



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

January 13, 2003

Steven J. Morello
General Counsel and
Designated Agency Ethics Official
Department of the Army
104 Army Pentagon
Washington, DC 20310-0104

Dear Mr. Morello:

The Office of Government Ethics (OGE) recently completed its review of the ethics program administered by the Department of the Army (Army) Standards of Conduct Office (DA SOCO).¹ 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 program's effectiveness and compliance with applicable laws and regulations. The review was conducted during October and November 2002. The following is a summary of our findings and conclusions.

HIGHLIGHTS

OGE commends DA SOCO for its effective role within Army's ethics program. The staff is highly dedicated and the Chief, DA SOCO, has demonstrated the Army's commitment to ethics by lobbying successfully for increased resources. Furthermore, we were impressed with DA SOCO's ethics education and training program, which went far beyond the basic requirements.

¹Overall, our review focused on the ethics program at the Army's Office of the Secretary (OS), Criminal Investigation Command (CID), and Corps of Engineers (USACE). However, there is some overlap in ethics program responsibilities at these organizations among DA SOCO, the Ethics and Fiscal Law Section of the Army's Office of General Counsel, and the ethics counselors at CID and USACE. Therefore this report will cover only those portions of the program that are managed by DA SOCO. Separate reports have been prepared for the Ethics and Fiscal Law Section of the Army's Office of General Counsel, CID, and USACE.

ADMINISTRATION

DA SOCO, which resides in Army's Office of the Judge Advocate General (JAG), is managed by the Chief, DA SOCO, and has dual responsibility for professional responsibility and standards of conduct. At the time of our review, the standards of conduct side of the office was managed by the Chief, Standards of Conduct Branch, who recently left DA SOCO.²

The Chief, DA SOCO has implemented a number of initiatives aimed at increasing the efficiency and effectiveness of DA SOCO. He is currently trying to upgrade the GS level of his supporting attorneys to at least GS-15; currently they are GS-13s or GS-14s, which can pose problems in that some of the ethics counselors assigned to Army's major commands (MACOMs) are GS-15s, yet must defer to the legal advice rendered by DA SOCO attorneys.

He is also in the process of hiring additional support staff who will be primarily responsible for the review of the financial disclosure reports, thereby freeing up the attorneys to administer those aspects of the ethics program that require their legal expertise, such as conducting training and providing counseling.

FINANCIAL DISCLOSURE SYSTEMS

The financial disclosure systems are generally in compliance with 5 C.F.R. part 2634. We examined all nine public financial disclosure reports required to be filed directly with DA SOCO in 2002, excluding reports filed by Presidential appointees requiring Senate confirmation and certain other covered employees whose reports are filed directly with and reviewed and certified by the Army Office of General Counsel. We also examined public reports required to be filed in 2002 by CID and USACE employees, that are forwarded to DA SOCO for final review, certification, and retention. These consisted of the 1 public report required to be filed at CID, by the Commanding General, the 11 reports required to be filed by military personnel at USACE headquarters, and a sample of 29 of the 42 reports required to be filed by civilians located

²The Chief, Standards of Conduct Branch position is currently being advertised but had not yet been filled at the time of our review.

at various USACE divisions and laboratories. The reports were generally filed, reviewed, and certified timely and contained no technical or substantive deficiencies.³

The only confidential financial disclosure report required to be reviewed by DA SOCO in 2001, from a DA headquarters employee, was filed late due to an administrative oversight (which appears to have been rectified as the 2002 report was submitted on time), but was reviewed and certified timely and contained no substantive or technical deficiencies.

ETHICS EDUCATION AND TRAINING

DA SOCO officials manage an effective and proactive ethics program. In addition to conducting the requisite initial ethics orientation and annual ethics training, DA SOCO offers a number of other ethics-related courses and materials for a variety of Army personnel.

Initial Ethics Orientation

New civilian Army headquarters employees for whom DA SOCO officials serve as primary ethics counselors are provided with initial ethics orientation materials upon entering on duty. These materials consist of a copy of the 14 principles of ethical conduct contained in Executive Order 12674 and a summary of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards). The materials also provide an Internet address where employees can view the Standards and the Department of Defense (DOD) Joint Ethics Regulation (JER) in their entirety. Finally, new employees are provided with DA SOCO's office address, e-mail address, phone number, and fax number so they may contact their ethics counselors with any questions they may have.

Annual Ethics Briefings

To meet the 2001 annual training requirement, DA SOCO officials provided live annual ethics briefings for all but one of the Army headquarters public and confidential financial disclosure

³One combined annual/termination report was filed around the annual filing deadline, but more than 30 days after termination. Another report appeared to have been filed almost two months late; however, a note stated that it had initially been submitted timely, but on an obsolete form. It was then resubmitted on a current form. Also, one report was still awaiting certification pending receipt of additional information from the filer.

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filers.⁴ According to the Chief, DA SOCO, general officers' staffs are often invited to attend these live annual ethics briefings so that they too will be aware of potential ethical issues that may present themselves to the officers.⁵

Additional Ethics Training

In June 2001 a DA SOCO ethics counselor provided ethics training for all Army Staff enlisted personnel. This training, which was provided to over 260 soldiers in all, covered such topics as use of Government resources, fund-raising, and gifts between employees.

DA SOCO also provides departing employees post-employment counseling upon request. However, according to the Chief, Standards of Conduct Branch, requests for this type of counseling have decreased since DA SOCO moved to its current Rosslyn, VA location from the Pentagon, where it used to receive five or six walk-in requests a week. When DA SOCO officials return to the Pentagon as planned, they suspect the number of post-employment requests will again increase. They are also attempting to attract terminating employees to attend post-employment briefings by sending them congratulatory letters which remind them of the availability of such briefings.

