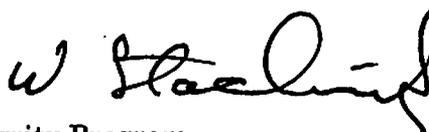

MEMORANDUM

May 31, 2005

To: Giovanni Prezioso
Lori Richards
Linda Thomsen

From: Walter Stachnik



Re: Field Offices' Integrity Program

Attached is our evaluation report on the Targeting Field Offices' Integrity Program (Evaluation Report 395). Comments on the draft report we received have been incorporated, as appropriate.

We would appreciate receiving any additional comments you have concerning this evaluation and the report. In particular, we would like to know whether you found the evaluation useful. We also welcome any suggestions from you concerning how we could improve future evaluations.

The courtesy and cooperation of you and your staff during this audit are appreciated.

Attachment

cc: Michelle Barrans
James Clarkson
William Lenox
Joan McKown
Darlene Pryor
John Walsh

FIELD OFFICES' INTEGRITY PROGRAM

EXECUTIVE SUMMARY

The Office of Inspector General (Office) evaluated the Commission's integrity programs (i.e., ethics and staff conduct) in four of five regional offices and four of six district offices. Successes, obstacles, recommendations, and effectiveness ratings related to the Commission's integrity objectives were obtained through twelve workshops involving approximately 150 Commission employees. The opinions and observations of the staff were not validated through tests or compared to other data.

Composite ratings by the participating professional staff indicate that all supporting objectives are generally being implemented, although some obstacles are impairing full implementation. We believe that, taken as a whole, the Commission field offices are achieving the Commission's primary objective to promote high individual and agency integrity.

As in prior evaluations, the participants indicated that they felt a personal sense of responsibility for maintaining the integrity of the Commission. Most of the participants also indicated that they felt a strong sense of an ethical tradition at the Commission and that employees live up to the Commission's integrity expectations. Workshop participants overwhelmingly reported that integrity is a high priority at, and an integral value of, the Commission.

The participants in the workshops expressed a desire for better communication of policies from management, more frequent ethics training, and responsive and well-trained ethics advisors. We are recommending that the Office of Human Resources, in conjunction with the Offices of the Chairman and Executive Director, implement its plans for an employee manual to effectively communicate management policies to Commission staff. We also recommend that the Office of Compliance Inspections and Examinations implement its plans to establish and train ethics liaisons from the Inspection Program in each field office, and to hold an ethics video-conference annually with all the field offices.

SCOPE AND OBJECTIVES

The primary objective of the evaluation was to determine the extent to which the Commission is achieving its integrity objectives in its field offices (i.e., regional and district offices). The evaluation also provided staff with a better understanding of integrity objectives and recommended actions to increase the likelihood that the Commission's integrity objectives would be achieved.

Staff opinions and observations were not validated through tests or compared to other data. Although the focus of the workshops was on ethics and staff conduct, the participants brought up issues that were essentially unrelated to that focus (*e.g.*, management issues, communications, targeting). All the detailed participant comments issues were anonymously presented to management.

The evaluation field work was performed in June, July, and August 2004.

BACKGROUND

Commission management determined the integrity objectives. The primary objective of the integrity programs (*i.e.*, ethics and staff conduct) is to:

Promote High Individual and Agency Integrity

Seven supporting objectives, reflecting the activities that make achievement of the primary objective more likely, were also developed by management. They are:

CONDUCT OF MANAGERS - Ensure that the behavior of executives and managers reflects the SEC's integrity values and principles and that they acknowledge their critical role in reinforcing these values with their subordinates.

ORGANIZATIONAL CLIMATE - Foster an organizational climate that promotes high standards of ethical behavior.

SENSITIVITY TO UNINTENDED CONSEQUENCES - Promote staff objectivity in their official interactions with the private sector to prevent unfair impact on persons outside the Commission.

LINK INTEGRITY TO PERSONNEL DECISIONS - Ensure that managers consider employees' ethical behavior when deciding on their performance ratings, awards, promotions, selection to supervisory positions, or other personnel actions to reward behavior that furthers SEC integrity.

FAIR NOTICE OF CONDUCT PARAMETERS - Provide staff with fair notice of the parameters of acceptable and prohibited behaviors, along with information on the consequences of non-compliance.

