



United States Office
Of Government Ethics

Report Number 08-003

Highlights

Model Practices

- The Board prepares financial disclosure packages that contain useful documents for filers.
- The Board utilizes a tracking system that helps manage financial disclosure, training attendance, outside employment, and waivers.
- The Board tailors education and training to provide relevant training to specific audiences.
- The Board reassesses confidential financial disclosure covered positions to ensure that positions meet the filing requirements.
- The Board exhibits substantial leadership support for the ethics program.

If you have comments or would like to discuss the report, please contact Dale Christopher, Associate Director for Program Reviews, at 202-482-9224.

Ethics Program Review Board of Governors of the Federal Reserve System

April 2008 Report

Executive Summary

The Office of Government Ethics (OGE) has completed its review of the ethics program at the Board of Governors of the Federal Reserve System (Board). The purpose of a review is to identify and report on the strengths and weaknesses of a program by evaluating: (1) agency compliance with ethics requirements found in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program. OGE determined that there is reasonable assurance that the performance and management of the Board's ethics program is effective.

OGE also identified several model practices that the Board has implemented. The model practices include:

- preparing financial disclosure packages with useful documents;
- creating an advanced tracking system for financial disclosure, training, outside employment, and waivers;
- tailoring education and training to provide relevant training to targeted audiences;
- reassessing confidential financial disclosure covered positions to ensure that positions meet the filing requirements; and
- exhibiting substantial leadership support for the ethics program at the Board.

This report has been forwarded to the Board's Designated Agency Ethics Official and the Board's Assistant Inspector General.



United States Office
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Report Number 08-003

Ethics Program Review

Board of Governors of the Federal Reserve System

April 2008 Report

Introduction

OGE 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 initiatives.

PURPOSE OF A REVIEW

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 found in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures in place for administering the program.

REVIEW AUTHORITY AND SCOPE

OGE has the authority to evaluate the effectiveness of executive agency ethics programs. *See* Title IV of the Ethics in Government Act of 1978, as amended (the Ethics in Government Act), and 5 CFR part 2638. OGE's review of the Board of Governors of the Federal Reserve System (Board) focused on the elements listed below.

- Leadership involvement in the ethics program
- Program structure
- Financial disclosure systems
- Ethics education and training
- Ethics counseling
- Outside employment
- Enforcement of ethics laws and regulations
- Travel payments from non-Federal sources

Ethics Program Review: Board

OGE's review focused on the ethics program at the Board's headquarters and the on-site fieldwork was conducted in March 2008.

Program Elements

This report consists of descriptions, analyses, and conclusions regarding each program element reviewed.

LEADERSHIP

Commitment and action by agency leadership is the keystone for ensuring the integrity of an agency's ethical culture and for fostering public confidence in the decision-making processes of Government. Leadership involvement in the ethics program at the Board is substantial. The Board's Chairman has underscored the importance of ethics at the Board by addressing the agency in a video introduction to the ethics intranet Web site and by providing an introduction to the Board's *Ethics Handbook for Board Employees*. The Board's Chairman not only underscores the importance of acting ethically, he also identifies the Designated Agency Ethics Official (DAEO) by name in the video. Senior management routinely emphasize the importance of the Board's ethics program by introducing ethics training sessions conducted by the DAEO and Deputy DAEO. Also, the physical location of the DAEO's office directly across from the General Counsel's office enhances the visibility of the ethics office and communicates leadership support for the Board's ethics program.

PROGRAM STRUCTURE

The Board's ethics program is administered within the Office of the General Counsel. The Assistant General Counsel serves as the DAEO and is closely involved in the administration and day-to-day duties of the ethics program. The General Counsel serves as the Alternate DAEO. A Senior Counsel serves as the Deputy DAEO. Another Counsel provides support in reviewing financial disclosure reports. In addition, an Ethics Coordinator provides substantial administrative support to the ethics program.

FINANCIAL DISCLOSURE SYSTEMS

Title I of the Ethics in Government Act requires that agencies ensure confidence in the integrity of the Federal Government by demonstrating that officials are able to carry out their duties without compromising the public trust. High-level Federal officials demonstrate that they are able to carry out their duties without compromising the public trust by disclosing publicly their personal financial interests (SF 278). Title I also authorizes OGE to establish a confidential financial disclosure system for less senior executive branch personnel in certain designated positions to facilitate internal agency conflict of interest review (OGE Form 450).

Ethics Program Review: Board

Financial disclosure serves to prevent conflicts of interest and to identify potential conflicts by providing for a systematic review of the financial interests of both current and prospective officers and employees. The financial disclosure reports also assist agencies in administering their ethics programs and providing counseling to employees. See 5 CFR § 2634.104(b).

OGE's review found that the public and confidential financial disclosure systems at the Board are managed effectively. The Board's ethics officials have developed comprehensive written procedures for managing the financial disclosure systems. The written procedures contain detailed instructions to aid in the review of public and confidential financial disclosure reports. The instructions ensure that all information provided is analyzed to identify real or potential conflicts of interest.

The Board's ethics officials prepare packages to help filers complete financial disclosure reports. The packages contain such documents as: a cover memorandum from the DAEO with instructions and tips on filling out the forms, a blank financial disclosure form, the filer's last financial disclosure report (if the filer is a public filer), and a pre-addressed return envelope. Preparing financial disclosure packages with useful documents is a model practice.

