



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Selective Service System

Report No. 11-022
May 2011

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Selective Service System's (SSS) ethics program during April 2011. In general, the results indicate that the majority of the elements of their ethics program appear to be effectively administered and in compliance with applicable laws, regulations, and policies. However, aspects of the public financial disclosure program need to be improved before the program is in full compliance.

Highlights

- SSS provides post-employment counseling to all departing employees.
- The advice and counseling element is well administered.

Concerns

- Public financial disclosure reports did not meet the standard of completeness.

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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 SSS's ethics program, OGE examined a variety of documents provided by ethics officials; other documents that SSS forwarded to OGE, including the annual questionnaire; prior program review reports; and a sample of SSS's public and confidential financial disclosure reports and advice and counsel provided to employees. In addition, members of OGE's Program Review Division met with the Designated Agency Ethics Official (DAEO) and the Alternate DAEO (ADAEO) to obtain additional information about the strengths and weaknesses of SSS's ethics program, seek clarification on issues that arose through the documentation analysis, and verify data collected.

Program Administration

SSS's ethics program is administered within the Office of General Counsel (OGC). The General Counsel (GC) serves as the DAEO. A manager in the Registration Division serves as the ADAEO. The DAEO is primarily responsible for the day-to-day administration of the ethics program.

Because the DAEO also holds the position of GC, ethics officials consistently have a voice in matters affecting the agency. OGE believes this agency structure is advantageous in proactively addressing ethics concerns that could affect the agency.

Financial Disclosure

SSS has detailed written procedures for the administration of the financial disclosure system. The DAEO indicated that all covered employees filed the required financial disclosure reports in 2010. OGE reviewed all required non-PAS 2010 public financial disclosure reports and 2011 confidential financial disclosure reports. The reports were generally timely filed and certified.

OGE found weaknesses in the completion and review of public financial disclosure reports. As discussed with the DAEO, of the five public financial disclosure reports filed at SSS, three of the reports were incomplete, and the additional information was needed to complete a conflict of interest determination. For example, outside positions and income were omitted and underlying holdings of retirement benefit plans and other financial instruments were not provided. In addition, other, non-critical information, such as the employee's date of appointment or date of entry on duty, was missing as well. Financial disclosure files showed no evidence of follow-up

or corrective action taken to ensure accurate reporting.¹ Additionally, one new entrant public report was not certified at the time of OGE's review.

SSS currently has designated 19 positions to be confidential filers. However, the DAEO thinks that many of these positions do not present potential for conflicts because of their duties and SSS's mission. OGE believes that only those employees whose duties present potential conflicts should file and encourages SSS to reevaluate its designations periodically and make changes, as appropriate.

SSS had retained financial disclosure reports beyond the 6-year retention period specified by 5 CFR § 2634.603(g) and 5 CFR § 2634.604(a). During OGE's review, the DAEO destroyed all the copies of financial disclosure reports older than 6 years.

Recommendation

- SSS ethics officials should ensure that public reports are complete and accurate before certification.

Suggestions

- Improve the DAEO's financial disclosure review proficiency through additional training.
- Maintain records of review with financial reports.
- Reevaluate SSS's designation of confidential filers using guidance found in 5 CFR § 2634.904 and DO-94-031.

Education & Training

SSS ethics officials reported that all required employees received initial ethics orientation (IEO) within 90 days of their date of entry in 2010. The Human Resources office administers IEO as part of the new employee in-processing. OGE reviewed SSS's IEO materials and found them to be in compliance with 5 CFR § 2638.703.

Additionally, all required employees received annual ethics training in 2010. Public filers received in-person annual training provided by the DAEO. SSS annual ethics training materials used in 2010 were in compliance with 5 CFR § 2638.704. OGE also examined SSS's 2011 annual training plan and found that it met the requirements of 5 CFR § 2638.706.

Model Practice

- Post-employment counseling is provided to all employees.

¹The DAEO explained that filers often provide a draft of their report, which is reviewed by the DAEO. Corrective action is provided where necessary. Draft reports with corrections are not maintained.

Advice & Counsel

OGE reviewed a sample of SSS's written advice and counsel issued to employees and found that all pieces of advice and counsel appeared thorough and that the DAEO responded to employee requests for advice in a reasonable amount of time. SSS's advice and counseling process is clearly defined within the agency, with the DAEO handling all ethics-related questions. OGE was impressed with the DAEO's commitment to providing advice and counsel to employees, both formally and informally. The DAEO indicated that he provides all advice in writing via email and therefore has a record of every piece of advice rendered. Additionally, the DAEO issues cautionary memoranda to employees as needed, as well as regular advisories about timely ethics issues agency wide. The DAEO also takes advantage of actual ethics-related situations to advise employees about the rules and the potential consequences for their actions. OGE commends the DAEO for his vigilance.

