



United States  
**Office of Government Ethics**  
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Dear Mr. Baird:

The Office of Government Ethics (OGE) has recently completed its fifth review of the Defense Logistics Agency's (DLA) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (Ethics Act). Our objective was to determine the ethics program's effectiveness, as measured by its compliance with applicable ethics laws and regulations. Our current review focused primarily on the ethics program at corporate headquarters (HQ)<sup>1</sup> and was conducted intermittently in November and December of 2002. The following is a summary of our findings, conclusions, and recommendation.

#### HIGHLIGHTS

Though we found the DLA ethics program to have many strong program elements that effectively ensure the public's confidence in an ethical Government, this report discusses some suggestions for improving program operations overall. Mostly, however, we are concerned about the system for accepting travel payments from non-Federal sources under 31 U.S.C. § 1353. We believe when this issue

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<sup>1</sup> DLA corporate headquarters is comprised of the Office of the Director, Support Services, Human Resources (HR), Logistics Operations, Information Operations, Financial Operations, the Joint Reserve Forces, the Office of General Counsel, the Equal Employment Opportunity Office, the Office of Small and Disadvantaged Business Utilization, and the DLA Criminal Investigations Activity. This review did not include any fieldwork at DLA's nine Field Activities or the HQ Detachments of Europe and Pacific.

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is addressed the essential ethics program requirements will be met.

#### ADMINISTRATION OF THE PROGRAM

As the General Counsel, you currently serve as the agency's Designated Agency Ethics Official (DAEO) and have oversight responsibility for the ethics program. The Deputy General Counsel serves as the Alternate DAEO and is assisted in the day-to-day administration of the ethics program by an Associate General Counsel, Labor Relations/IT/Support Services, and an Associate Counsel, Personnel/EEO/Ethics, who both serve as ethics counselors within the Ethics Office.

Additionally, Counsels within each of the nine DLA Field Activities and the HQ Detachments of Europe and Pacific support the ethics program as Deputy DAEOs. These Deputy DAEOs are responsible for notifying confidential financial disclosure filers and for the collection and final review of the reports (OGE Form 450s); administrative support and coordination for ethics training; dispensing of ethics advice; and other related matters. In most cases, Deputy DAEOs are assisted by their Assistant Counsels. Direction is provided to Deputy DAEOs throughout the reporting and training cycles by the Ethics Office.

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

DLA accepts payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel under the authority of the General Services Administration's (GSA) Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353. The procedures for accepting these payments are specified in Chapter 4 of the Joint Ethics Regulation (JER). However, DLA is not fully complying with part 304-1, particularly § 304-1.5 which calls for conflict of interest analyses to be performed as part of the process of approving acceptances; nor is it fully complying with Chapter 4. Therefore, we recommend that DLA fully comply with part 304-1 and Chapter 4. Additionally, we suggest that DLA develop its own prior approval procedures, including a request form, for approving such payments.

Our concerns developed during our examination of the travel acceptances reported on DLA's last two semiannual travel reports, covering the periods from October 1, 2001 through September 30, 2002, whereby we found no written authorizations or other documentation to support whether the acceptances were approved by travel approving authorities and/or properly analyzed for conflicts

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by ethics officials. Our examination of the most recent semiannual report submitted to OGE for the period of April 1, 2002 through September 30, 2002, reported 20 acceptances, of which 19 were accepted by the Defense Supply Center (DSC)-Columbus, a DLA Field Activity, with the remaining one accepted by HQ. We found no evidence to suggest that the 20 DCS-Columbus acceptances were analyzed for conflicts, as required by 41 C.F.R § 304-1.5, although we were advised that the HQ acceptance was "approved verbally" by the Ethics Office.

