



United States
Office of Government Ethics

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and Acting Designated Agency Ethics Official
Department of the Army
104 Army Pentagon
Washington, DC 20310-0104

Dear Mr. Reres:

The Office of Government Ethics (OGE) has completed its review of the ethics programs of the following five Department of the Army (DA) organizations at Aberdeen Proving Grounds (APG): the U.S. Army Garrison (Garrison), the U.S. Army Developmental Test Command (DTC), the U.S. Army Soldier and Biological Chemical Command (SBCCOM), the U.S. Army Center for Health Promotion and Preventive Medicine (CHPPM), and the Army Environmental Center (AEC). This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics programs' effectiveness, measured by their compliance with applicable statutes and regulations. To meet our objective, we examined the following elements of each ethics program: the administration of the ethics program, the public and confidential financial disclosure systems, ethics education and training, ethics counseling and advice services, the relationship with the cognizant Inspector General (IG) and the U.S. Army Criminal Investigation Command (CID), and the acceptance of travel payments from non-Federal sources under 31 U.S.C. § 1353. "Component" or "Components" will be used to refer to review findings relating to the five organizations. The review was conducted during April 2001.

PROGRAM ADMINISTRATION

The ethics programs at CHPPM and AEC are managed by the respective Chief Counsels (CC). The ethics program at DTC is managed by its CC and two attorney-advisors. The ethics program at SBCCOM is managed through the Command Office of the Chief Counsel (OCC). The SBCCOM CC has designated an attorney-advisor on his staff as an ethics counselor (EC), who manages the SBCCOM Command ethics program on a day-to-day basis. The ethics program at the Garrison, a subordinate element of SBCCOM, is managed by the Garrison Staff Judge Advocate (SJA), who is also designated an EC by the SBCCOM CC. The SJA has designated the Deputy SJA and four

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attorney-advisors as ECs for the Garrison and has a legal assistant who is involved in managing the Garrison confidential disclosure system.

The Civilian Personnel Advisory Center (CPAC) is responsible for the Initial Ethics Orientation (IEO) for all new employees hired to fill positions in all organizations located at APG, including the Components. The SJA is responsible for oversight of IEO to ensure that IEO is provided in accordance with the Department of Defense (DoD) Joint Ethics Regulation (JER) and 5 C.F.R. § 2638.703.

PUBLIC FINANCIAL DISCLOSURE SYSTEM

Examination of documents related to the annual filing of public financial disclosure reports revealed that the Components have procedures in place to ensure the timely filing and review of these reports. Our examination revealed that there were 15 individuals, assigned to all 5 Components, who were required to file public disclosure reports during 2000.

The 15 reports were made available by an ethics attorney at the DA Standards of Conduct Office (SOCO). The 15 reports consisted of 13 annual reports and 2 new entrant reports. All of the reports had been filed and processed in a timely manner and there were no substantive issues. Two filers had executed disqualification statements based on their holdings.

CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

Examination of the documentation provided by the Components concerning the management of their confidential financial disclosure systems revealed that effective procedures are in place to ensure the timely filing and review of the confidential disclosure reports (although many new entrant reports were filed late). Master lists are being updated annually based on input from supervisors or other responsible officials. Report forms are distributed to filers and tracked by supervisors or other responsible officials to ensure the reports are completed and received before the filing due date. Supervisors, in general, are conducting thorough intermediate reviews for conflicts of interest and forwarding the completed reports to the ECs in a timely manner. The reports are reviewed and certified by the ECs and retained in the OCC or SJA Office.

There were 1,794 confidential filers in the 5 Components consisting of 117 at AEC, 60 at CHPPM, 273 at DTC, 377 at the Garrison, and 967 at SBCCOM. We examined a total of 327 reports, consisting of 299 annual reports, 27 new entrant reports, and 1 report that did not reflect a filing status. Generally, we found that the annual reports were filed and reviewed in a timely manner.

Our examination of the SBCCOM reports revealed that only 1 of the 100 reports examined reflected a date in the "Date Received by Agency" block on the first page of the OGE Form 450. We discussed this discrepancy with the SBCCOM CC and EC and they agreed to take appropriate action to ensure that the required administrative data on the OGE Form 450 is completed in the future.

