS employees receiving training was the significant reduction of financial disclosure filers over the past decade. In 2003, USGS had approximately 1,100 confidential filers and in 2004 USGS had approximately 900 filers.<sup>1</sup> In 2013, there were 802 financial disclosure filers out of 8,298 employees at USGS.

On November 21, 2013, the Designated Agency Ethics Official issued a memorandum to all Department employees because she determined that more employees than necessary were filing confidential financial disclosure reports. This memorandum provided guidance to reduce the number of confidential financial disclosure filers for certain categories including employees at the GS-12 level and below. The memorandum also states that supervisors can require subordinates to file if they determine that an employee should file. This leaves these decisions up to individual supervisors' judgment and interpretation.

Although cost savings was not specified in the memo as a reason for the reduction, our interviews of USGS and DOI Ethics Office staff found that the reason for reducing the number of filers was, in part, because of increased costs associated with the new online system, Financial Disclosure Online (FD Online). The cost for FD Online is approximately \$20 per filer. Prior to FD Online, which was launched at USGS in 2012, there was no processing fee associated with filing because it was done manually. During our interviews, the DOI Ethics Office staff opined that more employees were filing than necessary, but supporting evidence for this opinion was not provided.

Reducing the number of confidential financial disclosure filers puts USGS at risk of potential conflicts of interest going unnoticed, which could damage the integrity of the Bureau.

---

<sup>1</sup> The data we received for 2003 and 2004 only included confidential financial disclosure filers and did not include the number of public financial disclosure filers.

Because USGS requires annual ethics training only for financial disclosure filers, the reduction in filers also results in fewer USGS employees receiving ethics training.

Although the C.F.R. only requires annual ethics training for financial disclosure filers, some bureaus go beyond the minimum requirements and require annual ethics training for all employees. Although USGS is meeting the minimum requirements, it could do more to ensure its employees are aware of ethics rules and regulations by requiring at least periodic—if not annual—ethics training for all employees.

#### *Financial Disclosure Filers Did Not Complete Training Within Required Timeframes*

Thirty out of 802 USGS filers did not complete ethics training in calendar year 2013, which is a violation of the C.F.R. The C.F.R. requires that all filers complete ethics training by December 31 of each year. The USGS deputy ethics counselor sends out an email each November, containing a PowerPoint presentation, with an annual completion date of December 31. With holidays and use-or-lose leave obligations, this does not provide sufficient time for employees to complete their annual training requirements.

#### *USGS Does Not Utilize an Automated System to Deliver and Track Ethics Training*

Email notifications reminding employees to complete training are not sent out until near the end of the calendar year, and USGS ethics staff manually tracks training completions. In November 2013, 802 email notifications were sent to all filers with an attached ethics training presentation. The filer is asked to certify that they reviewed the ethics training presentation by December 31, 2013.

USGS does not have an automated system to track employees' ethics training. Instead, the USGS Ethics Office staff manually follows up on emails received from 802 employees certifying that they completed the training. While there are new technologies available to deliver and track annual ethics training through automated systems, for the last decade the USGS Ethics Office has continued to use a manual method of delivering and tracking its training of hundreds of employees.

The USGS deputy ethics counselor provides onsite training on an ad hoc basis, if requested by an associate director or regional director. These trainings are not formally tracked and credit is not given to employees who receive this onsite training.

#### *Obsolete System and Manual Process Used for Tracking Financial Disclosure Filers*

When OIG requested the list of financial disclosure filers from the USGS Ethics Office, we received two separate lists of filers that did not reconcile with each other. This discrepancy was the result of receiving data from two different tracking systems. The USGS Personnel Office provided information from the Federal Personnel Payroll System and the USGS Ethics Office provided information from the Financial Disclosure Tracking System (FDTS). According to the deputy ethics counselor, the two systems do not communicate with each other and are not cross-referenced for accuracy. The USGS deputy ethics counselor informed us that FDTS is an

outdated computer system that no longer can be updated because the operating system is obsolete. USGS reconciles the two lists and sends a combined list to each regional director and associate director for review. We found that USGS does not have a standard operating procedure for combining and reconciling these two lists.

Another manual process that the USGS Ethics Offices uses to track financial disclosure filings is email reminders and notifications. The USGS Ethics Office sends out individual emails to remind employees of their filing status, as well as “thank you” emails confirming that the filing was completed. FD Online has the ability to automatically perform these functions; however, it is not being used.

## **Recommendations**

We recommend that USGS:

1. Develop and implement detailed guidance for determining who should file a confidential financial disclosure report so that associate directors and regional directors consistently apply the criteria when determining filing status;
2. Continue to distribute the Financial Guide to all USGS employees annually, and provide subsequent guidance as needed;
3. Provide periodic ethics training for all USGS employees;
4. Disseminate annual ethics training throughout the calendar year and provide subsequent reminders to give employees ample time and notice to complete the training;
5. Consider using an automated system to deliver and track annual training and to automatically notify employees of training due dates; and
6. Use one system to track financial disclosure filers and develop a joint Ethics and Human Resources standard operating procedure on the process of consolidating the lists of filers.

Please provide us with your written response to this report within 30 days. The response should provide information on actions taken or planned to address the recommendations, as well as target dates and title(s) of the official(s) responsible for implementation. Please send your response to:

Ms. Kimberly Elmore  
Assistant Inspector General for Audits, Inspections, and Evaluations  
U.S. Department of Interior  
Office of Inspector General  
Mail Stop 4428  
1849 C Street, NW.  
Washington, DC 20240

The legislation creating the OIG requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions regarding this report, please contact me at 202-208-5745.

### **Scope and Methodology**

The scope of our inspection of the USGS ethics program included policies and procedures associated with financial disclosure filing and ethics training. To accomplish our objective, we—

- reviewed laws, regulations, and policies pertaining to USGS' ethics program;
- reviewed documents related to financial disclosure filings and ethics training, provided by the USGS Ethics Office;
- visited the USGS headquarters in Reston, VA, and interviewed the ethics program staff, as well as the associate directors and regional directors located at that location; and
- interviewed DOI Ethics Office staff in Washington, DC.

We conducted our inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