Enforcement

SSS reported no disciplinary actions based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635) or the criminal conflict of interest statutes, 18 U.S.C §§ 203, 205, 207, 208, and 209. SSS made no referrals to the Department of Justice of potential violations of the criminal conflict of interest statutes in 2010. SSS does not have a dedicated Office of Inspector General (OIG) nor any affiliation with another OIG.

Model Practice

- A Personnel Policies and Procedures Manual, which includes a Table of Penalties that contains a description of the penalties for violations of the standards of ethical conduct, is available to all employees in the agency intranet.

1353 Travel Acceptances

SSS does not accept payments from non-Federal sources under 31 U.S.C. § 1353. With the exception of the most recent semiannual report covering the period from April 1, 2010, through September 30, 2010, all negative reports were submitted by SSS to OGE in a timely manner. The DAEO provided the missing report during OGE's review.

Ethics Agreements

One Presidentially appointed, Senate confirmed official (PAS) entered into an ethics agreement during the last two calendar years. The PAS official complied with his ethics agreements in a timely fashion.

Agency Comments

On April 26, 2011 OGE provided a draft report to SSS for review and comment. SSS's written response to our draft was received on May 3, 2011. Their full comments are attached. In

general, SSS was pleased with OGE's overall finding that the majority of the elements of its ethics program appeared to be effectively administered and in compliance with applicable laws, regulations and policies. SSS also recognized that there is room for improvement in the Agency's ethics program. SSS had issues, however, with the basis for OGE's finding of substantial weaknesses in the completion and review of public financial disclosure reports. SSS did concur with OGE's recommendation that SSS ethics officials should ensure that public reports are complete and accurate before certifying. In response to SSS's comments, on May 3, 2011, OGE provided the DAEO with additional information regarding specific public financial disclosure reports that were examined during the onsite review.

**Selective Service System (SSS)
Comments on OGE's Ethics Review Report**

1. Selective Service is pleased with OGE's overall finding that the majority of the elements of its ethics program appear to be effectively administered and in compliance with applicable laws, regulations, and policies. In addition, it was delighted that OGE asked whether it could use its written procedures for the administration of the financial disclosure system as a model for other small agencies. Nevertheless, it recognizes that there is room for improvement in the Agency's ethics program and welcomes OGE's recommendations and suggestions for improvement.
2. OGE Report Finding: *"OGE found substantial weaknesses in the completion and review of public financial disclosure reports. Notably, the majority of public financial reports filers failed to report their assets in accordance with statutory and regulatory requirements. New entrant public reports were missing information such as the employee's date of appointment or date of entry on duty, outside positions and income, and underlying holdings of retirement benefit plans and other financial instruments. Financial disclosure files showed no evidence of follow-up or corrective action taken to ensure accurate reporting. Additionally, one new entrant public report was not certified at the time of OGE's review."*

Comment: Although it may be accurate, Selective Service does not understand the basis for OGE's finding of "substantial" weaknesses *in the completion and review of public financial disclosure reports*. It would have been helpful if during the review process OGE had specifically identified the weaknesses on each report. Without knowing what it specifically found deficient in each report, SSS does not believe the reasons provided to support a finding of substantial weaknesses accurately reflect the extent of weaknesses.

Per its report, OGE reviewed all required non-PAS 2010 public financial disclosure reports. This resulted in OGE reviewing five public financial disclosure reports, including one termination report, filed by four employees. Below are the Agency's responses to the reasons OGE provided to support its finding of substantial weaknesses.

The "majority" of public financial reports filers failed to report their assets in accordance with statutory and regulatory requirements: OGE reviewers informed the DAEO that reports were missing underlying holdings of retirement benefit plans. They identified no particular report(s) that were deficient and did not identify any other failure to properly report assets. Of the five reports reviewed by OGE, only one report failed to list underlying

assets of retirement benefit plans as required. Three of the four public filers either did not have reportable retirement plans, listed underlying holdings, or their retirement plan was in an excepted investment fund not requiring the listing of underlying holdings.

New entrant public reports were missing information such as the employee's date of appointment or date of entry on duty, outside positions and income, and underlying holdings of retirement benefit plans and other financial instruments: Only one new entrant report was missing the employee's date of appointment and underlying holdings of retirement benefit plans. Also, both new entrant public reports contained required information on outside positions and income.

Financial disclosure files showed no evidence of follow-up or corrective action taken to ensure accurate reporting: Of the five reports OGE reviewed, only one filer failed to include his date of appointment and underlying holdings of his retirement benefit plans. In addition, filers at SSS often provide the DAEO with a draft of their completed report prior to formally submitting it. After review by the DAEO, corrective action is provided where necessary. This is why financial disclosure files show no evidence of follow-up or corrective action taken to ensure accurate reporting. Draft reports with corrections were not maintained.

One new entrant public report was not certified at the time of OGE's review: This finding is accurate. One out of the five reports reviewed was not timely certified.

3. OGE Recommendation: SSS ethics officials should ensure that public reports are complete and accurate before certifying.

Comment: Selective Service concurs.

May 3, 2011