



U.S. Office of Government Ethics  
Program Review Division

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# Ethics Program Review

Small Business Administration

Report No. 12-07  
November 2011

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## Results in Brief

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The United States Office of Government Ethics (OGE) conducted a review of the Small Business Administration's (SBA) ethics program in July 2011. The results of the review indicated that SBA's ethics program appears to be very effectively administered and in compliance with applicable laws, regulations, and policies.

### Highlights

- Headquarters ethics officials thoroughly document their conflict-of-interest reviews of financial disclosure reports.
- In-person Initial Ethics Orientation (IEO) is provided to senior employees.
- One-on-one annual training is provided to all public filers.

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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 SBA's ethics program, OGE examined a variety of documents provided by SBA's ethics office. OGE examined a sample of public financial disclosure reports required to be filed in 2010 and a sample of confidential financial disclosure reports required to be filed in 2011. In addition, the OGE review team met with the Designated Agency Ethics Official (DAEO), the Alternate DAEO (ADAEO), and other ethics officials to obtain additional information on SBA's ethics program, seek clarification of specific issues, and verify data collected.

## Program Administration

SBA's ethics program is administered from within the Office of General Counsel. An SBA Area Counsel serves as the DAEO and is located outside of SBA's headquarters. The DAEO is assisted by an Alternate DAEO, a Chief Ethics Official, and an Ethics Specialist. Additionally, each Area Counsel, District Counsel, and Center Counsel serves as an ethics official in varying capacities within the ethics program, which includes reviewing financial disclosure reports, providing advice and counseling, and conducting ethics training.

SBA's ethics program structure appears to be well-suited to meet the needs of an organization of its size and structure. Ethics officials receive on-the-job training, attend OGE classes and conferences, receive written guidance from SBA and are provided one-on-one training by other SBA ethics officials to prepare them to carry out their ethics-related duties. SBA has clear written policies and procedures that govern the administration of the ethics program and help provide for consistency and continuity of the ethics program.

## Financial Disclosure

SBA ethics officials have established effective written procedures for the administration of both the public and confidential financial disclosure systems. All public financial disclosure reports submitted by SBA public filers and all confidential financial disclosure reports submitted by confidential filers within headquarters are filed and reviewed at the headquarters level. Confidential reports submitted by employees at District Offices (DO) are filed with and reviewed by the District Counsel. Reports submitted by District Counsels are filed with and reviewed by Area Counsels.

Financial disclosure reports were generally submitted timely or shortly after their respective filing due dates and subsequently received a thorough review by ethics officials. Of the reports that were filed late, most were filed within a few days of the filing due date and only one confidential report was filed more than 30 days after its due date. Documentation made it clear that ethics officials conducted due diligence to collect the delinquent reports. All of the reports in the sample were reviewed within 60 days of the date of filing unless additional information was required. Ethics officials thoroughly documented their review of financial disclosure reports and requests for additional information. OGE strongly encourages this practice because it helps ethics officials track outstanding financial disclosure issues and maintain the integrity of the financial disclosure system.

OGE also examined the confidential reports filed within six DOs. These included Maine, Connecticut, New York, Syracuse, West Virginia, and Virginia. OGE's examination of these reports raised no concerns regarding either substantive issues or technical completion of the forms by filers. In addition, the reports appear to have been filed by or not long after the filing due date, and reports were reviewed and certified timely. OGE also noted that reports from the Virginia, New York, and Syracuse DOs often included reviewers' notes documenting their conflict of interest analysis. One minor issue involved reports from the Connecticut and New York DOs. Their reports did not indicate the date of filing, despite SBA's creation of a checklist

for ethics officials. Specifically, page 2 of the checklist includes an instruction to indicate the date the OGE 450s are received.

#### Model Practice

- Thoroughly documenting the conflict-of-interest review of financial disclosure reports.

#### Suggestion

- Remind ethics officials in DOs to record the date of submission for all confidential reports on the report forms.

