

Agency Practices in Providing Ethics Advice and Counsel to Employees



TABLE OF CONTENTS

Section 1 – Introduction	1
Section 2 – Background	2
<i>Background</i>	2
<i>Methodology</i>	2
<i>Legal Requirement</i>	3
<i>Response Rate</i>	3
<i>Data Limitations</i>	3
Section 3 – Structure, Staffing, and Support of Agency Ethics Programs	4
<i>Structure of Agency Ethics Programs</i>	5
<i>Volume and Sources of Agency Ethics Questions</i>	5
<i>Staffing of Agency Ethics Programs</i>	6
<i>Supervisor and Human Resources Support to Agency Ethics Programs</i>	6
Section 4 – Agency Practices in Providing Ethics Advice to Employees	8
<i>Employee Awareness of the Availability of Ethics Advice</i>	8
<i>Consistency of Advice</i>	11
<i>Use of Technology</i>	14
<i>Assessing the Advice and Counsel Process</i>	17
APPENDIX – Data Call.....	20

Section 1 Introduction

The executive branch ethics program is designed to prevent conflicts of interest on the part of government employees. To help ensure government decisions are made free from improper influence, ethics officials advise current and former employees regarding government ethics laws and regulations. By providing timely advice which is tailored to particular circumstances, ethics officials assist employees in making decisions that avoid both actual and perceived conflicts. This guidance not only protects the public's confidence in an agency's actions, it also helps employees avoid criminal liability and violations of the ethics rules.

Although counseling employees on the application of the ethics laws and rules is a required component of every agency's ethics program, the manner in which agencies implement this program element varies. The variation in approach reflects differences in agency size, structure, mission, and other factors. With this and its oversight responsibilities in mind, OGE set out to better understand how agencies integrate ethics advice and counseling into their day-to-day agency operations. This report aims to describe the reported practices with the goal of better understanding how agencies operationalize their important advice and counsel function.

Section 2 Background

Background

An agency's ethics program involves a variety of elements and functions, including support from its leadership, a financial disclosure program, education and training, ethics counseling, remediation of conflicts of interest, and transparency.¹ Every year, agencies respond to the Annual Agency Ethics Program Questionnaire (questionnaire) about these elements. In 2018, as a result of a comprehensive review of the purpose and utility of the questionnaire, OGE decided to separate its collection of program information into two distinct data calls: an annual, compliance-focused questionnaire and a triennial data call focused on program practices. By inquiring about agency practices separately from compliance, OGE can identify the wide array of strategies that have been implemented across the executive branch and share this information with ethics officials.

On October 31, 2019, OGE issued a data call for agency practices related to providing advice and counsel.² Each agency was required to respond to five open-ended questions about their advice and counsel program.

OGE sought this information to better understand how agencies operationalize the critical task of providing employee targeted, timely ethics guidance on a day-to-day basis. OGE plans to use the results to tailor the support it provides to agencies and to share the results with executive branch ethics officials so they can learn from other practitioners.

Methodology

The questions in this data call were open-ended to allow agencies maximum flexibility to identify and describe the practices that are most successful for them. OGE developed the questions after consultation with a focus group composed of agencies of various sizes and missions.

Each agency submitted, and OGE accepted, one response per "agency" or entity that has a Designated Agency Ethics Official (DAEO). OGE asked agencies with components to select and describe only the component practices they thought were most effective.

OGE reviewed all agency responses, and, in this report, synthesizes and describes the most common practices, as well as some unique practices. This report does not quantify how often each practice is employed. Agency responses were qualitative, and therefore open to interpretation. Further, agencies did not necessarily describe every practice for a given question; therefore, failure to mention a specific practice does not mean the agency does not

¹ See 5 U.S.C. § 402; 5 U.S.C. app. § 101 et seq.; 5 C.F.R. §§ 2638.101-.310; 5 C.F.R. pt. 2634.

² See [PA-19-12](#).

employ that practice. Attempting to quantify the practices agencies reported may imply an unfounded degree of accuracy.

OGE recognizes that agencies implement the ethics program requirements in a variety of ways, which reflect differences in agency size, structure, mission, and other factors. Accordingly, the report does not evaluate or rank the practices.

See the Appendix for the list of data call questions.

