



United States

Office of Government Ethics

1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 13, 2006

Matt Reres
Alternate Designated Agency Ethics Official
Office of the General Counsel
Department of the Army
104 Army Pentagon
Washington, DC 20310-0104


Dear Mr. Reres:

The Office of Government Ethics recently conducted a review of the U.S. Army Medical Command's (MEDCOM) 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. The Office of Government Ethics determined there is reasonable assurance that the performance and management of the program is effective.

As noted in the Executive Summary of the report, we have not issued formal recommendations for improving the ethics program at this time. However, we suggest that MEDCOM: (1) notify subordinate ethics offices that the date of agency receipt must be recorded on public financial disclosure reports; and (2) inform new entrant confidential financial disclosure report filers that the new entrant date of appointment refers to the date on which an employee becomes subject to filing a confidential financial disclosure report. We will follow-up with MEDCOM in six months on the suggestions made in this report.

I have enclosed a copy of the report for your information. Please contact Traci Quan at 202-482-9271, if we may be of assistance.

Sincerely,


Joseph E. Gangloff
Deputy Director
Office of Agency Programs

Enclosure



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

July 13, 2006

Lieutenant General Stanley E. Green
Inspector General
Department of the Army
1700 Army Pentagon
Washington, DC 20310-1700

Dear General Green:

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I have enclosed a copy of the report for your information. Please contact me at 202-482-9220, if I may be of assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joe E. Gangloff".

Joseph E. Gangloff
Deputy Director
Office of Agency Programs

Enclosure



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1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

July 13, 2006

Colonel Brenda F. Mosley
Inspector General
U.S. Army Medical Command
2050 Worth Road
Fort Sam Houston, TX 78234-6000

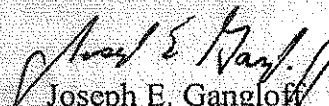
Dear Colonel Mosley:

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Washington, DC 20005-3917

July 13, 2006

Ray A. Rayos
Resident Agent in Charge
San Antonio Fraud Resident Agency
U.S. Army Criminal Investigation Command
Building 268
1490 Wilson Street
Fort Sam Houston, TX 78234-5000

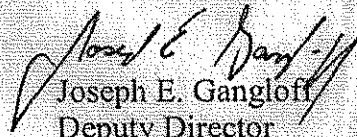
Dear Mr. Rayos:

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Sincerely,


Joseph E. Gangloff
Deputy Director
Office of Agency Programs

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United States Office
Of Government Ethics

Report Number 06-010

Highlights

Issues of Compliance

- MEDCOM issued incorrect post-Government employment advice to departing military officers, but provided corrective letters to the affected personnel.
- DA did not provide notification to OGE of two conflict of interest referrals to DOJ in a timely manner.
- MEDCOM did not record the date of agency receipt on public financial disclosure reports filed by its employees, but has agreed to do so.

Model Practices

- Ethics duties are included in the ethics staff's position descriptions and performance evaluations.
- All employees are required to receive verbal annual ethics training.
- Contractor employees receive informational ethics materials upon their entrance on duty.
- Acquisition ethics training is provided to certain employees.

OGE Suggests

- MEDCOM should notify subordinate ethics offices that the date of agency receipt must be recorded on public financial disclosure reports.
- MEDCOM should inform new entrant confidential financial disclosure report filers that the new entrant date of appointment refers to the date on which an employee becomes subject to filing a confidential financial disclosure report.

For more information, contact
Traci Quan at 202-482-9271
or tmquan@oge.gov.

Ethics Program Review

U.S. ARMY MEDICAL COMMAND

Conducted December 2005

Executive Summary

The Office of Government Ethics (OGE) recently conducted a review of the U.S. Army Medical Command's (MEDCOM) 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.

OGE notes that actions were taken during the review to address issues in the advice and counseling and enforcement elements of the program. For example, MEDCOM issued corrective post-Government employment letters to certain personnel and the Department of the Army's (DA) Office of the General Counsel established a system to ensure that OGE is notified of conflict of interest referrals to the Department of Justice (DOJ), as required by 5 C.F.R. § 2638.603. Furthermore, OGE was pleased to find that aspects of the education and training element of the program exceed the minimum regulatory requirements.