### **Education & Training**

SBA provides in-person, one-on-one initial ethics orientation (IEO) to its Presidentially appointed, Senate-confirmed (PAS), Schedule C, career and non-Career SES employees. The training for each of these employees is designed to specifically address the issues they are most likely to encounter. Ethics officials meet with these employees as soon as possible after they enter on duty at SBA. OGE views this approach to training as a model practice because it provides an agency's most senior officials with information they need to avoid inadvertently violating ethics-related statutes and regulations and helps foster a positive relationship between ethics officials and senior leaders

SBA provides IEO to other employees by emailing them a link to an SBA Intranet website which provides all the required training materials and ethics officials' contact information. In addition to the minimum required subject matter content, the website provides access to a wide variety of well-organized ethics guidance for employees. While SBA's IEO as implemented is compliant, in-person, one-on-one IEO is in the best interest of both the employee and the agency. Therefore, OGE suggests that SBA consider conducting live initial ethics orientation to all employees especially because the current process does not provide assurances that new employees are reading the material.

At headquarters, specific categories of employees--PAS, non-career SES, career-SES, and Schedule C--receive live annual training each year. In field, regional, and district offices all employees receive live, verbal, annual ethics training every year from their local ethics official.

In 2010, the ethics staff provided live verbal training to all confidential filers at SBA HQ. Training was conducted by office and component and tailored to the audience to ensure their specific issues were addressed. Tailored training is a model practice because it helps relate ethics issues to an employee's particular situation. In addition to the regularly scheduled training events, some one-on-one training was conducted for those employees who were unable to attend the other sessions and to ensure that training was provided to everyone.

### Model Practices

- Providing one-on-one training to senior employees.
- Providing live training to field employees.
- Providing tailored training to senior employees and offices/components.

### Suggestion

- Conduct live initial ethics orientation for all employees.

### **Advice & Counsel**

OGE examined approximately 25 opinions provided to employees. Subjects included representation, outside activities, gifts, attendance at widely attended gatherings, Standard of Conduct (just debt) provisions, fundraising, attendance at functions paid for and hosted by private sector entities and teaching, speaking, and writing issues. The advice was responsive, timely, and consistent with ethics regulations and statutes. Advice was also consistent from one instance to another when fact patterns were the same. Further, advice was provided in a manner that allows for transparency and accountability on the part of both the employee and ethics officials.

### **Enforcement**

Based on discussions with ethics officials and a representative from SBA's Office of the Inspector General (OIG), their respective offices have an effective working relationship which allows for the sharing of information necessary to enforce ethics-related statutes and regulations. During the period covered by the review, SBA reported no disciplinary actions based wholly or in part upon violations of the standards of conduct. SBA has a Table of Recommended Corrective Action to guide supervisors in deciding what form of discipline is appropriate to a particular offense.

The OIG is responsible for investigating potential violations of the criminal conflict of interest statutes. If an investigation indicated a statute was violated, OIG would be responsible for referring the matter to the Department of Justice (DOJ) and concurrently notifying OGE.

### **1353 Travel Acceptances**

The required semi-annual reports of payments accepted from non-Federal sources were submitted to OGE in a timely manner. Requests for approval of acceptance of payments from non-Federal sources are submitted on an SBA Form 2119. This form streamlines the approval process by providing an efficient method for capturing the information necessary to conduct a conflict-of-interest analysis for each approval request. OGE examined the supporting

documentation for three approval requests. Each approval appeared to have been granted subsequent to a thorough analysis and conclusion that acceptance did not create a conflict-of-interest.

### Agency Comments

OGE provided SBA ethics officials with a draft of this report for comment. SBA's response included two minor edits/clarifications and substantive comments regarding the two suggestions contained in the report. The edits/clarifications were incorporated into the report; the substantive comments are provided below. The complete SBA response is attached.

#### OGE's Suggestions

*#1: Remind ethics officials in DOs [district offices] to record the date of submission for all confidential reports on the report forms.*

We note that Attachment B of SBA's "Annual Confidential Financial Disclosure Report (OGE 450)" notice, sent to all headquarters and field ethics official on January 5, 2011, and which initiated the beginning of the 2010 annual 450 filing process, was a checklist that all ethics officials were required to use. The checklist was designed for the ethics officials so that they could effectively complete their responsibilities with regard to the distribution, collection, review and clearance of 450s under their jurisdiction. On page 2 of the checklist (Attachment B), ethics officials were instructed to do the following: "Upon the return of each Form 450, indicate the date received in the block entitled 'Date Received by Agency' (on the upper left-hand corner of the first page of the Form 450)." These documents were provided to your office prior to the program review.