Legal Requirement

As the supervising ethics office for the executive branch ethics program,³ OGE determined that the information collected in the data call was necessary for the performance of the duties of OGE's Director and in furtherance of OGE's mission with respect to executive branch ethics programs.

Response Rate

100% (140 agencies)

Data Limitations

When reviewing this report, it is important to keep in mind the following data limitations:

- OGE acknowledges that each agency may not have noted every practice related to their advice and counsel program. Failure to mention a specific practice does not mean the agency does not employ that practice.
- OGE did not independently verify the information submitted by each agency.
- Agency ethics officials may interpret the questions differently, which may result in data variation.

³ 5 U.S.C. app. § 109(18)(D); 5 U.S.C. app. § 402(b)(10),403(a)(2); 5 C.F.R. § 2638.202

Section 3 Structure, Staffing, and Support of Agency Ethics Programs

The structure, volume of questions, and staffing of an agency's ethics program provides context for how an agency provides ethics advice to employees. For example, an agency with a decentralized ethics program with ethics officials embedded in offices across the country may invest time in creating broadcast communications like posters and newsletters to alert employees to the availability of ethics advice, whereas a micro agency of less than a dozen employees may rely more on in-person communications.

Because the structure of an ethics program can drive practices, the preliminary question in the data call asked the following:

Briefly describe the structure and other key aspects of your ethics program, as it relates to the function of providing advice and counsel. At a minimum, please address the following in your response:

- *Structure: Is the advice and counsel process centralized (all advice comes out of one office) or decentralized (multiple, distinct offices or components provide advice to their respective areas)?*
- *Volume: Average number of questions received, percent of employees that seek advice.*
- *Staffing: How is the advice and counsel function staffed? How does your agency assign who answers requests for advice? Are certain staff assigned to certain types of employees or topics? Do the staff that provide advice and counsel support other aspects of the ethics program?*
- *Support: What role, if any, do the following employees play in supporting the ethics advice function: supervisors, HR, others.*
- *Please provide any additional, relevant information.*

Agency responses to each element of each question are summarized below.

Structure of Agency Ethics Programs

The DAEO has primary responsibility for directing the daily activities of the agency's ethics program. However, as reflected in the responses to the data call, some agencies accomplished this oversight through a more centralized program, while other agencies created a more decentralized structure.

In the more decentralized models, the DAEO oversees an ethics staff at headquarters. That staff provides ethics advice to the employees in the headquarters office, which typically includes the agency's most senior officials. In these decentralized models, employees in component or field offices receive ethics advice from the ethics staff employed in those offices. Although the headquarters ethics office may not weigh in on the day-to-day advice given in the field, the DAEO provides overall policy guidance and the field offices may consult with headquarters on matters of first impression and policy calls. Also, the headquarters ethics office may audit or inspect the components to assess consistency of ethics advice.

However, not all agencies with field offices or components have a decentralized ethics program. Some of these agencies employ a more centralized model where most ethics questions from the components or field offices are referred to the headquarters ethics office. Notably, though, even in agencies with a more centralized ethics program, there may be some elements of decentralization. For instance, in some centralized ethics programs, the supervisors may informally answer routine ethics questions. Also, some agencies may have a centralized ethics program, except that the DAEO may delegate to the office of the inspector general the authority to provide ethics advice its employees.

Volume and Sources of Agency Ethics Questions

Roughly two-thirds of agencies were able to provide information about the volume of questions received. Although most agencies reported that they do not have one comprehensive tracking system, many were able to provide an estimate of volume. Because the data call posed the question in an open-ended format, agencies provided estimates or averages using different periodicities, for instance the average number of questions received per day, week, month, or year. Many agencies provided numbers for specific categories of advice, for instance the number of post-employment questions, financial disclosure questions, requests for outside activity approval, and requests for free attendance at outside events. Some agencies provided estimates based on how the advice was provided, for instance, orally, or in writing. Even for agencies with tracking systems, many noted that they do not capture more informal advice given, such as for questions that come in by phone or in person visits. Several agencies note that the volume varies, e.g., they receive more questions during the holidays, right after annual ethics training, and during financial disclosure filing season.