Although there are no formal recommendations in this report, OGE suggests that MEDCOM: (1) notify subordinate ethics offices that the date of agency receipt must be recorded on public financial disclosure reports; and (2) inform new entrant confidential financial disclosure report filers that the new entrant date of appointment refers to the date on which an employee becomes subject to filing a confidential financial disclosure report. OGE will follow-up with MEDCOM in six months on the suggestions made in this report.

This report is being forwarded to DA's Alternate Designated Agency Ethics Official, the Inspectors General of DA and MEDCOM, and the resident agency of the U.S. Army Criminal Investigation Command.



**United States Office
Of Government Ethics**

Report Number 06-010

Ethics Program Review

U.S. Army Medical Command

Conducted December 2005

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(e)(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.

OGE conducted this review onsite at the U.S. Army Medical Command (MEDCOM) at Fort Sam Houston, Texas.

Ethics Program Review: MEDCOM

Findings

BACKGROUND

MEDCOM is responsible for policy, planning, and operations for the Army Medical Department. MEDCOM oversees major subordinate commands and, through its regional medical commands, Army medical centers and hospitals. Additionally, MEDCOM is responsible for providing administrative support, including ethics services, to the following Department of Defense (DOD) executive agencies for which the Surgeon General of the Army serves as the Executive Agent: Armed Forces Institute of Pathology, Armed Forces Pest Management Board, and the Joint Readiness Clinical Advisory Board.¹ OGE applauds the initiative taken by MEDCOM's Staff Judge Advocate (SJA) to memorialize his responsibility for providing ethics services to these DOD executive agencies by drafting a memorandum of understanding between MEDCOM and DOD's Office of the General Counsel (OGC). OGE believes that memorializing such responsibilities promotes transparency, efficiency, and accountability in the ethics program.

The Surgeon General of the Army is MEDCOM's Commanding General (TSG/CG). Although the staffs of the Office of the Surgeon General (OTSG) and MEDCOM's headquarters are combined into a single staff organization under one leader, they are separated by geography. As such, the ethics staff services employees at the Fort Sam Houston (for MEDCOM) and Falls Church, Virginia (for OTSG) locations.

PROGRAM STRUCTURE

MEDCOM's ethics program is established within the Office of the Staff Judge Advocate (OSJA). The number of personnel assigned to administer the ethics program appears adequate. The ethics staff is comprised of the SJA, Deputy SJA, Primary Ethics Counselor, three additional attorneys, and an Ethics Paralegal.² Although administering the ethics program is a collateral responsibility for the ethics staff, OGE was pleased to find that ethics duties were included in the position descriptions OGE examined. OGE was also informed that annual performance appraisals include an evaluation of the execution of ethics duties. OGE applauds MEDCOM's inclusion of ethics duties in position descriptions and annual performance appraisals as a means to measure the accountability of its ethics staff in carrying out ethics duties.

¹ MEDCOM also provides ethics services to the following DOD executive agencies which were absorbed into the Office of the Surgeon General: Armed Forces Epidemiological Board, Armed Forces Medical Library, Armed Service Blood Program Office, and DOD Veterinary Service Activity. OGE does not identify in this report DOD executive agencies and agencies embedded within MEDCOM that are supported directly by subordinate ethics offices.

² The SJA, Deputy SJA, and Primary Ethics Counselor in place during OGE's review have since departed MEDCOM. A new Deputy SJA is in place, while a new SJA is expected to come aboard in July 2006. The process of filling the Primary Ethics Counselor's position is underway.

Ethics Program Review: MEDCOM

OGE was advised that, prior to the entrance on duty of the current Ethics Paralegal in March 2005, almost one year elapsed without the benefit of an Ethics Paralegal. The previous occupant of the position left the employ of MEDCOM due to an early buy-out. MEDCOM could not hire a successor until the remaining period of time left in the predecessor's appointment had elapsed. Although October 2004 was the earliest opportunity for a successor to be hired, the protracted Government hiring process impeded MEDCOM's ability to fill the position in a timely manner. The absence of an Ethics Paralegal may have affected MEDCOM's ability to identify new entrant confidential financial disclosure report filers in a timely manner (see the *Confidential Financial Disclosure* subsection of this report).