Nevertheless, OGE discovered that several field ethics officials had failed to indicate the date of filing on the 450s they had received, even though OGE noted that "based on the dates of review, the reports appear to have been filed by or not long after the filing due date."

The field ethics officials in the offices cited in your report have been reminded of the necessity of noting the date of receipt on all 450s filed in their office and, in addition, next year at the beginning of the annual 450 process, we will ask the area counsel to remind their field staff of this specific requirement.

*#2: Conduct live initial ethics orientation for all employees.*

Although this suggestion certainly represents an ideal approach for providing initial ethics orientation (IEO) training for new employees, unfortunately, it simply is not practical at SBA. SBA is a highly decentralized agency with hundreds of field offices, centers, headquarters' post of duty stations, and employees workin at alternative work sites (AWS), etc. The majority of those field locations do not include local counsel, thus local ethics officials are not available to provide live IEO training. In addition, for field personnel, often there is a two to four week lapse of time between when a new employee begins performing his or her new duties and when the Ethics Program is notified of their arrival. Consequently, a significant amount of time can pass

between when a new employee begins performing their official duties and when he or she receives the IEO training. This can create a dangerous period of time for new employees when it is possible for them to violate ethics laws and regulations unknowingly.

Instead, SBA plans on creating a computer-based IEO training program that will be made available to all new SBA employees immediately upon the assignment of an Agency computer (perhaps constituting a pop-up when they turn their computer on for the first time), and will include all of the regulatory requirements for IEO training. It will also include an internal tracking system (so that the Ethics Program can compare the names of the employees who have successfully completed the training with a list of new employees which is periodically provided to the Ethics Program by the Office of Human Capital Management), and a "certificate of completion" that the new employee can print for his or her own records and provide to his or her supervisor. We are told that this technology can now be handled in-house by SBA's Office of the Chief Information Officer, and that funds for a private contractor are no longer required. The training content will be developed by our ethics staff, and we hope to have this new system designed, tested and in operation by the summer of 2012.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

OFFICE OF THE DESIGNATED AGENCY ETHICS OFFICIAL

November 7, 2011

Ms. Rashmi Bartlett  
Associate Director  
Office of Government Ethics  
1201 New York Avenue, N.W.  
Suite 500  
Washington, DC 20005-3917

**RE: Ethics Program Review (Draft Report, October 2011).**

Dear Ms. Bartlett:

Thank you for providing us the opportunity to formally comment on your office's draft report of the recent review of the Small Business Administration's (SBA's) Ethics Program, and for the professional and thorough manner in which your office conducted the review. We particularly appreciate the acknowledgment by your office of some of our "model practices," which were, in part, formulated in response to comments and suggestions offered by your office during previous reviews. The building and strengthening of SBA's Ethics Program has been a work in progress, and we appreciate the significant and constructive part your office has played, and will continue to play, as we continue to improve our program.

For your convenience, we have organized our comments into two categories. First, we offer a few minor edits and clarifications for the text. Second, we respond to the two "suggestions" contained in the draft report.

#### **Edits and Clarifications**

*Page 4, "Education and Training," para. 1:* We suggest that you add the words "career and" before the word "non-career" in the first sentence. The ethics staff conducts one-on-one in person initial ethics orientation (IEO) training with all incoming 278 filers (career and non-career), as evidenced by our 278 filer log which tracks ethics training. (A copy of the log was provided to your office during the review).

*Page 4, "Education and Training," para. 4:* In the first sentence, we suggest that instead of stating that "the DAEO provided live verbal training to all confidential filers in SBA HQ," that you state that "ethics staff provided live verbal training..." The ethics staff in Washington, D.C., does all of the annual training for confidential filers located in headquarters.

Ms. Rashmi Bartlett  
November 7, 2011  
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Please feel free to contact me if you have any questions concerning our response and, once again, thank you for your continuing support.

Sincerely,

  
Robert L. Gangwere  
Designated Agency Ethics Official

cc: Sara D. Lipscomb, General Counsel  
Monique Fortenberry, Deputy General Counsel



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

November 21, 2011

Karen G. Mills  
Administrator  
Office of the Administrator  
U.S. Small Business Administration  
Suite 7000  
409 Third Street, SW.  
Washington, DC 20024

Dear Ms. Mills:

The United States Office of Government Ethics (OGE) has completed its review of the ethics program at the Small Business Administration (SBA). OGE's primary objective was to identify and report on the strengths and vulnerabilities of the 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.