Additionally, during our review of the 19 DSC-Columbus acceptances, we noticed that DSC-Columbus used a reporting form to prepare its semiannual report for inclusion in DLA's overall semiannual report to OGE that lacked all the relevant information required to be reported. More specifically, the report did not, as required by 41 C.F.R. § 304-1.9, include the traveler's title; the event's description/sponsor/location and dates; the travel dates; and the source of payment. As we discussed with the ADAEO, although there is no required form for reporting these payments, GSA and OGE developed the Standard Form 326 that agencies can use in reporting this information. Hence, the ADAEO was advised that DSC-Columbus should discontinue its use of their current reporting form until they have added the information required by part 304-1.

Similarly, our examination of the one acceptance by the Defense Human Resources Activity (DHRA), another DLA Field Activity, reported during the period from October 1, 2001 through March 31, 2002, found no supporting travel documentation. However, we were provided with a DHRA e-mail reply from the Ethics Office's inquiry regarding information needed to prepare DLA's overall semiannual report. Although its contents contained pertinent information needed for reporting, there was no evidence to suggest that the acceptances had been properly analyzed for conflicts.

#### OUTSIDE EMPLOYMENT

We found one instance where DLA did not comply with the outside employment prior approval requirement at 5 C.F.R. § 3601.107 in DOD's supplemental standards of conduct regulation. Section 3601.107 of DOD's supplemental standards of conduct regulation requires financial disclosure filers to obtain written approval from an agency designee prior to engaging in a business activity or compensated outside employment with a prohibited source.

We suggest that you fully comply with this requirement. Moreover, as discussed during the review, you might want to

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consider developing more formalized procedures, including a request form, to ensure compliance with the requirement.

#### ADVICE AND COUNSELING SERVICES

DLA has complied with 5 C.F.R. § 2638.203 (b) (7) and (8) by developing and conducting a counseling program for employees concerning all ethics matters, including post employment, with records being kept, when appropriate, on the advice rendered. Moreover, the advice completely and accurately applied the ethics statutes and regulations and was timely.

We examined the advice dispensed electronically and manually for the 11-month period preceding the commencement of our fieldwork. The majority of the advice pertained to issues involving the receipt of gifts, including the application of the widely-attended-gatherings exception to employees assigned to participate as speakers at conferences or other events. Other issues addressed included use of Government resources, endorsements, and service with non-Federal entities. The Ethics Office generally responded promptly to issues posed, which was facilitated by the ethics officials' effective use of e-mail messages to discuss pending issues among themselves.

Post-employment counseling is provided to all departing HQ employees in the form of OGE's summary of 18 U.S.C. § 207, a manual copy of a DLA PowerPoint presentation on job hunting and the post-employment rules, and OGE's Understanding the Revolving Door trifold. Employees are also provided with separate DLA summaries of the post-employment rules affecting civilian personnel, military personnel generally, and General and Flag Officers.

#### EDUCATION AND TRAINING

We were pleased to find the education and training program to exceed the minimal training requirements found at subpart G of 5 C.F.R. part 2638, as evidenced by the commitment to provide annual ethics training to non-filers. In addition to conducting the requisite initial ethics orientation and annual ethics training, we were also impressed with the host of discretionary training that is provided throughout the year to help keep employees knowledgeable of the ethics laws and regulations.

#### Initial Ethics Orientation

Initial ethics orientations are accomplished at DLA with the assistance of HR, ensuring that, during HR's bimonthly new employee

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orientation sessions, all new employees are provided with the Ethics Office's initial ethics orientation material. The material instructs employees to log onto both the OGE and DOD Web sites to review both the Standards of Conduct and the DOD supplemental regulation. As an alternative to reviewing these regulations, employees are advised that they have the option of reviewing an abbreviated version by logging onto DOD's Web site and reviewing the Employee's Guide to the Standards of Conduct. Employees are instructed to send an e-mail message to their Ethics Counselor to certify completion of the review.

