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Opening Plenary Session Remarks

13th Annual Government Ethics Conference
New York, New York
March 2, 2004

WELCOME

Good morning and welcome to New York City for our 13th Annual Ethics Conference. I know many of you are disappointed with the location of this year's conference because you were hoping for a return to King of Prussia. But we had to settle for Times Square this year. Seriously, we are delighted to be in this location. I hope that some of this great city's excitement will be reflected in our conference. Yesterday, I had the opportunity to greet those of you who were here for the pre-conference sessions for new ethics officials. I am delighted to see that most of you are back again today. It is also a pleasure to see so many colleagues that I have worked with over the years.

OVERVIEW OF THE CONFERENCE

Our annual conference is an important event for the entire ethics community and many of us make a large commitment to it. OGE staff invests substantial resources, time and energy in planning and producing the conference and preparing substantive presentations. Ethics officials also make significant contributions to the conference. Looking over this year's program, you will notice that 39 ethics officials from 25 different agencies are participating in 19 sessions of the conference and pre-conference. And there is the strong interest in the conference reflected in the attendance of more than 100 persons at the pre-conference and more than 500 persons at our regular conference. This is the largest conference that we have held and we still actually had to turn some people away.

Concurrent Sessions: Improving our Ethics Practice

Given the commitment that we have all made to be here, what exactly is it that we should be taking away from this conference? Considering the tremendous diversity of our community in terms of agency mission, number of employees, program activities, and geographic location, as well as the specific responsibilities and level of experience of each attendee, there are probably a lot of different answers to this question.

One answer is that the conference provides an opportunity to learn from the experiences that our colleagues have gained in dealing with the issues that regularly arise in managing an ethics program. Many of the sessions are "how to" sessions, designed to give you information that will help you do your job more efficiently and effectively, whether it is drafting better waivers, using limited ethics resources more effectively, or presenting the right kind of training for a particular group.

The conference also offers more specialized panels that will help you deal with issues that may not come up as frequently, but which can be very significant when they do come up. For example, you may not face a book deal question very often, but it can be a thorny and challenging issue when it does arise. Other specialized panels - such as those dealing with advisory committees or the IPA - provide the opportunity to obtain the wisdom and perspective of experts who may deal with an issue quite often in their agency practice, but which you may only face occasionally. These specialized panels give you a chance to connect with other ethics officials who have accumulated a lot of expertise in a specialized area and are there to share it with you.

Other panels address issues and concerns that are likely to come up in this election year. This is an especially apropos time for panels dealing with the Hatch Act, as well as panels that explore issues raised in a transition, including records issues. You will also find panels that explore the ethics issues raised by ongoing trends in government such as the increased use of contractors in the workplace, and the reporting and analysis of complex investment vehicles. Other panels provide updates on legal developments or projects underway at OGE, such as the project to streamline the confidential financial disclosure system.

This is some of the technical information that people can take away from the conference. It is a little hard to be all things to all people, so we try to have a variety of topics that would appeal to new ethics officials, to seasoned ethics officials, to Washington-based ethics officials, and to regional ethics

officials. So there is a broad range of panels and I encourage you to seek out the sessions that meet your specific needs. We are able to provide options that enable you to customize the conference to meet your personal goals because of the tremendous pool of expertise that exists in the ethics community.

Plenary Speakers: Considering the Big Picture

But while the conference offers many opportunities to improve your practice as an ethics official, there is more to it than simply acquiring technical expertise. One of the main benefits of the conference is that it gets you out of the office and gives you the time to step back from day-to-day activities and take a larger view of the ethics program. The conference gives us time to ponder big-picture questions. Do we need an ethics program? What impact does an ethics program have on effective governance? What developments and trends are likely to have an impact on the ethics program in the future? Is there a way to do our jobs better? Our three plenary speakers this year will offer some perspectives that I think will stimulate our thinking, invigorate our sense of purpose, and enlarge our view of our role as ethics officials and the vital work that we do in the ethics program.

