



United States Office  
Of Government Ethics

Report Number 07-003

## Highlights

### Issues of Compliance

- ARC is in substantial compliance with applicable requirements.

### Model Practices

- ARC routinely exceeds the annual training requirements by not only ensuring that covered employees receive the requisite training, but by also inviting *all* ARC employees to partake in the training.
- ARC invites contractor employees interested in taking the training to participate, providing an opportunity for contractor employees to better understand the ethics rules and how they affect the interaction of Federal and contractor employees.

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## Ethics Program Review

# Appalachian Regional Commission

June 2007 Report

## Executive Summary

The Office of Government Ethics (OGE) has completed its review of the ethics program at the Appalachian Regional Commission (ARC). The purpose of a review is to identify and report on the strengths and weaknesses of the program by: (1) measuring agency compliance with ethics requirements found in relevant laws, regulations, and policies, and (2) evaluating ethics-related systems, processes, and procedures in place for administering the program. OGE determined that there is reasonable assurance that the performance and management of ARC's ethics program is effective.

OGE's review also identified model practices utilized in administering ARC's ethics training program. ARC routinely exceeds the annual training requirements by not only ensuring that covered employees receive the requisite training, but by also inviting *all* ARC employees to partake in the training. Moreover, ARC invites contractor employees interested in taking the training to participate, providing an opportunity for contractor employees to better understand the ethics rules and how they affect the interaction of Federal and contractor employees.

This report has been forwarded to ARC's Designated Agency Ethics Official and Inspector General.



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**Appalachian Regional Commission**

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**Introduction**

OGE MISSION

The Office of Government Ethics (OGE) provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance initiatives.

PURPOSE OF A REVIEW

The purpose of a review is to identify and report on the strengths and weaknesses of the program by: (1) measuring agency compliance with ethics requirements found in relevant laws, regulations, and policies and (2) evaluating ethics-related systems, processes, and procedures in place for administering the program.

REVIEW AUTHORITY AND SCOPE

OGE has the authority to evaluate the effectiveness of executive agency programs. This review of the Appalachian Regional Commission (ARC) focused on the enforcement of ethics laws and regulations, ethics agreements, financial disclosure systems, ethics education and training, the acceptance of travel payments from non-Federal sources, and advice and counseling rendered to employees. The review also addressed the structure and administration of the ethics program and ARC's Financial Disclosure Tracking System. Title IV of the Ethics in Government Act of 1978, as amended, and 5 CFR part 2638.

This review was conducted on site at ARC Headquarters in Washington, DC in October 2006.

## Ethics Program Review: ARC

# Findings

### PROGRAM STRUCTURE

The ARC Ethics Program is run almost exclusively by its Chief of Staff who serves as the Designated Agency Ethics Official (DAEO). The Alternate Designated Agency Ethics Official (ADAEO) has a limited role in the administration of the ethics program. No other ARC employees serve as ethics officials.

### FINANCIAL DISCLOSURE SYSTEMS

The public and confidential financial disclosure systems are well managed. The procedures for administering the financial disclosure systems are documented in the ARC publication Ethics Policies and Procedures. This handbook is provided to each new employee and provides a detailed explanation of filers' responsibilities regarding the financial disclosure process.

#### Public Financial Disclosure System

To evaluate ARC's public financial disclosure system, OGE examined the five public financial disclosure reports required to be submitted in 2006. All five of the reports OGE examined were filed timely, including two reports for which filers were granted extensions to file after the initial deadlines. All five of the reports were also reviewed and certified timely.

#### Confidential Financial Disclosure System

To evaluate ARC's confidential financial disclosure system, OGE examined the two confidential reports required to be filed in 2005, both of which were filed by employees in ARC's Office of the Inspector General (OIG). Both reports were filed, reviewed, and certified in a timely manner.

### ETHICS EDUCATION AND TRAINING

ARC met the requirements at 5 CFR § 2638.703 for providing initial ethics orientation and, in some respects, exceeded the requirements at 5 CFR § 2638.704 and 2638.705 for providing annual ethics training in 2005. However, ARC did not have an annual ethics training plan for 2006 at the beginning of OGE's review, as required by 5 CFR § 2638.706. The DAEO drafted an annual training plan for 2006 during the course of OGE's review and provided it to the review team. The plan met all the relevant requirements of § 2638.706.

## **Ethics Program Review: ARC**

### Initial Ethics Orientation

To meet the initial ethics orientation requirement, the DAEO provides new employees a packet of information which consists of the *Standards of Ethical Conduct for Employees of the Executive Branch, Executive Order 12731*, the OGE pamphlet *A Brief Wrap on Ethics*, and *Ethics Rules and Procedures for the Federal Office*. Employees are allowed official duty time to review the information and are encouraged to contact the DAEO with any questions.

### Annual Ethics Training

To meet the annual ethics training requirement for 2005, covered employees were directed to complete the OGE produced online training course, "Gifts from Outside Sources." Covered employees were required to send the DAEO an e-mail confirming their completion of the course.

ARC also routinely exceeds the annual training requirements by not only ensuring that covered employees receive the requisite training but by also inviting *all* ARC employees to partake in the training. Moreover, ARC invites contractor employees interested in taking the training to participate, providing an opportunity for contractor employees to better understand the ethics rules and how they affect the interaction of Federal and contractor employees.

According to the 2006 annual ethics training plan, the DAEO planned to conduct live training for all employees that would focus on gift acceptance rules. He also planned to provide employees periodic written ethics guidance and reminders on various ethics-related topics.

## **ETHICS ADVICE AND COUNSELING**

Ethics-related advice and counseling are provided to ARC employees primarily by the DAEO. To evaluate the advice and counseling provided, OGE reviewed a sample of advice the DAEO provided to employees. The advice examined addressed a variety of subjects: conflicts of interest, seeking employment, and gifts from outside sources. The advice was thorough, consistent with applicable laws and regulations, and appeared to be responsive to employees' needs. OGE finds that the ethics advice and counseling program is sound. The DAEO's experience in administering the program for over 10 years and the agency's very small number of employees makes it possible for issues concerning actual and or apparent conflicts of interest to be handled expediently.

## **ENFORCEMENT**

ARC's DAEO indicated that he has an effective working relationship with the OIG. This relationship allows for coordination to ensure that information developed by the IG's office regarding alleged ethics violations is shared with ethics officials. 5 CFR § 2638.203(b)(11) and (12). Where appropriate, the DAEO would make any required referrals of alleged violations of

## **Ethics Program Review: ARC**

the criminal conflict of interest laws to the Department of Justice (DOJ). In addition, the DAEO is aware of the requirement to concurrently notify OGE of any such referrals to DOJ. 5 CFR § 2638.603(b).

According to the DAEO, ARC made no referrals to DOJ regarding alleged violations of the criminal conflict of interest laws since at least January 1994. He also stated that he has never taken any administrative action against an employee for violations of the Standards.

## **ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES**

As stated in the ARC Ethics Policies and Procedures manual, ARC discourages acceptance of travel payments from non-Federal sources, forbidding it except in unusual situations. Because of this policy, ARC had only two instances of travel payments being accepted between April 1, 2005 and March 31, 2006 from non-Federal sources under the authority of 31 USC § 1353. Both instances were appropriately approved, documented, and reported to OGE.