With respect to the percentage of employees that request ethics advice, agencies reported ranges from 0 to 100%. In almost all cases, the agencies estimated, averaged, or

extrapolated these percentages. Some agencies noted that they received questions from all levels of employees, and other agencies noted that questions tended to come from a specific category of employees, for example, senior managers. Others noted that employees from certain offices tended to ask more questions, such as employees from the front office or the communications office. Some agencies noted that 100% of employees in certain categories receive advice. For example, some agencies require prior approval before an employee can engage in an outside activity. Likewise, in some agencies, financial disclosure filers who are preparing to leave the agency will receive post-employment advice as part of their out-boarding. Some agencies have seasonal employees, so overall volume and percentage of employees who ask for advice varies throughout the year.

Staffing of Agency Ethics Programs

The ethics officials at the vast majority of agencies serve as generalists, i.e., they are expected to answer any ethics question that comes in. However, a significant minority of agencies noted that some or all of their ethics officials specialize in certain ways. Some agencies dedicate staff to the review of financial disclosure, which can include providing advice based on the contents of the disclosure. In some cases, certain ethics officials are the informal leads for certain areas such as gifts, travel, or post-employment guidance. Also, many agencies noted that higher-level, more experienced ethics officials will typically respond to questions posed from the agencies' senior staff. In some large agencies, certain ethics officials may service certain components or program offices.

Supervisor and Human Resources Support to Agency Ethics Programs

Agencies identified several roles for supervisors. Most frequently, agencies noted that supervisors play the role of spotting potential ethics issues and ensuring that subordinates coordinate with the ethics office for advice. Supervisors also provide substantive advice or input on certain decisions. For instance, some ethics offices delegate supervisors the authority to make certain ethics determinations, such as approval of subordinates' attendance at widely attended gatherings,⁴ determinations about a subordinate's recusal from or authorization for participation in a matter in which the employee has a potential conflict of interest,⁵ and approval of outside activity requests.⁶ Agencies noted that supervisors can also play a role in providing context that informs an ethics office's post-employment advice. In addition, many agencies highlighted that supervisors communicate the importance of ethics to their subordinates and serve as role models.

As with supervisors, agencies notes that human resources officials supported the advice and counsel function by spotting ethics issues and referring employees to the ethics office for

⁴ See 5 C.F.R. 2635.204(g).

⁵ See 5 C.F.R. 2635.502.

⁶ Certain agencies have regulations that supplement that Standards of Conduct and which require their employees to seek prior approval before engaging in certain activities outside of government.

advice. In addition, agencies noted that HR officials provided information relevant to the provision of accurate counseling, including the identification of financial disclosure filers and employees leaving the agency, as well as employee classification, which can determine which ethics rules apply.

Section 4 Agency Practices in Providing Ethics Advice to Employees

The remaining questions in the data call focused on the practices agencies employ when providing ethics advice to employees, specifically, how agencies make employees aware of the availability of ethics advice, how agencies ensure consistency in the advice they provide, how agencies use technology to support the advice and counsel function, and how agency assess their advice and counseling program.

Employee Awareness of the Availability of Ethics Advice

The ability for employees to receive personalized, fact-specific ethics guidance helps employees manage and minimize the risk of ethical failure. However, to avail themselves of tailored guidance, employees need to know that such on-demand advice is available and to whom they should direct their questions. Accordingly, the data call asked the following:

Describe how your agency informs employees and program offices about the availability of ethics advice and counsel.

All agencies reported taking steps to inform their employees and program offices about the availability of ethics advice and counsel. These practices have been grouped into the six practices. Each practice is described below.

Agency Practices for Increasing Employee Awareness of Availability of Ethics Advice

- Communications prior to Employment
- Training
- Proactive Communication Tools
- Meetings and other in-person communication
- Websites and Apps
- Agency policy documents

Agency Practice: Communications prior to Employment

Agencies reported communicating with prospective employees prior to employment. Some agencies noted that employees learn about the availability of ethics advice and counsel

through the required ethics notice in employment offer letters.⁷ Other agencies described their process of reviewing potential conflicts of interest with certain employee candidates before they come onboard. During these conversations, the ethics office discusses their financial and outside interests and the applicable ethics statutes and regulations.

Agency Practice: Training

Nearly all agencies reported using training as a method to inform employees about the availability of personalized ethics advice.⁸ Some agencies noted that they provide training that is in addition to that required under the ethics regulations. Whether required or discretionary, agencies universally noted that training was a key inflection point for raising employee awareness about the availability of ethics advice and counsel.