In addition, DA SOCO officials participate in conducting the "Basics for Ethics Counselors Workshop" for new Army ethics counselors at the JAG school in Charlottesville, VA. As a complement to the live training, new ethics counselors are provided a copy of the "Ethics Counselor Deskbook." The Deskbook is a comprehensive reference guide to assist ethics counselors in carrying out their day-to-day ethics-related duties.

To further educate ethics counselors (and JAG officials in general), ethics-related articles are routinely published in the Army JAG school's monthly publication, "The Army Lawyer." For example, the August edition contained an article regarding the potential misuse by general officers of their aides (e.g, assigning aides "unofficial" duties).

⁴One public filer completed the DOD-developed computer-based training. We reminded DA SOCO officials that public filers who are provided verbal training via computerized methods must be availed of a qualified instructor during and immediately following the training to answer any questions (unless an exception has been granted pursuant to 5 C.F.R. § 2638.704 (e)).

⁵DA SOCO is also considering inviting all general officers' spouses to participate in ethics training sessions.

Training Initiatives

A number of new training initiatives are also being implemented. This year the Chief, DA SOCO and the Chief, SOCO Branch began traveling to the MACOMs throughout the world. During these visits, the Chief, DA SOCO meets with the MACOM commanding generals personally to impress upon them their responsibility for the ethics program within their command and to encourage their personal support and involvement in the program. Meanwhile, the Chief, DA SOCO Branch reviews the MACOM ethics program, examining a sample of financial disclosure reports and a sample of the ethics-related advice provided. The two also conduct training sessions: one for all attorneys, and one just for ethics counselors. In addition, they meet with IG officials as well as officials in procurement, protocol, public affairs, and information management offices to discuss their roles in the ethics program.

Three-day ethics sessions, similar to those provided new ethics counselors at the Army JAG school, were conducted this year for ethics counselors assigned to Army posts in Germany and Italy. These sessions will soon be expanded to posts in the Far East and hopefully to regional locations in the United States.

Finally, DA SOCO is working to develop their own Web site which will contain, among other things, an interactive training module. This site is being developed to further assist ethics counselors in the field in carrying out their ethics duties.

COUNSELING AND ADVICE

We provided the OGE Desk Officer to whom Army is assigned a sample of ethics-related advice and counseling rendered by DA SOCO officials from 2000 to the present. In addition to responses to Army employees' requests for advice, the sample also included various policy-type memorandums and "information papers" summarizing certain ethics-related processes and requirements. Based on her examination of these written determinations, she concluded that all complied with applicable ethics laws and regulations.

TRAVEL PAYMENTS FROM
NON-FEDERAL SOURCES

We examined four travel payments accepted by Army headquarters employees on behalf of the Army under 31 U.S.C. § 1353 and the implementing General Services Administration regulation at 41 C.F.R. part 304-1. The four payments represented all such payments accepted from October 1, 2001 through March 31, 2002 for which DA SOCO was required to conduct the conflict of interest

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analysis in accordance with 41 U.S.C. § 304-1.5. All of the payments were approved and included in Army's semiannual report to OGE of payments of more than \$250 per event for the period, in accordance with the statute and regulation.

Nevertheless, DA SOCO officials admitted that past and current staffing levels at DA SOCO, combined with high turnover in the field, have hindered the development of an effective system for semiannual reporting of payments of more than \$250 to OGE. Within each MACOM there are points of contact (POC) who are to compile reports of such payments and forward them to DA SOCO for reporting to OGE. However, the POCs change on a periodic basis making it difficult to ensure that they are aware of this responsibility.

To better ensure that such payments are appropriately accepted and reported under 31 U.S.C. § 1353 and the GSA regulation, the procedures for accepting and reporting such payments are included in the "Basics for Ethics Counselors Workshop." Additionally, a discussion of the procedures was included as part of the Army's 2002 annual ethics training. DA SOCO also plans to include the procedures on its Web site which is currently under development. Finally, the annual Staff Judge Advocate/Deputy Staff Judge Advocate courses will include a block of instruction on the proper acceptance and reporting of travel payments, as will the Worldwide Continuing Legal Education courses held each October.

RELATIONSHIP WITH THE IG

According to the Chief, DA SOCO, his office (and the JAG office as a whole) maintains an ongoing relationship with the Army IG's office. JAG attorneys are assigned to assist IG investigators during their investigations, including advising them on cases regarding employee misconduct and conflicts of interest. The Chief also makes a point of meeting with local IG officials when he visits MACOMs and discussing with them their relationship with local ethics counselors.

CONCLUSIONS

Based on our review, we conclude that DA SOCO effectively carries out its responsibilities for Army's ethics program. We were particularly impressed with not only the extant ethics training being provided, but also with the training initiatives currently underway to further ensure that Army leaders, ethics counselors, and Army personnel as a whole, are aware of the ethics rules and appreciate their importance. We also commend the Chief, DA SOCO for taking aggressive steps to provide DA SOCO with sufficient staff at a level capable of carrying out their duties and ensuring that resources are utilized in the most efficient manner possible.

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In closing, I would like to thank you and your staff for your efforts on behalf of the ethics program. A brief follow-up review is typically scheduled within six months from the date of this report. However, as this report contains no formal recommendations to improve the program, no such follow-up will be necessary. A copy of this report is being forwarded to Army's Inspector General via transmittal letter. Please contact Dale Christopher at 202-208-8000, extension 1130, if we may be of further assistance.

Sincerely,


Jack Covaleski
Deputy Director
Office of Agency Programs

Report Number 03- 001

cc: Colonel Garth K. Chandler
Chief, Army Standards of Conduct Office
Office of the Judge Advocate General