This afternoon we will hear from Professor Frank Anachiarico who has written extensively about government integrity and the rules and systems that governments at all levels have developed to achieve it. In 1996, he (along with co-author James Jacobs) published a book entitled "The Pursuit of Absolute Integrity". From this study of corruption control efforts in New York City, he reached the conclusion that corruption control systems can make government ineffective. This is a challenging thesis that raises an important question for us to consider, namely how much "ethics" is really necessary and how much is counterproductive.

Tomorrow, our speaker is the Director of the Office of Personnel Management, Kay Coles James. Ms. James has played a key role in the human resources element of the President's Management Agenda. The Federal workforce is constantly changing and such changes are likely to have an impact on our ethics program. For example, in the area of ethics training, the values and attitudes of a new generation of employees are likely to call for new training strategies and a new focus.

On Thursday, we will hear from Norm Ornstein of the American Enterprise Institute. Mr. Ornstein's research has focused on politics, the Congress and elections and he will be talking about the interplay between ethics and politics, an area where some of our most sensitive ethics issues arise. And, of course, in this

election year, Mr. Ornstein's insights will be particularly relevant.

I expect that these speakers will generate some lively discussion here at the conference and provoke thinking about some larger issues after the conference is over that will bring perspective and depth to our work.

Networking: Building an Ethics Community

Finally, the conference provides an opportunity for ethics officials to engage in more informal discussions with their colleagues and to establish professional ties that will benefit them throughout the year. This was something that I highlighted when I spoke yesterday to the group of new ethics officials attending the pre-conference. I encouraged them to make an effort to get to know the staff of OGE as well as other ethics officials working throughout the executive branch. So the conference is not only an opportunity to gain knowledge, to acquire some new tools, and to pick up tips on best practices. It is also a chance to strengthen professional relationships in the ethics community and reinforce a sense of a common purpose to promote Government integrity.

INNOVATIONS AND LEGACY OF THE EIGA

I would be remiss if I did not mention that this is the 25th anniversary year of the Ethics in Government Act of 1978, legislation that really marked the beginning of the modern ethics program in the executive branch. The EIGA made a number of innovations in the ethics program that remain an enduring legacy today. Let me mention just two.

Public Financial Disclosure

Prior to the passage of the EIGA, the American public simply did not know what were the financial interests of senior executive branch officials. The EIGA inaugurated a requirement that certain high level political and career employees throughout the executive branch file public financial disclosure reports. This public reporting system remains one of the cornerstones of the ethics program. Despite concerns about privacy and security that have been voiced over the years, the value of a reporting system that allows for public scrutiny is now established as a key feature of an open, transparent government. While it may not be possible to prove that this has made a difference in public confidence (for one thing there is no baseline data), it has opened the system and eliminated any mystery about the financial interests of senior

officials. Certainly, this reporting system can be streamlined, but it is clear that public financial disclosure is an enduring legacy of the EIGA and one of the major accomplishments of the ethics program in the last 25 years.

OGE/DAEO Partnership

While the public financial disclosure provisions of the EIGA grabbed the headlines at the time it was enacted, one of the most significant innovations of the Act was the structure it established for the administration of the executive branch ethics program. The EIGA established OGE to provide policy direction for the ethics program and designated certain responsibilities under the program for ethics officials in each agency. Essentially, the EIGA created a partnership between OGE and the ethics official in each executive branch agency. As the ethics program has grown and matured over the past 25 years, the strength of that partnership has been the key to its success.

IMPROVING THE ETHICS PROGRAM

When we look at the executive branch ethics program now - 25 years after the EIGA - we see a program that is quite sophisticated and basically is running well. The OGE reviews of individual agency ethics programs typically reveal programs that look good in that they meet and often exceed regulatory requirements. Once again this year we will be recognizing particularly outstanding programs at our awards ceremony tomorrow. In addition, we have a solid corps of professional ethics officials who keep our public officials on the straight and narrow path. Finally, I believe that executive branch employees, especially those who receive regular ethics training, have a better understanding of their ethical obligations than employees did in the past, and that the vast majority of employees keep the trust placed in them by serving the public interest, not their own personal interest.