Agency Practice: Proactive Communication Tools

Many agencies reported using proactive communication tools to inform employees of common ethics issues and where to seek ethics advice. Common communication tools include email notices, posters, and newsletters (electronic or physical). Some agencies noted they posted ethics messages on TV displays or other media used within the agency. Several agencies mentioned using some of these outreach vehicles to remind employees about topical ethics issues. For example, some agencies remind employees about the gift-giving rules during the holidays. Other agencies send out news articles of topical ethics issues.

Agency Practice: Meetings and other in-person communications

Several agencies used meetings to distribute ethics information to employees. Some agencies reserve an agenda item for ethics at standing meetings, while others reported making periodic appearances and reminders at meetings, as deemed appropriate. Some agencies host regular, ethics-specific meetings, such as brown bag ethics sessions. At least two agencies noted that they develop a formal communications plan for the year to schedule strategic communications throughout the year. Several small agencies noted the size of their agency allowed for ad hoc personal interactions with employees.

⁷ 5 C.F.R. 2638.303 requires that written offers of employment for positions covered by the Standards of Conduct must include, among other information, the contact information for an agency ethics official or how to obtain information on applicable ethics requirements.

⁸ All new employees are required to receive initial ethics training, which includes instructions for contacting the agency's ethics officials. 5 C.F.R. 2638.304. Thereafter, certain employees are required to receive annual ethics training, which also includes instructions for contacting the ethics officials. 5 C.F.R. 2638.307 and .308.

Agency Practice: On-demand content through websites and apps

Many agencies reported providing on-demand content to employees. For instance, many agencies provide ethics information on internal intranet sites or external websites. In addition to providing the contact information for the ethics office, these sites might include summaries of the ethics rules on a variety of topics, published advisory opinions, links to recorded training, and rotating ethics “tips” or topics. One agency noted that their external-facing website specifically alerts former employees that they may call the ethics office for advice regarding post-employment issues. Another agency reported having created an ethics app, which comes loaded on every agency-issued mobile communication device. It contains contact information and links to basic summaries of the ethics rules.

Agency Practice: Agency policy documents

Several agencies reported using organizational guidance and policy documents as a way of informing employees about the availability of ethics advice and counsel. For instance, some agencies noted that they distribute or make available ethics handbooks that highlight the ethics rules and provide contact information for the ethics office.

Consistency of Advice

Agencies that provide consistent advice over time and between employees help ensure uniformity and fairness in the application of the rules. Accordingly, the data call asked the following:

Describe what practices, if any, your agency has in place to ensure that ethics advice is consistent over time and between employees.

Every agency described at least one method for ensuring consistency of advice. These practices have been grouped into the nine practices. Each practice is described below.

Agency Practices for Ensuring Consistency of Advice

- Log of Advice
- Training – for Employees and Ethics Officials
- OGE Desk Officer Support
- Collaboration
- Review of Advice
- Office Structure
- Written Policies/Templates/Guides
- Monitoring Published Guidance
- Length of Service

Agency Practice: Log of advice

The most commonly reported agency practice for maintaining consistency of ethics advice is the use of a database or other repository for past advice. Agencies noted that such a database allows for supervisory review and provides other ethics officials who may handle similar issues with a tool for reviewing previous advice and fact patterns. For further details on how agencies use advice logs, see question number 5, below.

Agency Practice: Collaboration

One of the most commonly reported ways to maintain consistency is through collaboration. Agencies described this collaboration in a variety of forms. Many agencies noted that ethics officials discuss current, novel, and/or more complex questions at staff meetings. In addition to promoting consistency, one agency also noted that discussion at meetings helps prevent “forum shopping” by employees seeking advice. More than one agency noted that the review of pending advice also happens at regularly held one-on-one meetings between

supervisors and staff. In some cases, collaboration is mandated: one agency noted that ethics opinions receive mandatory legal peer review. As noted above in the agency practice on training, some agencies assign mentors to new ethics officials, which promotes collaboration on research and advice. Further, in some agencies, part of the established training curricula is to discuss trending/recent issues.

