



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Peace Corps

Report No. 12-10
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Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Peace Corps ethics program in November 2011. The results of the review indicated that the ethics program at the Peace Corps is in compliance with applicable laws, regulations, and policies except in the critical program element of confidential financial disclosure. The Peace Corps was unable to produce the 2011 confidential financial disclosure reports.

Highlight

- Peace Corps public financial disclosure reports displayed extensive evidence of communication with filers seeking additional information in order to make an informed conflict of interest analysis.

Concern

- Preventing conflicts is the cornerstone of a successful ethics program. Because ethics laws prohibit Government employees from having financial conflicts of interest it is essential that ethics officials resolve all real or potential conflicts of interest or other violations in a timely manner. The loss or inability to access all of the 2011 confidential financial disclosure reports raises concerns as to the integrity of internal controls and the operational effectiveness of the ethics program. The OGE review team has advised the Peace Corps to initiate their internal breach response process and determine whether or not the filers worked on matters that could have been affected by their financial interests.

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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 Peace Corps's ethics program, OGE examined a variety of documents provided by the various offices under review, such as training materials and policies and procedures governing elements of the program. OGE also examined a sample of public financial disclosure reports and ethics advice and counsel. In addition, the OGE review team attended an ethics training session and met with several ethics officials to obtain additional information on Peace Corps's ethics program, seek clarification on issues, and verify data collected. These officials included the Designated Agency Ethics Official (DAEO), the Alternate DAEO (ADAEO), three Deputy Ethics Officers, the Inspector General, and the Deputy Inspector General and Counsel to the Inspector General.

Program Administration

The Peace Corps's ethics program is centralized. An Associate General Counsel serves as the DAEO and another Associate General Counsel serves as the ADAEO. The DAEO provides overall management of the ethics program and is assisted by the ADAEO, two Associate General Counsels and a Policy Analyst who are all designated Deputy Ethics Officers. The Peace Corps has a widely dispersed workforce with a presence in 75 countries and relies heavily on technology to comply with financial disclosure filing and ethics training requirements. Ethics-related documents were well-organized and readily accessible, providing rapid access to key ethics material and a strong foundation for future succession planning.

Financial Disclosure

Public financial disclosure

OGE reviewed all 25 non-PAS public financial disclosure reports required to be filed at the Peace Corps in 2011. We found that Peace Corps conducts a thorough conflict of interest analysis of public financial disclosure reports. Most financial disclosure files include extensive e-mail communication with the filers requesting additional information. The OGE review team saw evidence of cautionary memoranda when a potential conflict was identified.

Overall, public financial disclosure reports were submitted by filers in a timely manner and extensions granted for good cause. However, there were several instances when evidence of extensions given were not noted on the reports or included in their respective file. The DAEO was able to produce the extensions granted. The OGE review team reminded the Peace Corps

ethics office that extensions should be marked on the reports in the comment block and the included in the file.

Five reports were certified after 60 days from filer submission or are still in the process of being certified; however, the file indicated these reports required additional or remedial action and had evidence of communication with the filer. In addition, the OGE review team saw several instances of over-reporting such as the inclusion of Thrift Savings Plans, personal residences and rental addresses. We reminded the ethics office that they should work with the filers to correct over-reporting on public reports since these reports are releasable to the general public. Despite the issues mentioned, the public system was well-managed.

Confidential financial disclosure

Confidential financial disclosure serves an important role in fostering trust in the work of Government. The review team learned on October 31, 2011 that the Peace Corps could not produce to OGE for examination any of the approximately 300 2011 confidential financial disclosure reports. Preventing conflicts is the cornerstone of a successful ethics program. Because ethics laws prohibit Government employees from having financial conflicts of interest it is essential that ethics officials resolve all real or potential conflicts of interest or other violations in a timely manner. The loss or inability to access all of the 2011 confidential financial disclosure reports raises concerns as to the integrity of internal controls and the operational effectiveness of the ethics program. The OGE review team has advised the Peace Corps to initiate their internal breach response process and determine whether or not the filers worked on matters that could have been affected by their financial interests.

The OGE review team advised the DAEO that the Peace Corps should advise the National Archives and Records Administration (NARA) of the disappearance of the 2011 confidential financial disclosure reports and obtained confirmation that the Peace Corps did so on November 3, 2011. In its communication to NARA, Peace Corps indicated that it would attempt to reconstruct the report by (1) reprinting any reports that were filed in electronic form; (2) asking all other filers to re-file their forms for 2011, and reviewing and re-certifying them, as required by OGE regulations.