Need to be Vigilant

Nevertheless, we do need to stay ahead of new issues as they arise. Some of today's issues are:

- the ever increasing use of contract employees in the Federal workplace;
- the continuing concern with access to Federal officials by former employers and former clients; and
- the involvement of employees in outside employment, especially

outside consulting arrangements.

Although the ethics program has expanded and improved enormously in the past 25 years, now is not the time to rest on our laurels. We must constantly improve and modernize the program to keep it moving forward. At OGE, we have a number of projects underway that are directed at making the program more effective and helping you do your job more efficiently. I'd like to mention a few, as we are not having a manager's update session this year.

Streamlining the Public Financial Disclosure Law

One area that we at OGE have been working on is a legislative proposal to streamline the public financial disclosure system by eliminating unnecessary and redundant detail without sacrificing effectiveness as a tool to identify potential conflicts. Legislation that was introduced in the previous Congress got a very favorable reception but that Congress concluded before action was taken on the bill. In the current Congress, OGE has delivered to Congressional committees its second proposal to improve public financial disclosure and we are working with the relevant committees to move our proposal forward.

Modernizing the Criminal Conflict of Interest Laws

OGE has also been working to develop proposed legislation to modernize the criminal conflict of interest laws. As many of you know, OGE sought input from ethics officials about possible changes. We identified areas where these laws should be amended to make them fairer to employees and more responsive to the needs of modern government. Currently, we are discussing our proposals with Department of Justice officials.

Interpreting the Post-Employment Law

You all know that we published a proposed post-employment rule last year that we viewed as essentially a compilation of OGE and OLC thinking and advice over the years. That proposed rule is back at DOJ for further scrutiny, along with the comments that you all submitted. I have no doubt there will be some changes to the rule as proposed. In the meantime, please understand that the proposed rule is only that - a proposal, and it has no legal force. Please don't cite it as if it had been published as a final rule.

Updating the Administrative Standards of Conduct

It has been 11 years since the administrative standards of conduct went into effect. In many areas the standards have worked

well but some provisions need to be updated, simplified or clarified. We also need to find a way to make the rule more understandable to employees. Again with input from ethics officials, OGE is undertaking a comprehensive review of the standards. We are taking a careful, measured approach to making changes. At this point, we are not inclined to remake the universe in this area. Currently, we are reviewing recommendations and hope to have specific proposals later this year.

Overhauling the Confidential Financial Disclosure System

We are moving along on our project of improving the confidential financial disclosure system. OGE surveyed ethics officials and identified three areas for improvement - providing a better description of who should file, developing a better 450 form, and possibly broadening the use of alternatives to the 450 form. Those of you who are interested in getting more information, may want to attend the concurrent session that will cover this project.

Taking a New Approach to Program Review

We have added some new dimensions to our reviews of agency programs. Under the new guidelines which OGE issued last year, we are now measuring systems compliance and looking at quality and effectiveness. For example, we are taking a closer look at whether appropriate enforcement action is being taken. We have also begun to use an employee survey to see if the ethics program is reaching employees.

Regional Training

We want to leverage the expertise that we have assembled at this conference by offering some of these panel sessions at upcoming regional conferences. Along with the ethics training and roundtables that OGE staff have conducted at our recent regional conferences, we will be calling upon some of you to take your breakout session from this conference on the road. Currently, we are looking at Atlanta and Chicago as possible locations for our upcoming regional conferences. We will be posting information on these regional conferences (which by the way do not have a conference fee) when it become available.

CONCLUSION

Let me conclude by assuring you that we at OGE will continue to work diligently on these initiative to improve the ethics program and make it more efficient. All of these initiatives

benefitted from the comments and the input that we received from all of you. Your experience has been invaluable to us at OGE and we will continue to seek out your views on future projects. But do not hesitate to make your views known to us as the need arises. While we are working on some of these larger projects to transform the ethics program, we will continue to do everything we can to provide the training, advice and other services to help you do a better job.

Once again - welcome to New York and our 13th Annual Conference.