Agency Practice: Written Policies/Templates/Guides

Many agencies noted that they provide written frameworks for ethics staff to help ensure consistency. For instance, some agencies mentioned that their standard operating procedures outline how to respond to ethics inquiries. Other agencies noted that ethics officials keep subject matter files for various topics. Several agencies described the uses of advice templates for recurring questions, such as outside activities approval requests, free attendance at widely attended gatherings, and acceptance of gifts of travel-related expenses under 31 U.S.C. § 1353. As one agency explained, these customizable templates allow ethics officials to achieve a higher level of consistency in written advice relating to common ethics issues while improving efficiency.

Similarly, some agencies noted that they maintain on-demand resources for employees, such as frequently asked questions sites, or similar, for employees to research ethics topics.

Agency Practice: Training – for Employees and for Ethics Officials

Some agencies discussed how standard training modules, along with standard written materials, help to ensure consistency in the messaging they provide to employees.

In addition, several agencies noted that the training provided to their ethics officials helps ensure that they are knowledgeable and current on the ethics rules and applications, which in turn promotes consistency. Some agencies highlighted that they train new ethics officials to ensure that these new officials learn not just the subject matter, but also office policies and procedures. For some agencies, this training included the assignment of a mentor. In addition to this baseline training, agencies noted ongoing professional development. In some cases, agencies require their ethics officials to receive a certain number of hours of refresher training each year.

Agency Practice: Review of Advice

Several agencies noted that supervising or senior ethics staff review advice to ensure accuracy, adequacy, and consistency. In some cases, advice is reviewed and cleared prior to distribution. In other cases, the advice is shared via email copy or available for regularized or ad hoc review within a shared database of stored advice. At least one larger agency noted that it conducts site visits to its components, which have proven effective to confirm the consistency of

ethics advice given by those components. Another agency noted that the regular program reviews conducted by OGE helps to ensure consistency.

Agency Practice: Monitoring Published Guidance

Some agencies noted that they maintain consistency by monitoring the publication of updated guidance from OGE, such as advisory opinions, webinars, and other guidance. Some of the military agencies noted that they also monitor publication of guidance from the Department of Defense's Standards of Conduct Office.

Agency Practice: OGE Desk Officer Support

Several agencies reported that they consult with their OGE desk officers as one way to maintain consistency of advice. Each agency is assigned an OGE desk officer who provides on-demand, real-time support.

Agency Practice: Office Structure

Several agencies noted that they achieve consistency, in part, by virtue of the structure of the ethics program. In some cases, agencies noted that physical proximity allows ethics officials to consult regularly. Some agencies that have a centralized ethics system commented that having a core set of officials who provide advice leads to the development of expertise, promotes communication among the ethics officials, and allows for close collaboration between the more experienced and newer ethics officials. In addition to many small agencies that noted that their ethics program was centralized, some medium and larger agencies also highlighted that their centralized structure contributed to consistency.

Agency Practice: Length of service

Several agencies noted that their ethics officials have served in their positions for many years. These agencies explained that extended length of service builds institutional knowledge, which contributes to consistent advice over time.

Use of Technology

Technology can serve to create efficiencies and promote uniformity in the administration of an agency's advice and counsel program. Accordingly, the data call asked the following:

How does your agency use technology to support or manage your advice and counsel function? At a minimum, please address the following in your response:

- *Do you use technology to do any of the following: track volume of ethics advice and counsel, memorialize advice given, conduct research, identify topics for training, or conduct oversight of advice provided?*
- *For the technology solutions you choose to describe, please specify whether they are off-the-shelf applications (e.g., Excel, Access, SharePoint, ProLaw) or custom built?*

Nearly all agencies reported using technology to support or manage their advice and counsel function. As expected, there was variation in both *what* technologies agencies use and *how* they use it. The descriptions below are organized by the type of technology used, but include descriptions of how it was used.