Enclosed is a report on the results of the review. The results of the review indicated that SBA's ethics program appears to be very effectively administered and in compliance with applicable laws, regulations, and policies. Additionally, OGE found that SBA has implemented a number of model practices that enhance the ethics program. OGE also makes two suggestions regarding confidential financial disclosure and initial ethics orientation in the enclosed report. SBA's responses to these suggestions are noted in the report. OGE makes suggestions in an effort to help make agency ethics programs more effective. While agencies are not required to implement OGE's suggestions, we have asked the DAEO to apprise us of any actions SBA takes in regard to the suggestions.

I appreciate the courtesies extended to the OGE program review staff. If you would like to discuss the report, please contact me at 202-482-9286.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia C. Zemple".

Patricia C. Zemple  
Associate Director

Enclosure



U.S. Office of Government Ethics  
Program Review Division

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### Highlights

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for ethics officials. Specifically, page 2 of the checklist includes an instruction to indicate the date the OGE 450s are received.

#### Model Practice

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#### Suggestion

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U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

OFFICE OF THE DESIGNATED AGENCY ETHICS OFFICIAL

November 7, 2011

Ms. Rashmi Bartlett  
Associate Director  
Office of Government Ethics  
1201 New York Avenue, N.W.  
Suite 500  
Washington, DC 20005-3917

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November 7, 2011  
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Nevertheless, OGE discovered that several field ethics officials had failed to indicate the date of filing on the 450s they had received, even though OGE noted that "based on the dates of review, the reports appear to have been filed by or not long after the filing due date."

The field ethics officials in the offices cited in your report have been reminded of the necessity of noting the date of receipt on all 450s filed in their office and, in addition, next year at the beginning of the annual 450 process, we will ask the area counsel to remind their field staff of this specific requirement.

*#2: Conduct live initial ethics orientation for all employees.*

Although this suggestion certainly represents an ideal approach for providing initial ethics orientation (IEO) training for new employees, unfortunately, it simply is not practical at SBA. SBA is a highly decentralized agency with hundreds of field offices, centers, headquarters' post of duty stations, and employees working at alternative work sites (AWS), etc. The majority of those field locations do not include local counsel, thus local ethics officials are not available to provide live IEO training. In addition, for field personnel, often there is a two to four week lapse of time between when a new employee begins performing his or her new duties and when the Ethics Program is notified of their arrival. Consequently, a significant amount of time can pass between when a new employee begins performing their official duties and when he or she receives the IEO training. This can create a dangerous period of time for new employees when it is possible for them to violate ethics laws and regulations unknowingly.

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Instead, SBA plans on creating a computer-based IEO training program that will be made available to all new SBA employees immediately upon the assignment of an Agency computer (perhaps constituting a pop-up when they turn their computer on for the first time), and will include all of the regulatory requirements for IEO training. It will also include an internal tracking system (so that the Ethics Program can compare the names of the employees who have successfully completed the training with a list of new employees which is periodically provided to the Ethics Program by the Office of Human Capital Management), and a "certificate of completion" that the new employee can print for his or her own records and provide to his or her supervisor. We are told that this technology can now be handled in-house by SBA's Office of the Chief Information Officer, and that funds for a private contractor are no longer required. The training content will be developed by our ethics staff, and we hope to have this new system designed, tested and in operation by the summer of 2012.

Please feel free to contact me if you have any questions concerning our response and, once again, thank you for your continuing support.

Sincerely,

  
Robert L. Gangwere  
Designated Agency Ethics Official

cc: Sara D. Lipscomb, General Counsel  
Monique Fortenberry, Deputy General Counsel



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

November 21, 2011

Peggy E. Gustafson  
Inspector General  
Office of Inspector General  
U.S. Small Business Administration  
409 Third Street, SW.  
Washington, DC 20416

Dear Ms. Gustafson:

The United States Office of Government Ethics (OGE) has completed its review of the ethics program at the Small Business Administration (SBA). OGE's primary objective was to identify and report on the strengths and vulnerabilities of the 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.