Support of the Commanding Officer is Beneficial

There is a good working relationship between OSJA and TSG/CG; the ethics program has the full support of TSG/CG.

In April 2005, TSG/CG issued a memorandum to MEDCOM's major subordinate commands to prohibit contractors from providing food and beverages when visiting MEDCOM facilities. Granting permission for contractors to visit MEDCOM's facilities is contingent upon the contractors' agreement not to provide food and beverages. Although TSG/CG was aware of the exceptions to the rules governing the acceptance of gifts from prohibited sources, he was concerned about any action that might create the appearance of impropriety. OGE commends TSG/CG for promoting public confidence in the integrity of Government employees and for supporting the ethics program. Such high-visibility support contributes to the viability of the ethics program.

ADVICE AND COUNSELING

Ethics advice and counseling services comply with 5 C.F.R. § 2638.203(b)(7) and (8), and MEDCOM employs some innovative approaches to track written responses to requests for advice. Moreover, MEDCOM complies with the requirement, at subsection 9-502 of DOD's Joint Ethics Regulation (JER), that departing DOD personnel receive guidance on the post-Government employment restrictions. OGE's review of written post-Government employment advice provided to departing military officers raised several concerns which were addressed by MEDCOM.

Written Advice

OGE examined a sample of written advice rendered by MEDCOM's ethics officials from January 2005 to November 2005; OGE examined the advice for compliance with regulations, sufficiency of advice, and responsiveness to the needs of the employees. Seeking employment, post-Government employment, and endorsement issues were popular topics of inquiry.

Ethics Program Review: MEDCOM

OGE's review of the written advice raised several concerns with respect to the post-Government employment advice provided to departing military officers. Those concerns were discussed with ethics officials from the Department of the Army (DA) and OSJA. Subsequent to those discussions, MEDCOM provided corrective post-Government employment letters to all affected personnel. OGE commends MEDCOM for not only being receptive to a discussion of the concerns, but also for taking immediate action to ensure that all affected personnel received corrected guidance. Based on the actions taken to address this issue during the review, OGE does not believe a formal recommendation is necessary.

Innovative Approaches

MEDCOM employs innovative approaches to track the issuance of written ethics advice. An electronic "suspense" system is used to record, among other things, the name of the ethics counselor assigned to answer an ethics question, the date on which the question was received, and the date on which a response was issued. The SJA also inquires about the status of responding to requests for ethics advice at OSJA staff meetings. OGE applauds MEDCOM for implementing these approaches which enhance the accountability and measurability of the advice and counseling element of the ethics program.

The ethics staff usually discusses their responses amongst themselves prior to issuing ethics advice. Additionally, MEDCOM maintains a searchable electronic archive of ethics advice. Sharing responses and accessing the archive enhance the ethics staff's ability to be consistent in the advice rendered to employees.

Required Post-Government Employment Guidance

Subsection 9-502 of the JER requires DOD personnel who are leaving Federal service to receive guidance on post-Government employment restrictions as part of out-processing procedures. OGE's examination of pertinent out-processing documents revealed that MEDCOM appeared to meet this requirement.

Departing MEDCOM employees out-process with OSJA. The Ethics Paralegal provides employees who are leaving Federal service with an out-processing package of materials which contains documents with information on post-Government and seeking employment restrictions. Included in the out-processing materials is a "Post-Government Service Ethics Questionnaire" which employees complete when seeking a post-Government employment opinion from OSJA. Departing OTSG employees receive the same out-processing package of materials that departing MEDCOM employees receive. Additionally, all departing employees are informed that post-Government employment materials can be accessed by logging onto the OTSG/MEDCOM ethics Web page (see the *Ethics Web Page* subsection of this report).

Ethics Program Review: MEDCOM

ENFORCEMENT

MEDCOM complies with the provisions of 5 C.F.R. § 2638.203(b)(12), ensuring that the services of MEDCOM's Office of the Inspector General (OIG), as well as the resident U.S. Army Criminal Investigation Command (CID) office, are utilized when appropriate. MEDCOM also complies with § 2638.203(b)(9), ensuring that prompt and effective action, including administrative action, is taken to remedy ethics violations. However, OGE's review revealed that DA needed to comply with § 2638.603, requiring agencies to provide concurrent notification to OGE of referrals to the Department of Justice (DOJ) of alleged violations of the conflict of interest statutes and to provide prompt notification to OGE of the disposition of such referrals.

Effective Coordination Exists Between OSJA and Enforcement Offices

OSJA maintains a close and effective working relationship with OIG and the resident CID office. OIG characterized the relationship as outstanding. OSJA meets with OIG on a weekly basis to discuss any ongoing cases to ensure that both offices are aware of enforcement activity concerning MEDCOM employees. Furthermore, the ethics staff conducts research into ethics cases when OIG requests such assistance, which relieves some of the burden on OIG's limited number of staff members. CID characterized the relationship as excellent. Indeed, immediately after CID's Resident Agent in Charge assumed his position, he arranged a meeting with the SJA whom he characterized as "a wonderful asset and liaison to CID" since their initial meeting. OSJA and CID are generally in contact on a monthly basis to discuss ongoing enforcement cases.

Memorandums of agreement (MOA) between OSJA and both enforcement offices solidify the enforcement responsibilities of those offices. MEDCOM also entered into an MOA with the U.S. Army Medical Department Center & School and Fort Sam Houston's (hereinafter referred to as the Garrison) SJA to coordinate on ethical misconduct matters. The jurisdiction to handle the disposition of criminal cases rests with the Garrison, rather than with MEDCOM. OGE applauds MEDCOM for enhancing the transparency, efficiency, and accountability aspects of the enforcement element of the ethics program by entering into MOAs with these organizations.

Enforcement Actions

In 2004 and 2005, two military officers were investigated jointly by CID and the Federal Bureau of Investigation in related cases. In the first case, one military officer allegedly violated 18 U.S.C. § 208 and 5 C.F.R. §§ 2635.101, 2635.604, 2635.702, and 2635.703. In the second case (which resulted from the first case), another military officer allegedly violated 18 U.S.C. § 208 under a conspiracy theory and 5 C.F.R. § 2635.702.

In the first case, the military officer was accused of providing sensitive insider procurement information to a contractor who wished to bid on a sole-source contract; the

Ethics Program Review: MEDCOM

military officer was engaged in post-Government employment discussions with the contractor. Additionally, the military officer was accused of using his position to develop the requirements for a new contract position for which he intended to bid. The second military officer was brought under investigation when the enforcement authorities learned that he accepted the first military officer's assistance in crafting the requirements for the new contract position with the knowledge that the first military officer was interested in filling the position after retirement. CID referred the cases involving the military officers' alleged violations of 18 U.S.C. § 208 to the local U.S. Attorney's office for possible prosecution. The U.S. Attorney's office declined to prosecute in favor of letting the Garrison handle the cases. Under the authority of the Uniform Code of Military Justice (UCMJ), an Article 32 investigation officer was appointed to oversee a hearing which would establish whether there was enough evidence to refer both cases to a military court-martial; ultimately, the cases were not referred to a court-martial. Instead, the first military officer received non-judicial punishment in the form of a punitive written reprimand under Article 15 of the UCMJ; subsequently, he submitted an application for voluntary retirement. The second military officer received a non-punitive administrative written reprimand pursuant to Army Regulation 600-37, Unfavorable Information.

Based on OGE's discussions with OSJA and CID and OGE's examination of pertinent documents, OGE believes that prompt and effective administrative actions were taken in these cases.

Concurrent Notification of Referrals to DOJ Was Not Provided to OGE in a Timely Manner

MEDCOM does not control the implementation of the concurrent notification requirement. Local CID offices report conflict of interest cases to CID's headquarters office. CID's headquarters office is responsible for completing the OGE Form 202 (Notification of Conflict of Interest Referral) which is used to provide concurrent notification to OGE. CID's headquarters office forwards the form to DA OGC which is responsible for forwarding the form to OGE to fulfill the concurrent notification requirement.

The OGE Form 202s for the cases involving the two military officers were prepared in November 2005; DA OGC received the forms in December 2005. However, DA OGC did not forward the forms to OGE in a timely manner. OGE was advised by DA OGC that no notification forms had been forwarded to OGE due to administrative issues and that, as a result of OGE's inquiry, DA OGC would forward the forms. Indeed, OGE received the two notification forms in question, plus several forms for cases at other DA components, in March 2006. Furthermore, OGE was advised that DA OGC has put into place a system to receive updates from the field and will set up both internal (DA OGC) and external (field) standard operating procedures.

DA must comply with 5 C.F.R. § 2638.603, requiring agencies to provide concurrent notification to OGE of referrals to DOJ of alleged violations of the conflict of interest statutes and to provide prompt notification to OGE of the disposition of such referrals. Timely

Ethics Program Review: MEDCOM

notification of referrals and their disposition will allow OGE to monitor effectively the enforcement system at MEDCOM and other DA components. Based on the actions taken to address this issue, OGE does not believe a formal recommendation is necessary.

TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

OGE examined two of MEDCOM's semiannual reports of travel payments accepted from non-Federal sources of more than \$250 per event, covering the reporting period from October 1, 2004 through September 30, 2005. The reports were forwarded to the Standards of Conduct Office within DA (DA SOCO) for submission to OGE. One of the semiannual reports was negative and the other listed six acceptances of travel payments. However, only one acceptance was required to be reported to OGE. The one acceptance appeared to have been approved in accordance with 31 U.S.C. § 1353, 41 C.F.R. chapter 304, the JER, and MEDCOM's procedures.

The other five payments on the Standard Form 326 were not required to be reported to OGE; the amounts of two payments fell below the reporting threshold and three payments were accepted for attending events in a personal capacity. OGE's examination of pertinent documents revealed that MEDCOM acknowledged the latter three payments as having been erroneously reported under 31 U.S.C. § 1353. OGE reminds MEDCOM that travel payments which fall below the reporting threshold and travel payments accepted in one's personal capacity are not required to be reported to OGE under 31 U.S.C. § 1353.

FINANCIAL DISCLOSURE SYSTEMS

The financial disclosure systems generally comply with the provisions of 5 C.F.R. part 2634. Master lists of financial disclosure report filers and an electronic tracking system are used to track the filing of reports. A list of contractors and position descriptions are used in reviewing reports to assess whether any conflicts of interest exist. Moreover, MEDCOM complies with the requirement, at subsection 8-400 of the JER, that DOD public filers certify annually to their awareness of certain disqualification and employment restrictions.

Public Financial Disclosure

OGE examined a sample of 20 of the 24 public financial disclosure reports required to be filed in 2005; there were 14 incumbent, 3 new entrant, and 3 termination reports in OGE's sample.³ The reports were filed and reviewed in a timely manner.⁴ While minor technical errors

³ In addition to the public reports filed by five employees at MEDCOM and OTSG, OGE examined public reports filed by employees assigned to subordinate commands of which MEDCOM provides an intermediate review.

⁴ In accordance with 5 C.F.R. § 2634.605(a), the date of agency receipt must be noted on the reports. The date of receipt was generally entered at the final level of review by DA SOCO.

Ethics Program Review: MEDCOM

were found, OGE did not uncover any substantive deficiencies. OGE notes that documentation in the files and comments on the reports showed that there were questions from and annotations made by the reviewing officials which indicated a thorough review of reports.

In April 2005, the Secretary of the Army issued an action memorandum requiring implementation of the online Financial Disclosure Management system for public filers during the 2005 annual filing season. However, DA SOCO exempted public filers from filing electronically if they had already filed a paper report or were in the process of filing one. Therefore, OGE did not assess MEDCOM's compliance with the action memorandum.

Finally, subsection 8-400 of the JER requires all DOD employees who file public reports to certify annually that they are aware of the disqualification and employment restrictions of 18 U.S.C. §§ 207 and 208 and 41 U.S.C. § 423, and that they have not violated those restrictions. All filers in OGE's sample of public reports did so.

Confidential Financial Disclosure

OGE examined a sample of 40 of the 128 confidential reports required to be filed in 2004; there were 31 new entrant and 9 annual reports in OGE's sample. With the exception of four late new entrant reports filed by employees who were not identified immediately at the time of their entrance on duty and nine new entrant reports for which OGE could not determine the timeliness of filing, the remaining reports in OGE's sample were filed in a timely manner;⁵ all reports were reviewed in a timely manner. While minor technical errors were found, OGE did not uncover any substantive deficiencies. OGE notes that documentation in the files and

Only three reports showed a date of receipt entered by a subordinate ethics office that performed the initial review; none of the five reports filed by MEDCOM and OTSG employees showed a date of receipt entered by MEDCOM. Rather, MEDCOM entered the date of receipt in its electronic tracking system. MEDCOM agreed to enter the date of receipt on the reports. OGE suggests that subordinate ethics offices be apprised of the need to include the date of receipt on public reports, especially those which are submitted to MEDCOM for an intermediate review. Because the dates of receipt entered at the final level of review were not an accurate representation of when the reports were first received, OGE used the dates entered in MEDCOM's tracking system to assess the timeliness of filing and review.

⁵ The late new entrant reports were submitted between one and four months late. The time period in which the reports were due fell within the period when MEDCOM lacked an Ethics Paralegal to assist in the process of identifying new entrant filers. OGE could not determine the timeliness of filing for nine new entrant reports because the filers listed their original appointment date, rather than the date on which they became subject to filing confidential reports, as their new entrant appointment date. OGE reminds MEDCOM that the new entrant date of appointment in the case of employees who are promoted or transferred into covered positions is the date of promotion or transfer; this enables MEDCOM to determine whether a report is subsequently filed within 30 days of that date.

Ethics Program Review: MEDCOM

comments on the reports showed that there were questions from and annotations made by the reviewing officials which indicated a thorough review of reports.

In November 2005, OSJA entered into an MOA with the Garrison's Civilian Personnel Advisory Center (CPAC) to identify new employees. Under the MOA, CPAC is responsible for ensuring that new employees will, as a part of in-processing with CPAC, in-process with OSJA, as well. OSJA's Ethics Paralegal provides new employees with a package of in-processing materials. She requests that new employees contact their supervisors to determine whether they are required to file confidential reports and advises them that if required to file, their reports would be due within 30 days of their entrance on duty date. She also directs employees to the filing information contained in the in-processing materials. Included with the in-processing materials is an OGE 450 Certification sheet to be completed by the employees' supervisors to verify the employees' filing status. The Ethics Paralegal follows-up with employees to ensure that their certification sheets are returned to OSJA. OGE applauds MEDCOM for instituting procedures to assist the ethics staff with the identification of new entrant filers.

ETHICS AGREEMENTS

No employees entered into written ethics agreements.

OGE examined four disqualification statements which were executed by filers in OGE's sample of financial disclosure reports. Screening arrangements are in place to ensure that these employees do not work on matters from which they are disqualified. No other remedial actions, such as receiving 18 U.S.C. § 208(b)(1) waivers, were taken by the remaining filers in OGE's sample of reports.

EDUCATION AND TRAINING

The education and training program complies with the provisions of 5 C.F.R. part 2638, and apparently with subsection 11-301 of the JER requiring that annual ethics training address relevant Federal and DOD disqualification and employment restrictions. Moreover, certain aspects of MEDCOM's education and training program for Government employees exceed the minimum regulatory requirements and MEDCOM provides ethics-related training to contractor employees during in-processing.

Initial Ethics Orientation

The initial ethics orientation (IEO) program complies with the provisions of 5 C.F.R. § 2638.703. Certain aspects of the IEO program exceed the minimum regulatory requirements.

New MEDCOM employees are provided with both a written and in-person IEO. The November 2005 MOA between OSJA and the Garrison's CPAC requires that CPAC ensure new employees will, as a part of in-processing with CPAC, in-process with OSJA, as well. During in-processing with OSJA, the Ethics Paralegal provides new employees with an in-processing

Ethics Program Review: MEDCOM

package. The package includes, among other things, the 14 Principles of Ethical Conduct (14 Principles), a handbook which summarizes the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), instructions for accessing the JER, and contact information for OSJA. New employees certify their completion of IEO. New OTSG employees access the materials contained in the in-processing package by logging onto the OTSG/MEDCOM ethics Web page (see the *Ethics Web Page* subsection of this report). They also certify their completion of IEO.

In addition, in-person IEO is provided to new MEDCOM employees by the Garrison. The briefing includes such topics as the 14 Principles and contractors in the workplace. The contact information for MEDCOM's OSJA is also provided. A handbook which summarizes the Standards is distributed. OGE applauds MEDCOM for exceeding the minimum regulatory requirement by requiring that new MEDCOM employees receive both a written and in-person IEO.

Annual Ethics Training

MEDCOM's annual ethics training (AET) program complies with the provisions of 5 C.F.R. §§ 2638.704 and 2638.705. Certain aspects of the AET program exceed the minimum regulatory requirements.

In April 2005, the Secretary of the Army issued an action memorandum to reaffirm the requirement for face-to-face AET for all DA employees.⁶ This has resulted in MEDCOM exceeding OGE's minimum regulatory requirements by training non-covered employees who are not required to receive AET and confidential financial disclosure report filers who are required to receive verbal training only once every three years. OGE commends DA's commitment to provide in-person training to all military and civilian personnel.

AET consisted of a slide presentation which included such topics as the 14 Principles, the Standards, the JER, contractors in the workplace, and post-Government employment issues. Contact information for MEDCOM's ethics staff was also provided.

Numerous training sessions were held in 2005. Although the Primary Ethics Counselor is MEDCOM's instructor, employees were eligible to attend AET sessions offered by the Garrison and a special session offered by DA SOCO and DA OGC. OTSG employees had several opportunities to receive in-person AET from the Primary Ethics Counselor; in other instances, AET was available to OTSG employees via video teleconference.

Sign-in sheets are used to track completion of AET. Monthly training statistics for MEDCOM and its subordinate offices are collected by the Ethics Paralegal who submits monthly

⁶ The face-to-face AET requirement was first instituted in April 2004 via an action memorandum issued by the then-Acting Secretary of the Army.

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training reports to DA SOCO. According to MEDCOM, all covered employees received AET by the end of 2005. Additionally, all of MEDCOM's non-covered employees were trained. However, there is some doubt as to the correct number of non-covered employees who were assigned to and trained at OTSG. At least 258 out of 402 (64%) non-covered employees at OTSG received AET. OGE was advised that 258 may be low because non-covered employees may have been trained at other organizations, such as the Walter Reed Army Medical Center which trained more than its assigned employees. The total number of non-covered employees assigned to OTSG (i.e., 402) may be inaccurate due to the method of data collection used by the ethics staff's point of contact.⁷ Employees working in certain organizations may actually be "on the books" of another organization. For example, the Primary Ethics Counselor works at MEDCOM, but his position actually belongs to another organization; however, he is included in MEDCOM's ethics training statistics.

Although it is possible that more than 64% of OTSG's non-covered employees were trained, OGE cannot affirm that all were trained in accordance with DA's requirement. Nevertheless, OGE's minimum regulatory requirements were exceeded.

Required Discussion of Post-Government Employment

Although 5 C.F.R. §§ 2638.704(b) and 2638.705 (b) already require that the conflict of interest statutes be included in AET, subsection 11-301 of the JER requires that AET include training on post-Government employment disqualification and employment restrictions. The JER requirement envisions an enhanced discussion of these restrictions. OGE's examination of the 2005 AET materials revealed that MEDCOM appeared to meet this requirement.