Overall, the confidential financial disclosure report review and certification process seemed effective throughout the five Components and the CCs and ECs involved should be commended for their detailed attention to the reports. Particular note was made of the thorough management of the reporting process by the legal assistant in the Garrison SJA Office. Her personal knowledge of the confidential disclosure system and attention to detail during the initial review process of the reports before they are given to the Garrison ECs for review and certification is exceptional. Her efforts contribute greatly to the overall effectiveness of the Garrison's confidential disclosure system.

Procedures for identifying new entrant confidential report filers involve the CPAC and the Military Personnel Division (MPD) providing supervisors of new employees with a "Supervisor's Determination of Requirement To File Confidential Disclosure Report, OGE Form 450" during in-processing. The form requires supervisors to assess the new employees' responsibilities, and advises them of the requirement to collect a new entrant confidential disclosure report if necessary. The supervisors are required to send the completed forms to the appropriate Component CC or SJA for appropriate action. In addition, we determined that the Component CCs, the SJA, and the ECs send memorandums to all supervisors and other responsible officials to remind them to take appropriate action when new employees are hired or enter a covered position. Generally, the memorandum includes an information paper explaining who should file confidential disclosure reports.

Notwithstanding these procedures, we noted that of the 27 new entrant reports examined in our sample, 12 had been filed late, i.e., more than 30 days after the employee entered the covered position (see 5 C.F.R. § 2634.903(b)). The importance of identifying and ensuring that newly-hired employees assigned to covered positions and employees transferred to covered positions file a confidential disclosure report within 30 days of entering their position was discussed at length with the Component CCs, the SJA, and the ECs. They advised us that they would make every effort to have new entrants file these reports timely.

EDUCATION AND TRAINING

The Components have established procedures to ensure that new employees receive IEO within 90 days of starting employment. Procedures have also been established to ensure that all employees

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required to receive annual ethics training are appropriately trained.

Initial Ethics Orientation

All new civilian employees, regardless of the organization to which they are to be assigned, are in-processed through the APG CPAC, which is responsible for providing IEO. Our examination of the written materials provided by CPAC for IEO revealed that new employees were being provided a 1997 document compiled by the DoD SOCO entitled, "Employee's Guide to the Standards of Conduct" (Guide). Examination of the Guide revealed it contained only a brief summary of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards). CPAC placed a label on the front of the Guide which stated that Executive Order 12674 and the full text of the Standards were available in the Garrison SJA's Office. However, DoD's supplement to the Standards, at 5 C.F.R. part 3601, was not being provided. A cover letter stated that the employee was allowed to use one hour of duty time to review the materials and provided the telephone numbers of each Component CC and EC; however, the names, titles, and locations were not provided. We contacted DoD SOCO concerning the use of the Guide and were told that although a revised version of the Guide was being drafted, the Guide was not intended to be used to satisfy IEO requirements.

We discussed the IEO program at length with the SJA and provided him with a detailed explanation of the minimum requirements for IEO as detailed in 5 C.F.R. § 2638.703. Subsequent to our discussions the SJA and CPAC officials reconstructed the IEO materials to comply with § 2638.703. They incorporated the new IEO materials into several notebooks which new employees will be required to take one hour to review in the CPAC office on their first day. Upon completion, they will sign a certificate certifying that they reviewed the materials. This certificate will be sent to the appropriate CC, EC, or the SJA. The cover letter has also been amended to include the names, titles, and office addresses of each Component's CC or EC.

We commend the SJA and the CPAC officials for their immediate response to this issue. We feel the new IEO materials and procedures will greatly enhance the APG ethics program, particularly for new employees. Their familiarization with ethics rules is an important aspect of their overall responsibility as Federal employees.