Enclosed is a report on the results of the review. The results of the review indicated that SBA's ethics program appears to be very effectively administered and in compliance with applicable laws, regulations, and policies. Additionally, OGE found that SBA has implemented a number of model practices that enhance the ethics program. OGE also makes two suggestions regarding confidential financial disclosure and initial ethics orientation in the enclosed report. SBA's responses to these suggestions are noted in the report. OGE makes suggestions in an effort to help make agency ethics programs more effective. While agencies are not required to implement OGE's suggestions, we have asked the DAEO to apprise us of any actions SBA takes in regard to the suggestions.

If you would like to discuss the report, please contact me at 202-482-9286.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia C. Zemple".

Patricia C. Zemple  
Associate Director

Enclosure



U.S. Office of Government Ethics  
Program Review Division

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# Ethics Program Review

Small Business Administration

Report No. 12-07  
November 2011

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## Results in Brief

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The United States Office of Government Ethics (OGE) conducted a review of the Small Business Administration's (SBA) ethics program in July 2011. The results of the review indicated that SBA's ethics program appears to be very effectively administered and in compliance with applicable laws, regulations, and policies.

### Highlights

- Headquarters ethics officials thoroughly document their conflict-of-interest reviews of financial disclosure reports.
- In-person Initial Ethics Orientation (IEO) is provided to senior employees.
- One-on-one annual training is provided to all public filers.

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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 SBA's ethics program, OGE examined a variety of documents provided by SBA's ethics office. OGE examined a sample of public financial disclosure reports required to be filed in 2010 and a sample of confidential financial disclosure reports required to be filed in 2011. In addition, the OGE review team met with the Designated Agency Ethics Official (DAEO), the Alternate DAEO (ADAEO), and other ethics officials to obtain additional information on SBA's ethics program, seek clarification of specific issues, and verify data collected.

## Program Administration

SBA's ethics program is administered from within the Office of General Counsel. An SBA Area Counsel serves as the DAEO and is located outside of SBA's headquarters. The DAEO is assisted by an Alternate DAEO, a Chief Ethics Official, and an Ethics Specialist. Additionally, each Area Counsel, District Counsel, and Center Counsel serves as an ethics official in varying capacities within the ethics program, which includes reviewing financial disclosure reports, providing advice and counseling, and conducting ethics training.

SBA's ethics program structure appears to be well-suited to meet the needs of an organization of its size and structure. Ethics officials receive on-the-job training, attend OGE classes and conferences, receive written guidance from SBA and are provided one-on-one training by other SBA ethics officials to prepare them to carry out their ethics-related duties. SBA has clear written policies and procedures that govern the administration of the ethics program and help provide for consistency and continuity of the ethics program.

## Financial Disclosure

SBA ethics officials have established effective written procedures for the administration of both the public and confidential financial disclosure systems. All public financial disclosure reports submitted by SBA public filers and all confidential financial disclosure reports submitted by confidential filers within headquarters are filed and reviewed at the headquarters level. Confidential reports submitted by employees at District Offices (DO) are filed with and reviewed by the District Counsel. Reports submitted by District Counsels are filed with and reviewed by Area Counsels.

Financial disclosure reports were generally submitted timely or shortly after their respective filing due dates and subsequently received a thorough review by ethics officials. Of the reports that were filed late, most were filed within a few days of the filing due date and only one confidential report was filed more than 30 days after its due date. Documentation made it clear that ethics officials conducted due diligence to collect the delinquent reports. All of the reports in the sample were reviewed within 60 days of the date of filing unless additional information was required. Ethics officials thoroughly documented their review of financial disclosure reports and requests for additional information. OGE strongly encourages this practice because it helps ethics officials track outstanding financial disclosure issues and maintain the integrity of the financial disclosure system.

OGE also examined the confidential reports filed within six DOs. These included Maine, Connecticut, New York, Syracuse, West Virginia, and Virginia. OGE's examination of these reports raised no concerns regarding either substantive issues or technical completion of the forms by filers. In addition, the reports appear to have been filed by or not long after the filing due date, and reports were reviewed and certified timely. OGE also noted that reports from the Virginia, New York, and Syracuse DOs often included reviewers' notes documenting their conflict of interest analysis. One minor issue involved reports from the Connecticut and New York DOs. Their reports did not indicate the date of filing, despite SBA's creation of a checklist

for ethics officials. Specifically, page 2 of the checklist includes an instruction to indicate the date the OGE 450s are received.

