



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Department of Defense
Office of the Inspector General

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Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Department of Defense's Office of the Inspector General's (OIG) ethics program in November 2010. The results of the review indicated that the OIG's ethics program appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

Highlights

- The ethics office creates an annual Ethics Calendar/Plan that, aside from being a useful program management tool, also serves as an important document for succession planning.
- When filers have financial assets that may pose a conflict, the OIG ethics office has filers submit memoranda to their supervisors making supervisors aware of the potential conflict.
- The IG and the Principal Deputy IG send employees messages regarding the upcoming annual ethics training requirement and the importance of having an ethical culture at the OIG.
- The OIG requires that all employees receive annual ethics training.
- The OIG ethics office develops a monthly article that focuses on an ethics issue as part of the "Ethics Counts" campaign mandated by the Human Capital Strategic Plan.
- The OIG ethics office provides targeted training at the request of components.

Suggestions

- For public financial disclosure reports, add a section that includes the date of the supervisor's certification.
- For public and confidential financial disclosure reports, amend the intake process to ensure reports are stamped or annotated with a date of receipt on each report.

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Objectives, Scope, and Methodology

OGE provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance. The purpose of a review is to identify and report on the strengths and weaknesses of an ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program. OGE has the authority to evaluate the effectiveness of executive agency ethics programs. See Title IV of the Ethics in Government Act and 5 CFR part 2638.

To assess the OIG's ethics program, OGE examined a variety of documents provided by the OIG ethics office. OGE examined financial disclosure reports that were required to be filed at the OIG headquarters in 2010, covering calendar year 2009. We examined all 22 non-PAS public financial disclosure reports. Because of the large number of confidential financial disclosure filers at OIG, OGE selected 84 or 20 percent of the 418 confidential financial disclosure reports required to be filed. In addition, the OGE review team met with the Designated Agency Ethics Official (DAEO), the Alternate Designated Agency Ethics Official (ADAEO), the Ethics Program Manager, three Associate General Counsels, a Human Resources Officer, and two Ethics Coordinators to (1) obtain additional information on the OIG ethics program, (2) seek clarification on issues, and (3) verify data collected.

Program Administration

The OIG's ethics program is administered within the Office of General Counsel (OGC). The General Counsel serves as the DAEO. The Associate General Counsel for Employment Law serves as the ADAEO. The DAEO has designated 10 Associate General Counsels as Ethics Counselors who may provide ethics advice and counseling to OIG employees, as needed. However, the majority of advice and counseling is provided by the ADAEO. An Administrative Support Technician serves as the Ethics Program Administrator and is responsible for the day-to-day administration of the ethics program. Additionally, each OIG component has an Ethics Coordinator responsible for administering annual ethics training and collecting financial disclosure reports.

Model Practice

- The ethics office creates an annual Ethics Calendar/Plan that, aside from being a useful program management tool, also serves as an important document for succession planning.

Financial Disclosure

At the time of OGE's review, the OIG's written procedures for the administration of its confidential financial disclosure systems contained incorrect filing dates for the OGE Form 450. During the review process, the OIG's ethics officials acknowledged that the date is incorrect and stated that the Department of Defense's Standards of Conduct Office was already working on a revision.

Public financial disclosure reports were submitted by filers and certified by ethics officials in a timely manner.¹ However, the reports were not stamped with the date of receipt; the OGE review team had to use the employee's signature date to make the determination of timely submission. We suggested that the OIG's ethics office therefore amend their intake process to ensure reports are stamped with a date of receipt.

The OGE review team was pleased to see that the OIG ethics office uses a worksheet that guides the reviewer through the report, thus ensuring consistency. The worksheets contained evidence that a thorough review had been conducted. The reviewer provides the report and the worksheet to the filer's supervisor. The supervisor signs – but does not date – a certification statement. We suggested that the certification statement be dated.

