



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

United States Agency for International Development

Report No. 12-31
February 2012

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the United States Agency for International Development's (USAID) ethics program during December, 2011. The results of the review indicate that USAID's ethics program appears to be effectively administered and in compliance with applicable laws, regulations, and policies. Additionally, OGE found that USAID employs a number of practices that help promote an ethical culture.

Highlights

- USAID trains regional ethics officials at headquarters for a year prior to entering on duty at an international field office.
- USAID offers a values-based "Ethics in Development" training program that is catered to the specific needs of missions.
- USAID employs practices to ensure accurate and consistent advice and counsel is provided throughout the agency and missions.

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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 USAID's ethics program, OGE examined a variety of documents provided by ethics officials; other documents that USAID forwarded to OGE, including the 2010 annual questionnaire; a sample of USAID's public and confidential financial disclosure reports; and a sample of advice and counsel provided to USAID's employees. In addition, members of OGE's Program Review Division met with ethics officials to obtain additional information about the strengths and weaknesses of USAID's ethics program, seek clarification on issues that arose through the documentation analysis, and verify data collected.

Program Administration

The headquarters ethics office is based out of the Ethics and Administration Division of USAID's Office of General Counsel (GC/EA). The Assistant General Counsel, Ethics and Administration, serves as the Designated Agency Ethics Official (DAEO) and an Attorney-Advisor, Ethics and Administration, serves as the Alternate DAEO. The ethics office also includes four attorneys, two ethics specialists, and an ethics administrative support specialist who assist the DAEO in the day-to-day administration of the ethics program for headquarters employees.

The GC/EA ethics office also provides general oversight of the ethics programs at USAID's international field offices (mission). However, direct responsibility for ethics services related to employees located at missions is provided by approximately 35 Regional Legal Advisors (RLA) who have been designated as Deputy Ethics Officials. RLAs are all Foreign Service Officers who as a general practice spend a year receiving training at headquarters, which includes ethics duties, prior to entering on duty at a field office. Each mission also has a controller who is responsible for the initial review of financial disclosure forms.

Financial Disclosure

OGE examined 88 of the approximately 400 public financial disclosure reports required to be filed in 2011. The reports appear to have been reviewed and certified in a timely manner. Based on the date of filer signatures, the reports also generally appear to have been filed in a timely manner; however, many of the public reports lacked the date of agency receipt. To be in compliance with 5 CFR § 2634.605(a), the date of receipt must be noted on the reports. According to USAID's written procedures, the public reports required to be filed by employees outside of headquarters are first submitted to the appropriate mission and it is the responsibility of an Executive Officer (EXO) to collect the reports and enter the date of receipt. The reports are then given to a mission controller, who performs an initial conflicts review prior to forwarding the report to headquarters ethics officials for certification. Reports filed at headquarters are collected and dated by Administrative Management Staff (AMS) Officers prior to forwarding to headquarters ethics officials for certification. The DAEO indicated that additional guidance will be issued reminding relevant officials of the requirement to note the date of receipt on all public reports.

OGE examined 89 of the approximately 1,400 confidential reports required to be filed in 2011. The reports appear to have been reviewed and certified in a timely manner. Like the public reports, the confidential reports generally appear to have been filed in a timely manner but many were missing the date of agency receipt. EXOs and AMS officers are responsible for entering the date of receipt on the confidential reports. Reports are reviewed by a mission controller who then forwards the reports to the appropriate RLA for certification. Prior to the end of the review, USAID forwarded OGE an updated policy reminder related to the confidential disclosure process that emphasized the requirement to note the date of receipt on the reports. The policy reminder has been issued to USAID officials.

Education & Training

USAID ethics officials believe that ethics training is essential to maintain the ethical culture of the agency. All covered employees received annual ethics training in 2010. Additionally, over 2,500 non-covered employees received annual training. USAID places an emphasis on live training and the Agency makes an effort to provide training to as many employees as practicable. Annual ethics training is delivered through a variety of methods including presentations, quizzes, and case analysis. The headquarters office produces general training materials and guidance to meet relevant annual ethics training requirements; each mission then tailors individual training sessions for its specific needs.