#### Model Practice

- Thoroughly documenting the conflict-of-interest review of financial disclosure reports.

#### Suggestion

- Remind ethics officials in DOs to record the date of submission for all confidential reports on the report forms.

### **Education & Training**

SBA provides in-person, one-on-one initial ethics orientation (IEO) to its Presidentially appointed, Senate-confirmed (PAS), Schedule C, career and non-Career SES employees. The training for each of these employees is designed to specifically address the issues they are most likely to encounter. Ethics officials meet with these employees as soon as possible after they enter on duty at SBA. OGE views this approach to training as a model practice because it provides an agency's most senior officials with information they need to avoid inadvertently violating ethics-related statutes and regulations and helps foster a positive relationship between ethics officials and senior leaders

SBA provides IEO to other employees by emailing them a link to an SBA Intranet website which provides all the required training materials and ethics officials' contact information. In addition to the minimum required subject matter content, the website provides access to a wide variety of well-organized ethics guidance for employees. While SBA's IEO as implemented is compliant, in-person, one-on-one IEO is in the best interest of both the employee and the agency. Therefore, OGE suggests that SBA consider conducting live initial ethics orientation to all employees especially because the current process does not provide assurances that new employees are reading the material.

At headquarters, specific categories of employees--PAS, non-career SES, career-SES, and Schedule C--receive live annual training each year. In field, regional, and district offices all employees receive live, verbal, annual ethics training every year from their local ethics official.

In 2010, the ethics staff provided live verbal training to all confidential filers at SBA HQ. Training was conducted by office and component and tailored to the audience to ensure their specific issues were addressed. Tailored training is a model practice because it helps relate ethics issues to an employee's particular situation. In addition to the regularly scheduled training events, some one-on-one training was conducted for those employees who were unable to attend the other sessions and to ensure that training was provided to everyone.

### Model Practices

- Providing one-on-one training to senior employees.
- Providing live training to field employees.
- Providing tailored training to senior employees and offices/components.

### Suggestion

- Conduct live initial ethics orientation for all employees.

### **Advice & Counsel**

OGE examined approximately 25 opinions provided to employees. Subjects included representation, outside activities, gifts, attendance at widely attended gatherings, Standard of Conduct (just debt) provisions, fundraising, attendance at functions paid for and hosted by private sector entities and teaching, speaking, and writing issues. The advice was responsive, timely, and consistent with ethics regulations and statutes. Advice was also consistent from one instance to another when fact patterns were the same. Further, advice was provided in a manner that allows for transparency and accountability on the part of both the employee and ethics officials.

### **Enforcement**

Based on discussions with ethics officials and a representative from SBA's Office of the Inspector General (OIG), their respective offices have an effective working relationship which allows for the sharing of information necessary to enforce ethics-related statutes and regulations. During the period covered by the review, SBA reported no disciplinary actions based wholly or in part upon violations of the standards of conduct. SBA has a Table of Recommended Corrective Action to guide supervisors in deciding what form of discipline is appropriate to a particular offense.

The OIG is responsible for investigating potential violations of the criminal conflict of interest statutes. If an investigation indicated a statute was violated, OIG would be responsible for referring the matter to the Department of Justice (DOJ) and concurrently notifying OGE.

### **1353 Travel Acceptances**

The required semi-annual reports of payments accepted from non-Federal sources were submitted to OGE in a timely manner. Requests for approval of acceptance of payments from non-Federal sources are submitted on an SBA Form 2119. This form streamlines the approval process by providing an efficient method for capturing the information necessary to conduct a conflict-of-interest analysis for each approval request. OGE examined the supporting

documentation for three approval requests. Each approval appeared to have been granted subsequent to a thorough analysis and conclusion that acceptance did not create a conflict-of-interest.

### Agency Comments

OGE provided SBA ethics officials with a draft of this report for comment. SBA's response included two minor edits/clarifications and substantive comments regarding the two suggestions contained in the report. The edits/clarifications were incorporated into the report; the substantive comments are provided below. The complete SBA response is attached.