According to the Associate Counsel, when a new Director and/or Vice-Director enters on duty, a personal one-on-one ethics orientation briefing is provided by the Ethics Office. These briefings include an overview of the 14 general principles and discuss the applicability of OGE regulations and the JER to agency operations. Additionally, they highlight the Director's responsibilities for the agency ethics program, identify recurring ethical issues pertaining to his/her position, explain how they were handled in the past, and answer any questions.

On a quarterly basis, in addition to the initial ethics orientation training, the Associate Counsel provides an introductory ethics briefing to new employees regarding the DLA ethics program and the resources found on DLA's Today and Tomorrow Intranet ethics program Web site.

#### Annual Ethics Training

DLA's public and confidential filers, as well as those employees designated for training by their supervisor, are required to participate in annual ethics training. To help satisfy the annual training requirement, DLA uses the DOD Standards of Conduct Office's (SOCO) interactive computer-based training (CBT) modules. In 2002, the SOCO-developed training addressed "Non-Federal entities." Upon the completion of training, employees are instructed to send an e-mail or fax message to the Ethics Office to certify that they have completed the training. Based on our discussions with the Associate Counsel, we were assured that all covered employees completed annual ethics training in 2002.

We were advised that in addition to receiving CBT training, public filers are also provided with in-person training at least once every three years, and with ad hoc discussions on particular ethics issues, which occur more frequently. Although both the Director and Vice-Director are required to complete annual CBT, we encourage you to also consider providing, on an annual basis,

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personalized in-person ethics training because they occupy highly visible public trust positions and are held to high standards of ethical conduct.

#### Additional DLA Ethics Training Efforts

We found your Intranet Web site to be an outstanding resource and comprehensive ethics tool for providing periodic updates and announcements on various ethics topics to all DLA employees. Our examination of the Web site's contents found the ethics coverage to be very useful and informative as it featured links to DOD's interactive CBT; points of contact information for ethics officials; and immediate access to both OGE regulations and the JER along with general guidance on areas governing ethics in Government.

Throughout the year, by request, the Associate Counsel provides ethics briefings to senior-level management and executive officers and other DLA groups, the most recent being at an annual DLA Criminal Investigations Activity (DCIA) conference. We were particularly impressed with the ways in which these briefings were presented as a number of them were in interactive game formats which resulted in increased employee enthusiasm over the training material. Positive comments were received regarding the training during our discussion with the DCIA Director.

#### CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEM

DLA administers a decentralized confidential financial disclosure system which is managed primarily by the Associate General Counsel for HQ filers and by the Deputy DAEOs for filers located within the Field Activities. Our review revealed that improvements are needed within areas of the confidential system to enable DLA to more fully comply with ethics regulatory requirements, particularly improvements relating to the timely identification of new entrant filers and review of reports by the Deputy DAEOs. As discussed with the ADAEO, although we only examined the confidential reports at HQ, we suggest you also begin to monitor the activities in the field to determine whether similar improvements are needed. We remind you that consistent monitoring is essential in administering an effective decentralized confidential system to enable the Ethics Office to assess on a continual basis the system's operation and, when necessary, make adjustments to address any weaknesses.

Annual Reports

According to your completed 2001 Agency Ethics Program Questionnaire submitted to OGE, 4,926 DLA employees were required to file a confidential report. To evaluate the administration of the confidential system, we examined 164 of the 820 confidential reports that were required to be filed at HQ in 2001. Of these 164 reports, we examined 12 new entrant and 118 annual OGE Form 450s and 34 OGE Optional Form 450-As (Form 450-A).

The majority of the 152 annual OGE Form 450s and Form 450-As were filed timely. However, we noticed a number of annual reports that appeared to be filed timely, according to both the filer's signature date and the date of initial supervisory review, but had been date stamped after the JER's November 30<sup>th</sup> filing due date. Upon discussing the matter with the Associate General Counsel, we learned that the date stamp reflected the dates the reports were received by the Ethics Office for final review rather than when they were first received by the filer's supervisor for the initial supervisory review. As was discussed, the date of receipt should be annotated on each report when first received by DLA, in accordance with 5 C.F.R. § 2634.605(a), to help assess compliance with the filing due date and 60-day review requirements. We suggest this responsibility be added to all future guidance provided to supervisors to stress the importance of having them date stamp the reports.