STAFF COUNSELING - Provide employees with an opportunity to obtain authoritative answers to ethics and integrity questions in order to enable them to make ethical decisions.

INTEGRITY TRAINING - Promote staff awareness and commitment to integrity.

METHODOLOGY

A version of a private sector, internal audit methodology (Control Self-Assessment or CSA) was adapted for this purpose. The Institute of Internal Auditors has promoted the concept internationally for the last several years with outstanding results reported.

We convened twelve workshops of 10 to 15 participants, who were professional, non-management staff at the respective field office. Using prepared questions, the participants discussed each of the seven supporting objectives in a "focus group" setting. After each discussion, workshop participants anonymously rated how well the Commission achieved the supporting objective. After all seven supporting objectives were discussed and rated, the participants rated how well the Commission achieved its primary integrity objective.

Primary data collection was accomplished through the twelve workshops (approximately 150 professional, non-management staff participated in the workshops) in which the supporting objectives were discussed and anonymously rated. No document reviews or other tests were performed. The methodology provided perceptions and judgments about the success of the integrity program objectives Commission-wide, but will not support conclusions regarding any particular sub-unit of the Commission.

The detailed comments and recommendations of the participants and preliminary conclusions of the Office of Inspector General were shared with management. Through discussions with management, several agreed upon actions were developed. These actions address the most important issues raised in the workshops.

EVALUATION RESULTS

OVERALL RESULTS

The seven supporting objectives (see above) were anonymously rated by the participants. They used a rating scale that ranged from 7 (full implementation) to 1 (not being implemented in a meaningful manner). The composite ratings for how well the Commission actually achieved its seven supporting objectives were as follows:

- CONDUCT OF MANAGERS - 5.0**
- ORGANIZATIONAL CLIMATE - 5.2**
- SENSITIVITY TO UNINTENDED CONSEQUENCES - 5.3**
- LINK INTEGRITY TO PERSONNEL DECISIONS - 4.6**
- FAIR NOTICE OF CONDUCT - 4.1**
- STAFF COUNSELING - 5.0**
- INTEGRITY TRAINING - 4.0**

The ratings obtained in this evaluation were generally in line with the composite ratings from prior audits, as follows:

| | <i>Audit No. 250</i> | <i>Audit No. 267</i> | <i>Audit No. 313</i> | <i>Evaluation No. 395</i> |
|---|--------------------------|--------------------------|--------------------------|-------------------------------|
| Conduct of Managers | 5.1 | 5.1 | 5.0 | 5.0 |
| Organizational Climate | 5.1 | 5.3 | 5.4 | 5.2 |
| Sensitivity to Unintended Consequences | 5.1 | 5.2 | 5.2 | 5.3 |
| Link Integrity to Personnel Decisions | 4.3 | 4.7 | 4.9 | 4.6 |
| Fair Notice of Conduct Parameters | 4.8 | 4.0 | 4.9 | 4.1 |
| Staff Counseling | 5.7 | 5.6 | 5.5 | 5.0 |
| Integrity Training | 4.5 | 4.3 | 4.8 | 4.0 |

The composite ratings by the participating staff indicate that all supporting objectives are generally being implemented, although some obstacles are impairing full implementation. We believe that, taken as a whole, the Commission's field offices are achieving the primary objective to promote high individual and agency integrity.

An important theme, expressed overwhelmingly by the participants, is the personal commitment of Commission employees to maintain the Commission's high standards of integrity. Most of the participants also indicated that they felt a strong sense of an ethical tradition at the Commission and that the staff live up to the Commission's integrity expectations. These factors are crucial to an effective integrity program and their existence indicates that management's objectives are being achieved.

However, the participants in the workshops also expressed a desire for:

- Better communication of policies and standards of conduct from management,
- More frequent ethics training, and
- Selective, responsive, and well-trained ethics advisors.

BETTER COMMUNICATION OF POLICIES AND STANDARDS

A large number of participants expressed the need for enhanced transmission of Commission integrity, and other, policies and standards. The lack of an employee manual was brought up at many of the workshops.

We discussed, in detail, the need for an employee manual with management. We were informed that such a manual, addressing most of the issues raised in the workshops, was in development awaiting comments and various approvals.