Agency Practices for Using Technology

Types of Technology Used

- Email
- Smart Forms
- Word Processing, Spreadsheets, and Shared Drives
- Web-based, Collaborative Platforms
- Case Management Software
- Intranet

How Technology Is Used

- To support the in-take of requests for ethics advice
- To disseminate ethics information and advice
- To conduct research to support the provision of ethics advice
- To memorialize advice
- To track volume of requests for advice
- To identify topics for training
- To conduct oversight of advice provided

Agency Practice: Email

Many agencies described using email as a way to communicate advice, memorialize it, and as a means of oversight. As a communication tool, email serves to provide written advice to individuals and to broadcast messages to groups of employees. Several agencies noted that they have a dedicated email address to which employees can send ethics questions. Access to the email box may be shared among the ethics officials and the contents are searchable. Some agencies organize the shared email boxes by topic, making it easier to search for relevant past advice. In terms of oversight, some agencies report using the cc feature as a way to keep supervisors informed. Also, for those that use shared email boxes, the open access allows supervisors to review advice being given.

Agency Practice: Smart Forms

Some agencies create smart forms for employees to submit requests for advice on certain topics, such as requests for approval of outside activities or acceptance of free attendance at events. Agencies noted that the smart forms allow the agency to validate data, collect digital signatures, and submit requests via email.

Agency Practice: Word Processing, Spreadsheets, and Shared Drives

Some agencies reported that they use basic applications like Microsoft Word, Excel, and Access to memorialize advice and track volume. Often agencies reported maintaining these documents on a drive accessible to all ethics officials. In some cases these shared drives are stored on the physical network, in other cases they are stored on the cloud. Agencies noted using the shared drives for storing and organizing other tools relevant to the advice and counsel function, such as standard operating procedures, templates for ethics advice, and research resources. As some agencies noted, the shared drives are searchable.

Agency Practice: Web-based, Collaborative Document Management Platforms

Many agencies reported using a web-based, collaborative document management platform to support their advice and counsel program. One of the primary ways agencies use these platforms is as a knowledge center, storing past advice provided to employees. Agencies may organize this advice by topic to facilitate research on specific issues and ensure consistency of advice. Some agencies reported that senior ethics officials use these platforms as an oversight tool, since they can access the repository at any time to review past advice given. Some agencies noted that they use the platforms to analyze their workload, including to categorize type and volume of questions asked. Several agencies also mentioned using these platforms to manage advice and counsel assignments and workflow. Some agencies review the content to identify topics for training. Agencies also note using the tool as the underlying technology for the agency's intranet, which includes ethics-specific guidance. Some agencies have created custom applications on these platforms to facilitate requests for advice on outside activities, gifts, and personal financial transactions.

Agency Practice: Case Management and Workflow Software

Some agencies reported using case management and/or workflow software to support their advice and counsel function. In some cases the agencies used off-the-shelf systems, and other agencies appeared to have created custom applications. These systems allow the agency to track volume, memorialize advice, identify training topics, and conduct oversight.

Agency Practice: Intranet

Several agencies noted that they maintain ethics information for their employees on an agency intranet site. This source of on-demand resources helps ensure consistency of guidance. Agencies noted posting comprehensive guidance such as ethics handbooks, as well as timely, topical ethics guidance. Of note, one agency worked with their CIO's office to ensure that specific ethics search terms point employees to "preferred search results." For instance, if an employee searches for "financial disclosure," the agency's financial disclosure page is the recommended result at the top of the page.

Assessing the Advice and Counsel Process

As with the administration of any program, review and evaluation can help agencies determine whether their approaches are effective. Accordingly, the data call asked the following:

Describe what practices, if any, your agency has in place to assess its ethics advice and counseling process?

Nearly all agencies reported assessing their advice and counseling program, whether formally or informally. As expected, there was variation in both *what* agencies assessed and *how* they assessed it. The descriptions below are organized by the method used, but include descriptions of what that method assessed.

Agency Practices for Assessing the Advice and Counsel Process

Methods for Assessing

- Substantive Peer and Management Review
- Employee Feedback
- Database and Process Reviews
- Performance Planning and Assessment

Aspects of the Counseling Program that Agencies Assessed

- Consistency and accuracy of ethics advice
- Utility of ethics advice to employees, including whether the advice was readily accessible, timely, and useful
- Effectiveness of established policies and procedures for providing ethics advice
- Awareness of high-volume, sensitive, or emerging ethics topics
- Effects on the broader ethics culture

Agency Practice: Substantive Review by Peers and Management

One of the more commonly reported methods for ensuring the consistency and accuracy of advice is through peer review and/or management review of advice. Many agencies reported that they used regular ethics staff meetings as a venue to discuss pending and

recently provided advice. Some agencies use these meetings to also discuss the best methods for coordinating and providing the advice to employees. Several agencies reported that ethics officials copy management on advice provided via email. Some agencies that use a system for memorializing their advice, whether through databases or shared email folders, will also regularly review the advice therein. Several large, decentralized agencies noted that they review the advice given by their components through the course of audits or site visits. Many agencies also noted that they consult with their OGE desk officer, as needed, as a means to ensure that their advice is consistent with the most current rules. Several of the very small agencies noted that their size precludes the need for formal procedures to assess their advice and counsel, but that given the size of the agency there is constant communication between the DAEO and ADAEO and the advice is under continual review.