Acquisition Ethics Training

In the April 2005 action memorandum which reaffirmed the face-to-face AET requirement, the Secretary of the Army also directed that, in addition to AET, all military and civilian employees involved in the acquisition process be provided with face-to-face acquisition ethics training by November 1, 2005. OGE commends DA for providing ethics training tailored to the acquisition process, especially in light of a past high-profile investigation involving a procurement official at a military department. This has resulted in MEDCOM exceeding the minimum regulatory requirement by providing additional ethics training opportunities to certain employees.

The acquisition ethics training materials, which consisted of training slides and a pamphlet, were developed by DA officials and disseminated to subordinate offices for local adaptation. The training slides included such topics as Government purchase cards, organizational conflicts of interest, and post-Government employment with contractors. The

⁷ The SJA has arranged for a different point of contact to maintain the training statistics at OTSG.

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Primary Ethics Counselor's contact information was provided. The pamphlet included such topics as the Procurement Integrity Act, gifts from contractors, traveling with contractors, and seeking and post-Government employment restrictions.

Numerous acquisition ethics training sessions were held. The Primary Ethics Counselor offered acquisition ethics training immediately after certain AET sessions and in stand-alone sessions. Employees could also attend sessions offered by subordinate ethics offices. OTSG employees involved in the acquisition process were trained either in-person or via video teleconference.

Sign-in sheets were used to track completion of acquisition ethics training.⁸ According to MEDCOM, a total of 93 employees were required to receive acquisition ethics training by November 1, 2005. With the exception of 10 employees, all employees subject to acquisition ethics training were trained by the deadline. The remaining 10 employees received their training on November 18, 2005.

Additional DA-Specific Requirement

In April 2005, the Secretary of the Army issued a memorandum which directed all military and civilian employees to review several documents, including the 14 Principles, by June 30, 2005. Although there was no requirement to track and report compliance with the memorandum, employees of OTSG, MEDCOM, and MEDCOM's major subordinate commands were instructed to comply with this requirement through a memorandum issued by TSG/CG. Additionally, the memorandum was distributed to new employees as part of the in-processing package of materials and at every training session held at MEDCOM and OTSG until the deadline. OGE commends DA's efforts to emphasize the importance of ethical conduct.

Contractor Training

New contractor employees in-process with OSJA. The Ethics Paralegal explains to contractors that the ethics regulations apply only to Government employees. However, as a courtesy, she provides the contractors with materials for their own edification. The materials consist of handouts concerning restrictions on Government employees' contact with contractors. OGE commends MEDCOM for making contractor employees aware of the restrictions on the interactions between Government and contractor employees.

⁸ Pursuant to guidance issued by DA OGC, training records are kept at the local level only. MEDCOM was neither required to submit its own monthly acquisition ethics training statistics to DA SOCO nor collect the statistics for subordinate offices.

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Ethics Staff Keeping Abreast Of Ethics Issues

OGE commends the members of MEDCOM's ethics staff for their efforts to remain current with developments on the ethics front. They subscribe to OGE's Ethics News and Information e-mail list service (ListServ) and to DOD SOCO's e-mail News List. They also receive periodic e-mails from DA SOCO which are received by the SJA who forwards the e-mails to the rest of the ethics staff.

MEDCOM encourages the ethics staff in subordinate offices to further their knowledge of ethics. For example, MEDCOM distributed an article about writing letters of recommendation, notified subordinate offices of upcoming DA OGC training opportunities, and provided instructions on how to subscribe to ListServ.

Ethics Web Page

Ethics resources are contained on the OTSG/MEDCOM ethics Web page which employees access via Army Knowledge Online. The resources include, among other things, the ethics staff's contact information, financial disclosure forms, in-processing materials, ethics information papers, training schedules, and information on post-Government employment.

According to the Command Chief Paralegal NCO, who is the administrator for the ethics Web page, there are plans to raise the visibility of the ethics Web page by having a prominent link to the page placed on the home pages of Army Knowledge Online and the Army Medical Department. OGE applauds MEDCOM for making ethics information easily accessible to its employees, including those who are not within close physical proximity to MEDCOM's ethics staff, such as employees based at OTSG and those working for executive agencies to which MEDCOM provides ethics services.