Annual Ethics Training

The AEC Commander has determined that all AEC employees will attend annual ethics training. Therefore, in 2000, 264 employees were trained, including the 117 confidential filers plus 147 other employees. The AEC CC stated that he personally trains all

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employees each year. The training, given during August and September 2000, consisted of a live presentation and slide show covering political activities, outside employment, and the Standards in general. Attendees were required to sign and return an attendance card to the AEC OCC which tracks attendance by employee name, division or branch, and the date he or she received training.

The Garrison, DTC, and CHPPM provided annual training to all employees in their Components required to be trained. The three Components used materials made available by the DoD SOCO concerning the misuse of Government office. Attendance was tracked using sign-in sheets or attendance cards. In addition to the required annual ethics training, the Garrison and CHPPM also provided confidential report review training to supervisors.

The SBCCOM EC estimated that approximately 95 percent of the personnel required to attend annual ethics training during 2000 attended; however, due to a lack of a tracking system the exact number of attendees could not be determined. The EC advised that he personally presented approximately 16 training sessions. One of the topics discussed during the training sessions was the use and misuse of the Internet on Government computers. We stressed the importance of ensuring that all employees required to attend annual ethics training do so and that the training is documented. Accordingly, we suggested that the SBCCOM EC establish procedures for tracking the attendance of employees required to receive annual ethics training.

COUNSELING AND ADVICE

The Components' counseling and advice services are responsive to the needs of their employees and in compliance with 5 C.F.R. § 2638.203(b)(7) and (8). Ethics counseling and advice is provided by the CCs at AEC and CHPPM. At DTC, the CC and two attorney-advisors provide counseling and advice to DTC employees. The SJA and four other attorney-advisors provide the counseling and advice for the Garrison employees. The SBCCOM CC generally provides counseling and advice to SBCCOM Command officials while the SBCCOM EC provides counseling and advice to other SBCCOM employees. We examined a sample of the written counseling and advice provided by the Components and found it to be appropriate and comprehensive. The counseling and advice addressed gifts, financial conflicts, outside activities, and post employment. We also noted that several of the Components had intranet ethics bulletin boards through which information was made available to their employees. The Garrison has also published ethics-related materials in the APG newspaper, which we encouraged them to continue doing.

All of the Components follow the procedures in the JER concerning approval of outside activities. All of the Components

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also have procedures in place to ensure employees are apprised of post-employment restrictions.

OTHER MATTERS

Our discussions with the cognizant IG representatives and the Special Agent In-Charge of CID revealed that there currently is an effective ongoing relationship between these officials and the Component CCs and ECs. Further, it was determined that there had not been any recent referrals to the Department of Justice under 28 U.S.C. § 535.

Although there was minimal activity, procedures are in place for the acceptance of travel payments by the Components from non-Federal sources in accordance with the General Services Administration's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353, and the requirements of Chapter 4 of the JER.

CONCLUSIONS

In general, the Components have effective ethics programs which meet or exceed the statutory and regulatory requirements. We commend the CCs, SJA, and ECs for their detailed attention to the financial disclosure reports and the Garrison legal assistant for her thorough and effective management of the processing of the confidential reports. We also commend the CHPPM and AEC ECs for providing annual ethics training to all of their employees, thereby exceeding the regulatory requirements. However, as noted in the report, the "Date Received by Agency" block on the OGE Form 450 was not completed by many SBCCOM reviewers, some new entrant confidential reports were not being submitted timely, IEO materials being provided by CPAC and available at the Garrison did not meet the regulatory requirements, and not all SBCCOM employees were receiving annual ethics training as required. Because CPAC and the Components, as appropriate, have already taken or agreed to take actions to address these problems, we are making no recommendations.

In closing, I wish to thank all of the Component CCs and ECs for their efforts on behalf of their respective ethics programs. Normally a short follow-up review is conducted to resolve any recommendations; however, as there were no findings that warranted a recommendation, a follow-up review will not be necessary. However, I would encourage the appropriate CCs and ECs to ensure the suggested actions in the report are addressed.

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A copy of this report is being sent by transmittal letter to the Commanders of the Garrison, SBCCOM, AEC, CHPPM, DTC, and the U.S. Army IG. Please contact Charles R. Kraus at 202-208-8000, extension 1154, if we can be of further assistance.

Sincerely,



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