Additionally, we found 25 annual OGE Form 450s and 14 Form 450-As that were filed after the JER's established November 30<sup>th</sup> filing due date. Although we were advised that the majority of these filers were provided verbal extensions, there were no written annotations on their reports. As we discussed with the Associate General Counsel, pursuant to subsection 7-303(c) of the JER, requests for filing extensions must be submitted in writing by the filer to the DAEO or designee and the granting of any extensions must be annotated on the report and include the reason for the extension. We were assured that this would become common practice during next year's annual filing cycle. All examined annual reports were certified soon after review.

New Entrant Reports

Of the 12 new entrant reports examined, we found 8 reports that were filed late, with the longest being filed 9 months late. Once received, however, all reports were reviewed timely. As we discussed with the ADAEO, we are concerned that new entrant

confidential filers are not being identified in a timely manner.

We found the current system, used to timely identify new employees entering and those transferring into covered positions, to be a great first step to a very challenging requirement. New employees are to take an affirmative step by checking with either their supervisor or ethics official to determine whether or not they should file a new entrant report.<sup>2</sup> Although we believe this approach is extremely useful and value-added, it lacks the proper coordination needed to ensure filing timeliness. Thus, to ensure that new employees are making certain of their filing status and doing so timely, proper coordination needs to occur between the Ethics Office, HR, and the new employees' supervisors. We believe this can be accomplished with the agency's development of more comprehensive procedures that would address HR and the supervisors' responsibilities in ensuring that all employees entering and those transferring into covered positions are identified in a timely manner, instructing employees to complete a confidential report, and requiring concurrent notification by HR to the Ethics Office and the employees' supervisors of all new employees entering and those transferring into covered positions.

#### PUBLIC FINANCIAL DISCLOSURE SYSTEM

The public financial disclosure system is centrally administered and managed by the Associate General Counsel in accordance with the procedures contained in Chapter 7 of the JER.

To evaluate the public system, we examined 7 new entrant, 32 annual, and 2 termination public reports that were required to be filed in 2002. Additionally, we reviewed your annual report for timeliness of filing, review, and forwarding to OGE. Although we found your report to have been filed and reviewed timely, we noticed it was forwarded to OGE three months after the date of its certification. As we discussed with the ADAEO, annual public reports for Presidentially appointed and Senate-confirmed (PAS) officials and DAEOS that require little or no follow-up should be submitted to OGE as soon as approved by the agency but generally no later than August 1<sup>st</sup> of each year. In instances where a report cannot be approved and submitted by August 1<sup>st</sup>, due to an extension, pending resolution of a conflict of interest, or the need for

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<sup>2</sup> This requirement is disclosed on both the written guidance provided to new employees during HR's new employee orientation sessions and on the certification sheet used to acknowledge the employees' receipt of initial orientation training.

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additional information or clarification, the report should be submitted, at the latest, by September 15<sup>th</sup>. We remind you that timely forwarding to OGE will help to ensure that it begins its review process sooner, with the goal being to review and certify the majority of these reports within 60 days of receipt.

Although our examination identified no technical issues we discussed several procedural issues used to administer the system. The issues addressed:

**First**, the vast majority of the 32 annual public reports we examined were not provided an initial supervisory review by the filers' immediate supervisors, as required by subsection 7-206 of the JER. Although our last review of DLA noted that public reports were initially reviewed by a supervisor, our current examination found only four reports that received this review. Despite it being unclear why initial supervisory reviews were no longer being performed, we were advised that the Ethics Office provided this review because, in many instances, the DLA Director served as the filers' immediate supervisor and time constraints would not permit his involvement in the report review process.

We deemed this practice appropriate, as it relates to the Ethics Office providing the initial review in lieu of the Director on reports that he would otherwise be responsible for reviewing. We do not believe this practice is appropriate, however, for compliance with the JER's initial review requirement for all other public filers whose immediate supervisor is not the Director. We believe all public reports not subject to the Director's review must receive the initial supervisory review from the filers' immediate supervisor, as required. As we reminded ethics officials, the JER requires this because supervisors are in the best position to assist DOD Ethics Offices in evaluating the information reported on the public reports with the filer's duties to help in determining current and/or future conflicts.<sup>3</sup> After discussing the matter with the Associate General Counsel, we are confident that initial supervisory reviews will be implemented during next year's annual filing cycle. We strongly suggest that you add these new reviewing responsibilities and the procedures for collecting and reviewing public reports to all future guidance provided to supervisors.

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<sup>3</sup> As a reminder, an initial supervisory review is not required for termination reports or reports filed by PAS officials, in accordance with the JER.

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Although we understand the concerns regarding the Director's time constraints, we believe his involvement in the report review process would serve as an excellent training tool as well as provide high visibility to the ethics program. One way to involve the Director would be to meet personally with him to discuss the findings from each report subject to his review after the Ethics Office has provided its initial review.

**Second,** we noticed that all annual public reports that we examined were certified on the same day. Although the majority of these reports were reviewed within 60 days of the May 15<sup>th</sup> filing due date, there were 9 reports that were reviewed untimely. We remind you that delayed reviews will diminish the agency's ability to provide timely and specific conflict of interest advice to employees, which is essential to an ethics program. Public reports which do not require additional information or remedial action should be certified within 60 days of each report's receipt date.

**Lastly,** our examination of the reports and files found a limited number of annotations and/or other documentation associated with DLA's review. Although the Associate General Counsel was able to respond to our questions without such documentation, we believe that it is important to maintain adequate documentation to help carry out an effective and substantive public financial disclosure review. As a good management practice, we encourage you to maintain adequate documentation when reviewing public reports, including keeping notes on discussions involving questionable holdings and their resolution.

After discussing these matters in great detail during the review, we feel confident that these procedural issues will be resolved prior to next year's annual filing cycle.

COORDINATION WITH THE OFFICE  
OF INSPECTOR GENERAL

DLA appears to be complying with 5 C.F.R. § 2638.203(b)(12), wherein the Ethics Office utilizes the services of the Office of the Inspector General in the form of the DCIA. This has included the referral of matters to and the acceptance of matters from DCIA. We were unable to assess DLA's compliance with § 2638.603, wherein DLA is to concurrently notify OGE of any referrals for prosecution to the Department of Justice of alleged violations of the criminal conflict of interest statutes, as there have been no recent referrals.

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## CONCLUSIONS AND RECOMMENDATION

Our review revealed that DLA has many effective elements in its ethics program; however, as was discussed in detail within this report, some improvements are needed. Overall, we believe the ethics program is well served by a dedicated ethics staff that is committed to ensuring the highest standards of integrity for DLA and its employees.

To further enhance the program, we recommend that you:

1. Ensure that the system for accepting travel payments from non-Federal sources under 31 U.S.C. § 1353 complies with 41 C.F.R. part 304-1 and the implementing procedures at Chapter 4 of the JER.

In closing, I wish to thank you and your staff for all of your efforts on behalf of the ethics program. Please advise me within 60 days of the specific actions your agency has taken or plans to take on our recommendations. A brief follow-up review will be scheduled within six months from the date of this report. Copies of this report are being forwarded to the DLA Director and the Director, Criminal Investigation Activity. Please contact David A. Meyers at 202-208-8000, extension 1207, if we can be of further assistance.

Sincerely,



Jack Covalesski  
Deputy Director  
Office of Agency Programs

Report number 03-011