After the on-site portion of the review, the OGE review team told the Peace Corps that it would need to provide a plan to OGE within 30 days to bring its confidential financial disclosure program into compliance. The Peace Corps took prompt corrective action. Less than a month later, the Peace Corps had reconstituted approximately 92% of the missing reports¹ and approximately 80% of those have been recertified.

Recommendation

The Peace Corps should continue its attempts to recover, reconstitute and recertify all the missing confidential financial disclosure reports.

¹ According to ethics officials, approximately 31 employees who filed in 2011 are no longer employed at the Peace Corps.

Suggestion

- Enhance internal controls to improve the security of confidential financial disclosure reports.

Ethics Agreements

The Peace Corps has two PAS officials. Both PAS officials that have ethics agreements in place have satisfied the terms of their agreements. Additionally, eight non-PAS officials have entered into ethics agreements. Two non-PAS ethics agreements outline resignations that have taken place while the remaining six bring set up recusals and screening arrangements to avoid any actual or apparent conflict of interest.

Education & Training

The Peace Corps' training program meets all relevant requirements. Effective mechanisms are in place to track the completion of initial ethics orientation and annual training. The OGE review team observed an initial ethics orientation session and found it exceeded the relevant requirements. All required employees have so far received initial ethics training in 2011.

At the time of the review, the 2011 annual cycle of ethics training was still ongoing. Consequently, the OGE review team examined the 2010 annual ethics training materials and certifications. The review team was impressed with the overall tracking of the 2010 annual ethics training certifications.

Advice & Counsel

Advice and counsel is primarily rendered by the DAEO and is provided by phone or email. The DAEO provided the OGE review team samples of advice rendered during the last calendar year. Written advice and counsel samples reviewed by OGE were consistently accurate, timely, and complete.

Enforcement

The Peace Corps reported no disciplinary action based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635). There were also no reported 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). The Peace Corps made no referrals to the Department of Justice of potential violations of the criminal conflict of interest statutes.

Peace Corps ethics officials appear to have a good working relationship with the Office of Inspector General (OIG). Each office is aware of its responsibilities and they communicate as necessary. The OIG is responsible for making referrals to the Department of Justice and concurrently notifying OGE.

1353 Travel Acceptances

The Peace Corps submitted to OGE in a timely manner the required semi-annual reports of payments accepted from non-Federal sources. Peace Corps has procedures regarding the acceptance of such gifts. The ethics officials perform a conflicts of interest analysis on all requests before they are approved.

Personal Service Contracts

The Peace Corps makes extensive use of Personal Service Contractors (PSCs) who primarily support the overseas operations. Historically, the Peace Corps has been incorporating the Standards of Ethical Conduct for employees of the Executive Branch Employees into their contract. PSCs must “adhere to the Standards of Ethical Conduct for Employees of the Executive Branch Employees.”

On November 21, 2011, the Kate Puzey Peace Corps Volunteer Protection Act of 2011, P.L. 112-57, was signed into law which amends the Peace Corps Act and gives the agency more flexibility in assigning inherently governmental functions to PSCs. The Peace Corps is currently in the process of researching how the amendment of the Peace Corps Act will affect the status of PSCs.

Agency Comments

Confidential Financial Disclosure

As noted in the Draft Ethics Review, the OGE-450 Confidential Financial Disclosure Reports (OGE-450s) filed with the Peace Corps ethics office during CY 2011 were not available to the OGE program reviewers when the reviewers arrived at the Peace Corps offices on November 1, 2011.

This was not the result of the OGE-450s not having been filed as required pursuant to 5 CFR Part 2634. Virtually all of the OGE-450s required to be filed during CY 2011 had been filed and had been certified, as documented in the Peace Corps’ electronic Ethics Program Tracking System. Until a few days prior to October 14, 2011, when the Office of the General Counsel (OGC) was moved into temporary quarters during a renovation of its office space in the Peace Corps Headquarters building, the OGE-450s filed by Peace Corps employees during CY 2011 (CY 2011 OGE-450s) were stored in a locked file drawer in the workspace of the OGC policy and program analyst, who serves as one of the agency deputy ethics officials. In preparation for the move, the CY 2011 OGE-450s were packed into a packing box. (Note: all OGC files were boxed for the move, including the OGE-450s for years after 2004. The boxes were moved by a contractor to the OGC temporary space across the street from the Peace Corps Headquarters building.)