Agency Practice: Employee Feedback

Some agencies reported seeking feedback from employees themselves. Several agencies reported that they administered ethics-specific surveys, or piggybacked on broader agency-wide surveys to get feedback, for instance asking about employee satisfaction with their ability to access ethics officials. One agency noted that it leveraged the training evaluation forms that each employee fills out after completing annual ethics training. Though employees are generally asked to provide feedback on how satisfied they were with the training itself, they are also asked what future topics they might like to have included in trainings, which helps identify the ethics issues of concern to employees. Other agencies reported using more informal methods for seeking feedback, such as soliciting oral feedback during regularly scheduled training sessions or during out-briefings for departing employees. Two agencies reported using the Federal Employee Viewpoint Survey – one to assess the impact of the ethics program and the other to determine employee awareness of how to contact an ethics official.

Agency Practice: Review of Databases and Discrete Processes

As noted above, some agencies memorialize their advice in databases. Some of those agencies also use those databases to ensure that all pending questions are resolved in a timely manner. Other agencies use the data to also recommend updates to agency practices, based on a review of the data. Some agencies noted that they regularly review specific processes, such as the approval process for employee attendance at free events.

Agency Practice: Performance Planning and Assessment

Several agencies described how they integrate an ethics assessment into broader, formal performance and planning frameworks already carried out agency-wide. Other agencies noted that the ethics leadership team regularly meets with other agency leadership to review policies and procedures that impact the agency's ethics program. One agency noted that it indirectly assesses the ethics program through the ethics officials' performance reviews. Other agencies noted that they assess their ethics program as part of broader agency audits, for

instance audits initiated by an agency's inspector general and audits carried out in support of OMB circular A-123. Some agencies noted that they use the summary results from the Annual Agency Ethics Program Questionnaire to benchmark their programs against those of their peers.

APPENDIX

Agency Practices Data Call: Advice and Counsel

1. Agency

2. Advice and Counsel: Structure, Volume, Staffing, Support

Briefly describe the structure and other key aspects of your ethics program, as it relates to the function of providing advice and counsel. At a minimum, please address the following in your response:

- Structure: Is the advice and counsel process centralized (all advice comes out of one office) or decentralized (multiple, distinct offices or components provide advice to their respective areas)?
- Volume: Average number of questions received, percent of employees that seek advice.
- Staffing: How is the advice and counsel function staffed? How does your agency assign who answers requests for advice? Are certain staff assigned to certain types of employees or topics? Do the staff who provide advice and counsel support other aspects of the ethics program?
- Support: What, if any, role does each of the following employees play in supporting the ethics advice function: supervisors, HR, others?
- Please provide any additional, relevant information.

3. Employee Awareness of Availability of Ethics Advice

Describe how your agency informs employees and program offices about the availability of ethics advice and counsel.

4. Consistency of Advice

Describe what practices, if any, your agency has in place to ensure that ethics advice is consistent over time and between employees.

5. Use of Technology

How does your agency use technology to support or manage your advice and counsel function? At a minimum, please address the following in your response:

- Do you use technology to do any of the following: track the volume of ethics advice and counsel, memorialize advice given, conduct research, identify topics for training, or conduct oversight of advice provided?
- For the technology solutions you chose to describe, please specify whether they are off the- shelf applications (e.g., Excel, Access, SharePoint, ProLaw) or custom built.

6. Assessing the Advice and Counsel Process

Describe what practices, if any, your agency has in place to assess its ethics advice and counseling process?

7. Comments

Please share any additional comments you may have.

Point of contact to answer OGE follow up questions regarding this Data Call:

Name:

Title/Position:

Email Address:

Confirm Email Address:

Phone Number: