



Highlights

Issues of Compliance

- Many instances of late new entrant confidential financial disclosure report filing occurred in the 2004 filing cycle.
- The quality of review of confidential reports appears to be inconsistent.

Model Practices

- The education and training program exceeds mere compliance through DISAVision broadcasts, regular agency-wide e-mail ethics advisories, and focused training for non-covered employees.
- The automated financial disclosure and ethics training tracking system promotes efficiency and measurability within the ethics program.

OGE Suggests

- Ethics officials continue their efforts to improve the timeliness of new entrant confidential report filing.
- Ethics officials continue to address the development of standardized training for OGE Form 450 reviewers.

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Defense Information Systems Agency

Conducted February through April 2006

Executive Summary

The Office of Government Ethics (OGE) recently conducted a review of the Defense Information Systems Agency's (DISA) ethics program. The purpose of a review is to identify and report on the strengths and weaknesses of the program by: (1) measuring agency compliance with ethics requirements found in the relevant laws, regulations, and policies; and (2) evaluating ethics-related systems, processes, and procedures in place for administering the program. OGE determined there is reasonable assurance that the performance and management of the program is effective.

DISA's ethics program has far more commendable aspects than areas needing improvement. The education and training program exceeds mere compliance through many model practices. Additionally, the newly-developed automated financial disclosure and ethics training tracking system is truly impressive. Review of public financial disclosure reports appears to be thorough and detailed, and the advice and counseling we examined was very thorough and responsive to employee's needs.

We found there is room for improvement in the areas of timely new entrant confidential financial disclosure report filing as well as the level of consistency of confidential report review. DISA ethics officials were aware of both issues prior to the time of the review, and have already made great efforts towards rectifying the issues.

OGE suggests that DISA ethics officials continue their efforts to improve the timeliness of new entrant confidential report filing and to develop standardized training for confidential report reviewers.

A copy of this report is being forwarded to DISA's Designated Agency Ethics Official and Inspector General.

OGE will follow up in six months on the suggestions made in this report.



United States Office
Of Government Ethics

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Ethics Program Review

Defense Information Systems Agency

Conducted February through April 2006

Introduction

THE OFFICE OF GOVERNMENT ETHICS' MISSION

The Office of Government Ethics (OGE) provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance.

PURPOSE OF A REVIEW

An ethics program review identifies and reports the strengths and weaknesses of an executive branch agency's ethics program. An ethics program includes both substantive and structural aspects. For example, a review measures agency compliance with ethics requirements found in the relevant laws, regulations, and policies. A review also evaluates ethics-related systems, processes, and procedures in place for administering the program. 5 C.F.R. § 2600.103(c)(1)(iii). A review does not investigate any particular case of employee misconduct.

REVIEW AUTHORITY AND SCOPE

OGE has the authority to evaluate the effectiveness of executive agency programs in preventing conflicts of interest. These programs may include the financial disclosure systems, ethics education and training, ethics agreements, advice and counseling, and the enforcement of ethics laws and regulations. Title IV of the Ethics in Government Act of 1978, as amended, and 5 C.F.R. part 2638.

We conducted this review at the Defense Information Systems Agency (DISA) in Arlington, Virginia.

Findings

PROGRAM STRUCTURE

DISA's ethics program is administered by the Office of General Counsel. The General Counsel has served as Designated Agency Ethics Official (DAEO) for more than five years. The Deputy General Counsel has served as the Alternate Designated Agency Ethics Official (ADAEO) for more than ten years. Both officials perform ethics duties on a part-time basis. The DAEO has designated all General Counsel attorneys as agency ethics counselors, and three other staff members as ethics counselors with limited authority to review, make determinations on, and sign OGE Form 450s as the final reviewing officials.

RECENT CHANGES TO THE JOINT ETHICS REGULATION

Recently, three changes to the Department of Defense (DoD) Joint Ethics Regulation (JER) were made to help preclude violations of the post-employment restrictions.¹ These changes are summarized below:

--*Annual Certification*: New subsection 8-400 now requires DoD employees who file a public financial disclosure report to certify annually that they are aware of the disqualification requirements and employment restrictions of 18 U.S.C. §§ 207 and 208 and 41 U.S.C. § 423 (b) and (c), and that they have not violated those restrictions.

--*Annual Ethics Training*: New paragraph 11-301(d) now requires DoD components to include training on relevant Federal and DoD disqualification requirements and employment restrictions during annual ethics training. Although current regulations at 5 C.F.R. § 2638.704(c) already require inclusion of the conflict of interest statutes, the JER requirement envisions including an enhanced discussion of the restrictions.

--*Guidance for all Departing DoD Personnel*: New subsection 9-502 requires DoD components to provide guidance on relevant Federal and DoD post-Government service employment restrictions, as part of out-processing procedures, to all DoD personnel who are leaving Federal service.

DISA is in compliance with each of the three requirements.

FINANCIAL DISCLOSURE SYSTEMS

Overall, DISA's public and confidential financial disclosure systems are generally compliant with all applicable laws and regulations. Both annual SF 278 filers and OGE Form 450 filers are cognizant of the filing deadlines and requirements. This can be attributed in large

¹ On October 25, 2004, the Deputy Secretary of Defense signed a directive that established additional procedures to help ensure that DoD personnel are aware of and comply with statutes and regulations applicable to their transition from Federal service to private employment.

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part to automated e-mail reminders of deadlines for both public and confidential systems generated by DISA's newly-developed automated tracking system. In addition, a good relationship exists between ethics officials and DISA's employees. Finally, a checklist for completion of the OGE Form 450s accompanies the e-mail that notifies employees of their requirement to file.

However, one area of concern is the many instances of late new entrant confidential report filing in the 2004 filing cycle. DISA ethics officials were aware of the occurrence of late new entrant reports prior to the time of the review, and instituted stringent procedures to decrease the instances of late filing. According to DISA ethics officials, the number of late new entrant confidential reports decreased in the 2005 filing cycle. Additionally, the automated tracking system was developed to aid in the tracking of annual public and confidential financial disclosure; while it was not used to track new entrant report filing in the 2004 or 2005 filing cycles, it will be used for this purpose in the future.

Also of concern is what appears to be an inconsistent quality in the review of OGE Form 450s. Evidence of very thorough review was documented on many of the OGE Form 450s by copious notes, e-mail exchanges, and detailed cautionary memoranda addressed to the individual filers. However, other reports had no accompanying documentation at all. Ethics officials indicated that OGE Form 450 review training for their attorneys is uneven. At least ten of the attorneys have received formal training from OGE, while the others may have only received an informal indoctrination about the form. However, developing standardized training for all attorneys charged with responsibility for OGE Form 450 review is an area that has already been identified by DISA officials for attention before the next annual filing cycle.

Public Financial Disclosure

OGE examined all of the 48² public financial disclosure reports required to be filed in 2005. Of those 48 reports, 34 were annual reports, 10 were new entrant reports, and 4 were combination annual/termination reports. All of the annual reports were filed by the appropriate deadline, and were reviewed and certified by DISA ethics officials in a timely manner. All but three of the new entrant reports were filed by the appropriate deadline and were reviewed and certified in a timely manner; all three of the late public filers paid the late filing fee. The four combination annual/termination reports were filed by the appropriate deadline, and were reviewed and certified in a timely manner. OGE's examination found no substantive problems and few minor technical problems.

All public reports appeared to have been reviewed thoroughly, as evidenced by extensive reviewer notes and e-mail communications between reviewers and filers attached to the reports. Additionally, many of the reports were accompanied by detailed cautionary memoranda addressed to the individual filer. Also of note are the personalized memoranda prepared for the employees who filed combination annual/termination reports, which detail what the employees' job responsibilities were during their DISA employment as well as what restrictions they will face after leaving Government service. This active documentation and record-keeping by DISA

² Included was the DAEO's report, which was forwarded to OGE in a timely manner.

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ethics officials provides a level of transparency and accountability that aids in protecting the agency.

Confidential Financial Disclosure

OGE examined 120 of the 1,420 confidential financial disclosure reports required to be filed in 2004. Of those 120 reports, 99 were annual reports, and 21 were new entrant reports. All but five of the annual reports were filed by the appropriate deadline, and all were reviewed and certified in a timely manner. Only seven of the new entrant reports were filed by the appropriate deadline, but all were reviewed and certified in a timely manner.

Ethics officials have instituted a new process to aid in the timely capture of new entrant confidential report filers. An Office of General Counsel attorney attends all new employee orientation briefings, which are held every two weeks. During the briefings, the attorney explains the role of the Office of General Counsel within DISA and disseminates ethics materials, pamphlets, and an "Initial Ethics Orientation Certification" (Certification), to be completed after the new employee completes DISA's online Initial Ethics Orientation (IEO) Course. The Certification must be signed by the new employee and the new employee's supervisor before it is submitted to the Office of General Counsel. The supervisor is responsible for indicating on the Certification whether or not the new employee is required to file a financial disclosure report.

The attorney tracks new employees who attend each briefing in a detailed Excel spreadsheet (not automated). It is strongly suggested that new employees complete the IEO course and submit the Certification within ten days of attending the briefing in order to identify new entrant filers as quickly as possible. Numerous reminder e-mails are sent to each new employee in the spreadsheet until all the Certifications are received. When a Certification is received that indicates a new entrant filer, it is noted in the spreadsheet and e-mails are sent to the new entrant filer until his or her report is submitted.

Ethics officials have also asked DISA's Manpower Directorate and Security Directorate to include an indication in their recruitment orders as to whether a financial disclosure report is required to be filed for a given position.

As previously discussed, the review of the confidential reports appears to be inconsistent. This issue is currently being addressed by DISA ethics officials.

Automated Tracking System: Financial Disclosure

Of note is DISA's newly-developed automated tracking system. The tracking system performs a variety of functions related to tracking annual public and confidential financial disclosure as well as annual ethics training. In regard to financial disclosure tracking, the system generates a list of all filers, tracks the relevant dates of the filing process, and records information on both extensions and waivers. The tracking system also generates automated e-mail reminders for employees to alert them to upcoming deadlines. The system has a summary function which can be used to generate overall performance measurements for the success of the ethics office in administering the financial disclosure system, such as the number of required

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reports versus the number received and the counts for different filing categories (annual filers, new entrant filers, etc.). The financial disclosure functions as well as the training functions (to be discussed in the EDUCATION AND TRAINING section of this report) of the automated tracking system promote efficiency and measurability within DISA's ethics program.

EDUCATION AND TRAINING

The education and training program at DISA is compliant with the provisions of 5 C.F.R. part 2638. In many instances DISA exceeds mere compliance by using model practices, as ethics information is broadcast on "DISAVision," an in-house television network, and the DAEO sponsors regular focused training for non-covered employees such as new interns, agency action officers, and new supervisors. For 2005, the focused training program resulted in over 17 one-hour, in-person training sessions. Additionally, supervisors are required to certify their employees' completion of initial ethics orientation, a practice that promotes accountability of leadership. Supplemental ethics information is provided on DISA's Web site and ethics officials regularly send e-mail advisories to the entire agency providing tips on how to be ethical in the workplace. DISA's written plan for ethics training is thorough and detailed.

Initial Ethics Orientation Program

An in-person orientation is offered twice each month for new employees at DISA. New employees are briefed on relevant ethics requirements by an attorney from the Office of General Counsel, and are then provided with copies of materials such as OGE pamphlets and DISA's employee guide to the Standards of Ethical Conduct for Employees of the Executive Branch. Included in the materials is a reminder that covered employees must submit a new entrant financial disclosure form within 30 days of entering on duty; employees are instructed that if they are not aware of their filing status they should immediately speak to their supervisor or to the DAEO or ADAEO for guidance. New employees are then instructed to review and complete DISA's online IEO course, and are informed that they are allowed up to one hour of duty time to fulfill this requirement.