Recommendation A

We recommend that the Office of Human Resources, in conjunction with the Offices of Executive Director and the Chairman, implement their plans for an employee manual.

MORE FREQUENT ETHICS TRAINING

For many participants, the ethics component of the Enforcement training for new attorneys (traditionally held in September) or the OCIE examiner training was the only ethics or conduct training they received. Several participants said new staff members often do not know what ethics material or personnel information is available. Because of the timing of the Enforcement and OCIE training, receiving new employee ethics training was dependent on when the employee was hired. Employees could wait six months to a year before receiving training.¹

Among the participants who had received training, some said the training was rudimentary (*i.e.*, one hour just before the end of the week-long Enforcement staff training). Some participants said staff did not receive on-going training or reminders like they had in previous jobs in the private sector. Participants said staff commonly feel they are on their own regarding ethics matters. The Commission's ethics programs were not perceived as proactive.

The Office of Ethics Counsel (OEC) pointed out that field office staff receive video training on their first day of employment that provides a detailed outline of ethics rules and how and when to ask questions. A revised orientation video is in development. OEC also conducted a significant ethics training effort at all field offices just after the workshops had been completed. OEC believes that the workshop results would have been significantly different (and better) had they been conducted a few months later (after the completion of the field office training effort).

The OEC also indicated that they had traditionally participated in the new attorney training program conducted by Enforcement, but had not been asked to do so in the past several years. They hoped that Enforcement would invite them to participate in future programs.

Enforcement noted that most field office staff who are grade 14 or higher receive annual ethics training from OEC. Enforcement is planning to conduct annual ethics training for the remaining staff through either live broadcasts or video tape. They are working with OEC on this training program.

The Office of Inspections and Examinations (OCIE) has agreed to annually hold an ethics refresher video-conference for inspections staff in OCIE and the regional and district offices. Currently, these video-conferences are held every few years. This will facilitate participation by all staff (including new hires). The Office of Ethics Counsel within the Office of General Counsel has agreed to participate in these annual video-conferences.

¹ The evaluation workshops were completed within weeks of the start of an OCIE ethics training effort in which all regional Inspection Program examiners received ethics training.

Recommendation B

We recommend that the Office of Inspections and Examinations implement their plans for annual ethics video-conferences.

SELECTIVE, RESPONSIVE, AND WELL-TRAINED ETHICS ADVISORS

Many participants said they had sought advice from their ethics liaisons and were comfortable asking questions. Those who received advice were generally satisfied with the response. Most participants did not believe any privileges or immunities attached to discussions with ethics counsel, however confidentiality was generally expected.

A common problem cited by participants was the lack of training for ethics liaisons. Also, in some regional offices, as many as half the participants did not know who the ethics liaison was. A few participants (in a couple of field offices) were uncomfortable speaking with the ethics liaison because they believed the ethics liaison was abrasive or might disclose confidential communications to management. In some instances, participants were more comfortable calling the Office of Ethics Counsel in headquarters regarding questions about issues such as seeking employment.

Several participants were also concerned that the ethics liaisons inevitably were attorneys from the Enforcement Program and were unfamiliar with the Inspection Program or OCIE policies. In addition to the ethics liaison, participants commonly cited their branch chief or Assistant Regional Director, OEC, the ethics website, union stewards, and colleagues as additional sources of ethics advice.

The Office of Inspections and Examinations proposed several steps to mitigate these concerns. It plans to take the lead with OEC and the field offices to ensure that each office has at least one ethics liaison from the Inspection Program. This would make someone readily available for consulting who is familiar with the Inspection Program and examiners' unique circumstances.

OCIE also proposed to ensure adequate training for these new ethics liaisons. They plan to hold a full day workshop, in conjunction with OEC, to review ethics resources available, issues raised by workshop participants, guidelines for referring matters to OCIE or OEC, and any local, field office specific issues. They also plan to build an electronic space (at first a shared email directory) for the Inspection Program ethics liaisons in the field offices to facilitate communications among the new Inspection Program liaisons.

Recommendation C

The Office of Inspections and Examinations, in conjunction with OEC and the Division of Enforcement, should implement its plans to establish an ethics liaison from the Inspection Program in each field office.

Recommendation D

The Office of Inspections and Examinations, in conjunction with OEC, should implement their plans to train and support the new ethics liaison from the Inspection Program.