However, the box in which the CY 2011 OGE-450s had been packed appears to have been lost during the move. Ethics program staff became aware of this late on October 24, 2011. The initial assumption was that the box had been misdelivered or misplaced, and would quickly be

recovered. Over the next week, significant efforts were made by agency staff to search the temporary quarters, other possible locations within the Headquarters building, and the storage facilities where boxes related to the move were placed. On October 29, 2011, although the search had not yet been completed, I reported a possible breach of confidential information, consistent with the Peace Corps' breach notification policy in Peace Corps Manual Section 899. On Monday, October 31, 2011, I notified the OGE reviewers that the OGE-450s filed during 2011 were likely not going to be available. On Tuesday, November 1, 2011, the search effort, which included opening every box packed in connection with the move and searching every office in the temporary quarters, was halted. On that day, the OGE reviewers were informed that the box could not be found. The National Archives and Records Administration (NARA) was notified of the missing records on November 3, 2011.

We remain hopeful that the documents will be discovered when OGC moves back into its renovated space in the Headquarters building. However, on the assumption that the box and the records in it will not be found, and in response to the OGE recommendation that the Peace Corps provide a plan within 30 days (i.e., by December 5, 2011) to bring its confidential financial disclosure program into compliance, the Peace Corps ethics office is working to reconstitute the files. It is taking or has taken the following actions:

(1) The Peace Corps Ethics Program Tracking System contains information for each OGE-450 filed during CY 2011, including the date the form was originally received and the date it was certified. This information had been entered into the database based on the original filings.

(2) Approximately half of the Peace Corps' OGE-450 filers are posted overseas; a few are in places in the U.S. other than Washington DC. Because the Peace Corps as an agency does not have capability to accept digital signatures, filers are permitted to sign a paper copy, and either fax it or scan and email it to one of the ethics officials or the "Ethics Email Box," so that the filed version has evidence of a "wet signature." Most filers at Peace Corps HQ hand-deliver the original of their forms.

(3) Peace Corps ethics staff reviewed its electronic files to find all instances where a filer sent an OGE-450 during CY 2011 to an ethics official with a scanned signature via email. Those reports were printed out, and assigned to ethics officers for review and "re"-certification.

(4) The ethics staff's electronic files also contain emails documenting, extensions granted, follow-up questions, and cautionary notes for many filers.

(5) On November 7, 2011, the attached email message was sent to all currently employed filers of CY 2010 OGE-450s or of new entrant forms during CY 2011 to date, other than those included in (2) above. The email asked them to resubmit a copy of their filings made during CY 2011. As set out in the email, filers were asked to re-file by November 18, 2011, in order to provide adequate time before the December 5, 2011 deadline for ethics officers to review and certify them.

(6) Filers are permitted to provide a scanned, faxed or photocopied version of their original filing.

(7) Filers who do not have copies of their previous filing were provided the OGE-450 and instructions for filling it out again.

(8) The ethics officials are reviewing the forms for potential conflicts and inadequate reporting as part of the re-certification process.

(9) The Peace Corps ethics staff will scan all certified reports and maintain them in a limited access electronic file.

(10) The OGE-450s were lost in the context of a non-recurring event (the move of all of the Office of General Counsel's files). The OGE-450s for all other past years after 2004 are accounted for. On November 16, 2011, the Peace Corps received a letter from NARA's Chief Records Officer, stating "We are satisfied that the Peace Corps has conducted a thorough investigation, initiated efforts to recover the records, and taken steps to prevent a recurrence. We consider this case closed." See attached letter.

As of November 29, 2011, approximately 260 Peace Corps employees who filed OGE-450s during 2011 were still employed at the Peace Corps. 240 reports had been either retrieved or refiled, and 148 have been recertified. Because of the high turnover rate of employees at the Peace Corps (resulting largely from its statutory term limits), 31 individuals who filed during 2011 are no longer employed by the agency, and therefore not available to re-file their reports.

The Peace Corps takes its ethics program responsibilities very seriously. We appreciate the positive comments we received, and regret the loss of the box containing the CY 2011 OGE-450s. We hope that our prompt efforts to address the situation will be seen as mitigation.

Again, thank you for your work, and the opportunity to provide these comments.