Although DISA officials strongly recommend that new employees complete the online IEO course within 10 days of their start date, they have up to 90 days to complete the course. Upon completion of the course, new employees must complete and sign the Certification. The Certification is then given to each employee's supervisor, who signs it and indicates the filing status of the new employee before forwarding it to the Office of General Counsel to be recorded.

According to DISA ethics officials, all employees required to receive IEO in 2005 did so.

Annual Ethics Training Program

Of the 1,477 employees required to receive annual ethics training in 2005, 1,358 did so. DISA's annual ethics training is available online and addresses a wide range of topics. Annual ethics training in 2005 covered gifts, endorsements, travel, official speeches, and post-Government employment. Employees of DISA are also provided with plain-English summaries of the 14 Principles of Ethical Conduct. DISA's ethics training program meets all relevant requirements.

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In order to meet the availability of a qualified instructor requirement (5 C.F.R. § 2638.704(d)), public filers are given contact information for ethics officials and are instructed to take the training during set hours when ethics officials will be present to answer any questions. Additionally, the DAEO conducts individual training, as requested. Individual training is generally requested by public filers prior to departing Government service.

Confidential filers are also provided with contact information in case of questions.

Automated Tracking System: Education and Training

In regard to tracking annual ethics training, the automated tracking system sorts employees requiring training by organization, generates automated e-mails to employees notifying them of the required training, and records when annual training is completed. The system also generates automated follow-up e-mails in short intervals to employees who have not completed training in a timely manner, and continues to do so until the required training is completed. Additionally, the tracking system has a search function which allows officials to search for employees by name, office, courses taken, and years trained. While the current system does not track initial ethics orientation for new employees, plans to eventually incorporate that information are in place.

ENFORCEMENT

Based on information provided by DISA ethics officials and the Office of Inspector General (OIG), a good working relationship exists between the two offices. In addition, both are aware of the procedures prescribed in 5 C.F.R. § 2638.603 and Chapter 10 of the JER to ensure that OGE is concurrently notified in all appropriate circumstances. Discussions with involved parties indicate that procedures are in place for the effective exchange of ethics-related information between ethics and OIG officials to resolve enforcement issues.

DISA ethics officials recently coordinated with OGE during the discovery phase of a criminal proceeding against a former DISA contracting officer. While not technically a conflict of interest violation, OGE assisted DISA ethics officials with information that was later used as a prosecution tool. OGE and DISA officials worked together and went through each count of the indictment, identifying the items that should have been reflected on the former contracting officer's annual OGE Form 450 financial disclosure reports.

The former DISA contracting officer was convicted of procurement fraud, social security fraud, conspiracy, and obstruction of justice. The former employee was sentenced to more than 11 years in prison and had to make restitution in excess of \$54,000. Three co-defendants also were sentenced.

ADVICE AND COUNSELING

In 2005, DISA's ethics officials issued over 250 oral and written opinions. These opinions pertained to nearly every aspect of the ethics program including: conflicts of interest; seeking and post employment; impartiality authorizations pursuant to 5 C.F.R. 2635.502(d); fundraising; gifts from outside sources; gifts between employees; widely attended gatherings;

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misuse of position; teaching, speaking, and writing; and other outside activities. All of the advice was very thorough and responsive to the employees' needs.

All attorneys from the Office of General Counsel are authorized to provide advice and counsel to employees. The majority of requests for advice and counsel come by e-mail through a link provided on the ethics Web site. The DAEO assigns the requests to attorneys as necessary. Attorneys have access to a shared drive containing archived opinions to aid them in their analysis. To ensure consistency, all opinions are sent to the DAEO for review before they are issued to employees.

TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

DISA has written procedures in place for acceptance of travel payments from non-Federal sources under 31 U.S.C. § 1353. DISA did not accept any travel payments for the 2 reporting periods covering October 1, 2004 through September 30, 2005. Both negative reports were submitted to OGE in a timely manner and in accordance with all relevant requirements.