The confidential financial disclosure reports were generally submitted by filers and certified by ethics officials in a timely manner. Confidential reports are collected by Ethics Coordinators and submitted to supervisors who conduct an initial review that focuses on prohibited sources. After the initial review by supervisors, the OIG ethics office conducts their own review and final certification of the reports. All the reports contained a date of agency receipt that was *after* the supervisor's review. The ADAEO explained that the Ethics Program Administrator added the

¹ The OIG ethics office could not retrieve a 278 report that had been filed electronically as part of a test for the new electronic filing system.

date when the ethics office received the reports. We suggested that the process be amended so that the reports reflect the actual date of submission to the Ethics Coordinators.

The OGE review team was pleased to see included with both public and confidential financial disclosure reports memoranda regarding prohibited sources. When the ethics office identifies financial assets that may pose problems, they ask the filer to provide a memorandum to their supervisor acknowledging that they hold these assets and they understand it is their responsibility to take actions should their financial assets ever pose a conflict of interest with assignments.

Model Practice

- When filers have financial assets that may pose a conflict, the OIG ethics office has filers submit memoranda to their supervisors making them aware of the potential conflict.

Suggestions

- For public financial disclosure reports, add a section that includes the date of the supervisor's certification.
- For public and confidential financial disclosure reports, amend the intake process to ensure reports are stamped or annotated with a date of receipt on each report.

Education & Training

The OIG reported that all required employees received initial ethics orientation and annual ethics training in 2009. The OGE review team had the opportunity to attend an initial ethics orientation provided by the ADAEO and found the session to be in compliance with 5 CFR § 2638.703. Additionally, the DAEO had an engaging delivery and elicited frequent participation from the attendees. The OGE review team also examined the OIG's annual ethics training materials and found them to be in compliance with 5 CFR 2638.704 and 2638.705.

During an initial meeting with the DAEO, he explained that the OIG ethics office launched a campaign to increase its visibility, the centerpiece of that campaign being the intranet website. The OIG ethics office intranet website contains reference materials, articles, contact information and a variety of forms. Additionally, the main OIG intranet website contained a prominent link to the OIG ethics office intranet website on its homepage.

Model Practices

- The IG and the Principal Deputy IG send employees messages regarding the upcoming annual ethics training requirement and the importance of having an ethical culture at the OIG.
- The OIG requires that all employees receive annual ethics training.

- The OIG ethics office develops a monthly article that focuses on an ethics issue as part of the “Ethics Counts” campaign mandated by the Human Capital Strategic Plan.
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Advice & Counsel

The OIG’s advice and counsel process is clearly defined. The ADAEO handles most ethics-related questions. Associate General Counsels may at times render advice and counsel. The ADAEO told the OGE review team that most advice and counsel requests for guidance arrive via e-mail. Advice and counseling records are typically maintained in a shared folder with subfolders indexed by topic. All Associate General Counsels have access to the folder. The ADAEO explained that noteworthy opinions are maintained in the physical files.

Agency-Specific Ethics Rules

The Department of Defense has a supplemental regulation requiring financial disclosure filers to obtain prior approval before working for a prohibited source. Our examination of a sample of outside employment forms indicated that the OIG ethics office had conducted a thorough review of the forms.

Ethics Agreements

The OIG had no active ethics agreements for non-PAS employees.

Enforcement

The OIG reported no disciplinary actions based on wholly or in part upon violations of the standards of conduct provisions (5 CFR 2635) or the criminal conflict of interest statutes (18 U.S.C §§ 203, 205, 207, 208, and 209). The OIG made no referrals to the Department of Justice of potential violations of the criminal conflict of interest statutes.

1353 Travel Acceptance

The OIG submitted to OGE in a timely manner the required semi-annual reports of payments accepted from non-Federal sources. The ADAEO reviews each travel request for conflicts of interest. A clear system exists to identify and communicate with those employees who might file a report under 31 U.S.C. § 1353. Additionally, the ADAEO developed a form for travel request filing that has greatly improved the process.

Agency Comments

In a letter dated December 20, 2010, the OIG provided comments on the OGE draft report:

“On behalf of the IG, we express our appreciation for the professionalism of the OGE Ethics Program Review Team. We concur with the team’s findings. The

two suggestions will be accomplished with the implementation of the Financial Disclosure Management (FDM) system. FDM is an Office of Government Ethics-approved, secure, web-based application that automates and improves the financial disclosure report preparation through an electronic filing process. FDM is on track for implantation for the 2011 filing year.”