All incoming employees received initial ethics orientation (IEO) in 2010. The required IEO materials are provided to incoming employees by Human Resources on the morning of their first day at USAID. Incoming Presidential appointees receive detailed personal briefings.

In addition to regular training, USAID has developed a values-based “Ethics in Development” program presented at missions that offers a variety of workshops, trainings sessions, presentations, and outreach efforts that address topics such as ethical decision making, ethics and partnerships, ethics and acquisition, and ethics at the frontlines. Ethics officials cater this training to meet the specific needs of each mission. Additionally, the ethics program receives specific funding from the Agency to perform this training at missions that require enhanced ethics support. OGE commends USAID for this practice and encourages the Agency to continue its efforts towards maintaining an ethical culture.

Advice & Counsel

OGE reviewed a sample of written advice and counsel the headquarters ethics office issued to employees. OGE’s review found that the written advice and counsel provided was generally accurate, timely, and consistent. The USAID headquarters ethics office has implemented practices to ensure accurate and consistent advice and counsel is provided throughout the agency and missions. For example, if there is a recurring ethics issue, or an especially novel or challenging request, the DAEO will forward guidance on the appropriate advice to all ethics officials. USAID also has an internal “GCpedia” reference website that contains template guidance.

Enforcement

USAID reported two disciplinary actions based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635) in 2010. There were also two disciplinary actions based wholly or in part upon violations of the criminal conflict of interest statutes (18 U.S.C §§ 203, 205, 207, 208, and 209), and two referrals to the Department of Justice of potential violations of the criminal conflict of interest statutes. However, at the time of the review, OGE had not been concurrently notified of the referrals, as required by 5 CFR § 2638.603¹.

The established Memorandum of Understanding (MOU) between the USAID ethics office and Office of Inspector General (OIG) states that it is the OIG's responsibility to prepare reports of referral for possible prosecution in accordance with 5 CFR § 2638.603, and provide the reports to the ethics office. The ethics office is responsible for concurrently notifying OGE. According to the DAEO, the OIG did not provide the referral information. OGE understands that the offices are in discussions to renegotiate the MOU. OGE reminds the ethics office and OIG to take steps to ensure that OGE is notified of future referrals.

1353 Travel Acceptances

USAID submitted the required semi-annual reports of payments accepted from non-Federal sources to OGE in a timely manner. USAID has an established process for approving requests for travel payments accepted from non-Federal sources.

Agency Comments

USAID provided the following comments on the draft version of this report on February 3, 2012:

We are grateful for the opportunity to comment on your draft ethics program review report for USAID. We appreciate your supportive comments regarding USAID's ethics training program; values-based Ethics in Development program; emphasis on providing accurate and consistent advice and counsel both at headquarters and at our numerous overseas missions.

We continue to remind relevant USAID employees that the "Date Received by Agency" block on the financial disclosure forms needs to be filled in. As noted in the report, this was stressed in an Agency Notice that was issued regarding the OGE-450 filing procedure. The Agency Notice that will be issued this spring regarding the OGE-278 filing procedure will include a similar reminder. In addition, we will be sending explicit directions on this to our EXO's and RLA's in the field, who are the initial recipients of the forms.

As you know we have an MOU with OIG regarding the reporting of referrals to DOJ. It is our understanding that since the draft report was written, OGE was contacted by OIG regarding

¹ USAID's OIG submitted the referrals subsequent to the issuance of the draft version of this report. The OIG also assured OGE that steps have been taken to ensure future referrals are submitted as required.

referrals to DOJ, and the OIG has provided the required information. We are currently working with OIG to clarify responsibilities under our MOU.

It was a pleasure working with you during the review and we greatly appreciate your professionalism. We were glad to have this opportunity to showcase the strong ethical culture here at USAID.