#### OGE's Suggestions

*#1: Remind ethics officials in DOs [district offices] to record the date of submission for all confidential reports on the report forms.*

We note that Attachment B of SBA's "Annual Confidential Financial Disclosure Report (OGE 450)" notice, sent to all headquarters and field ethics official on January 5, 2011, and which initiated the beginning of the 2010 annual 450 filing process, was a checklist that all ethics officials were required to use. The checklist was designed for the ethics officials so that they could effectively complete their responsibilities with regard to the distribution, collection, review and clearance of 450s under their jurisdiction. On page 2 of the checklist (Attachment B), ethics officials were instructed to do the following: "Upon the return of each Form 450, indicate the date received in the block entitled 'Date Received by Agency' (on the upper left-hand corner of the first page of the Form 450)." These documents were provided to your office prior to the program review.

Nevertheless, OGE discovered that several field ethics officials had failed to indicate the date of filing on the 450s they had received, even though OGE noted that "based on the dates of review, the reports appear to have been filed by or not long after the filing due date."

The field ethics officials in the offices cited in your report have been reminded of the necessity of noting the date of receipt on all 450s filed in their office and, in addition, next year at the beginning of the annual 450 process, we will ask the area counsel to remind their field staff of this specific requirement.

*#2: Conduct live initial ethics orientation for all employees.*

Although this suggestion certainly represents an ideal approach for providing initial ethics orientation (IEO) training for new employees, unfortunately, it simply is not practical at SBA. SBA is a highly decentralized agency with hundreds of field offices, centers, headquarters' post of duty stations, and employees working at alternative work sites (AWS), etc. The majority of those field locations do not include local counsel, thus local ethics officials are not available to provide live IEO training. In addition, for field personnel, often there is a two to four week lapse of time between when a new employee begins performing his or her new duties and when the Ethics Program is notified of their arrival. Consequently, a significant amount of time can pass

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Instead, SBA plans on creating a computer-based IEO training program that will be made available to all new SBA employees immediately upon the assignment of an Agency computer (perhaps constituting a pop-up when they turn their computer on for the first time), and will include all of the regulatory requirements for IEO training. It will also include an internal tracking system (so that the Ethics Program can compare the names of the employees who have successfully completed the training with a list of new employees which is periodically provided to the Ethics Program by the Office of Human Capital Management), and a "certificate of completion" that the new employee can print for his or her own records and provide to his or her supervisor. We are told that this technology can now be handled in-house by SBA's Office of the Chief Information Officer, and that funds for a private contractor are no longer required. The training content will be developed by our ethics staff, and we hope to have this new system designed, tested and in operation by the summer of 2012.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

OFFICE OF THE DESIGNATED AGENCY ETHICS OFFICIAL

November 7, 2011

Ms. Rashmi Bartlett  
Associate Director  
Office of Government Ethics  
1201 New York Avenue, N.W.  
Suite 500  
Washington, DC 20005-3917

**RE: Ethics Program Review (Draft Report, October 2011).**

Dear Ms. Bartlett:

Thank you for providing us the opportunity to formally comment on your office's draft report of the recent review of the Small Business Administration's (SBA's) Ethics Program, and for the professional and thorough manner in which your office conducted the review. We particularly appreciate the acknowledgment by your office of some of our "model practices," which were, in part, formulated in response to comments and suggestions offered by your office during previous reviews. The building and strengthening of SBA's Ethics Program has been a work in progress, and we appreciate the significant and constructive part your office has played, and will continue to play, as we continue to improve our program.

For your convenience, we have organized our comments into two categories. First, we offer a few minor edits and clarifications for the text. Second, we respond to the two "suggestions" contained in the draft report.

#### **Edits and Clarifications**

*Page 4, "Education and Training," para. 1:* We suggest that you add the words "career and" before the word "non-career" in the first sentence. The ethics staff conducts one-on-one in person initial ethics orientation (IEO) training with all incoming 278 filers (career and non-career), as evidenced by our 278 filer log which tracks ethics training. (A copy of the log was provided to your office during the review).

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Robert L. Gangwere  
Designated Agency Ethics Official

cc: Sara D. Lipscomb, General Counsel  
Monique Fortenberry, Deputy General Counsel