The ethics office at the Board utilizes a tracking system called FDDTRACS. The tracking system contains information regarding financial disclosure, outside activities, waivers, divestitures, and training. FDDTRACS is an advanced tracking system that can be queried in a variety of ways including name, covered position, training type, date of report submission, and division. The use of FDDTRACS is a model practice.

Public Financial Disclosure System (SF 278)

Upon receipt of the public financial disclosure reports, the Ethics Coordinator conducts the initial review. The initial review evaluates technical sufficiency, liabilities, assets, and outside activities. After the initial review, the public financial disclosure reports are forwarded either to the DAEO, the Senior Counsel or the Counsel to review and certify.

To evaluate the filing, review, and certification of public reports at the Board, OGE examined 35 of the approximately 260 public reports required to be filed in 2007. These 35 reports consisted of:

Type of Report

- 29 incumbent reports
- 6 new entrant reports

Ethics Program Review: Board

Filing Timeliness

- All 35 reports were filed timely.

Review Timeliness

- All 35 reports were reviewed in a timely manner.

Certification Timeliness

- All 35 reports were certified in a timely manner.

Quality of Review

Written comments on the reports and documentation in the files indicated that the reports underwent a thorough review by the Board's officials. In some cases there was evidence of communication with the filer regarding follow-up questions. Also, the OGE team encountered several examples of ethics-related counseling rendered by the ethics office to the filer archived in the public financial disclosure files. Memorializing ethics counseling in the public financial disclosure files is a model practice. Ethics officials review the counseling rendered to public filers before reviewing and certifying the public financial disclosure reports; this step may identify whether the recommended action suggested by the ethics office was undertaken.

Confidential Financial Disclosure System (OGE Form 450/A)

A daily e-mail from the Management Division informs the DAEO and the Ethics Coordinator of the name and grade of all employees who have received a salary action that day. This e-mail notifies the ethics office of new employees and changes in salary or position. The ethics office routinely communicates with Division Administrators to determine whether a position should require the filing of a confidential financial report. During OGE's review of the confidential financial disclosure reports, OGE identified evidence of meetings between the ethics office and Division Administrators that identified new covered positions. According to the DAEO, the ethics office routinely reassesses confidential disclosure covered positions to ensure that positions meet the filing requirements. The routine reevaluation of a covered position is a model practice.

Upon receipt of the confidential financial disclosure reports, the Ethics Coordinator conducts the initial review. The initial review evaluates technical sufficiency, liabilities, assets, and outside activities. After the initial review, the confidential financial disclosure reports are forwarded to the DAEO, the Senior Counsel or Counsel to review and certify.

Ethics Program Review: Board

To evaluate the confidential financial disclosure system at the Board, OGE examined 42 of the 384 confidential reports required to be filed by the Board's headquarters employees in 2007. These 42 reports consisted of:

Type of Report

- 37 annual reports
- 5 new entrant reports

42

Filing Timeliness

- 40 reports were filed timely.
- 2 reports were filed more than 30 days late.

42

Review Timeliness

- All 42 reports were reviewed in a timely manner.

Certification Timeliness

- All 42 reports were certified in a timely manner.

Quality of Review

Written comments on the reports and documentation in the files indicated that the reports underwent a thorough review by the Board's ethics officials. In some cases there was evidence of communication with the filer regarding follow-up questions. In some files the OGE review team identified memoranda of meetings between the ethics office and Division Administrators that identified new covered positions.

ETHICS EDUCATION AND TRAINING

An ethics education and training program is essential to raising awareness among employees about ethics laws and rules and informing them that an agency ethics official is available to provide ethics counseling. Each agency's ethics training program must include at least an initial ethics orientation for all employees and annual ethics training for covered employees.

Ethics Program Review: Board

The Board's education and training program is tailored to provide relevant training to specific audiences. Targeted training ensures that participants share common duties and interests; the training is assured to be relevant to the audience. The Board also targets larger divisions and schedules training to coincide with senior management meetings. Scheduling annual ethics training to coincide with senior management meetings is a model practice. According to the DAEO, senior management at the meetings introduce the ethics team and stress the importance of ethics.

The Board's ethics officials have also developed comprehensive written procedures for managing the education and training program.

Initial Ethics Orientation

Within 90 days from the time an employee begins work for an agency, the agency must provide the employee with initial ethics orientation. Initial ethics orientation must include:

- the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) and any agency supplemental standards;
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials; and
- at least one hour of official duty time to review the items described above. See 5 CFR § 2638.703.

To meet the initial ethics orientation requirement, within 90 days from the time an employee begins work at the Board, the employee is provided with:

- the Standards;
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials;
- at least one hour of official duty time to review the items described above;
- an outline of the PowerPoint presentation *New Employee Ethics Orientation*;
- a copy of the Board's *Ethics Handbook for Board Employees*,¹ and
- OGE's pamphlet, *A Brief Wrap on Ethics*.
- A copy of the pamphlet, *Political Activity and the Federal Employee*

At the Board almost every new employee receives initial ethics orientation on the first day the employee begins work. The DAEO or Deputy DAEO conducts initial ethics orientation for new employees. As part of new employee briefings, new Board employees are shown OGE's

¹ The *Ethics Handbook for Board Employees* contains an introduction by the Board's Chairman along with the Standards, the Board's supplemental ethics rules, and summaries of the criminal conflict of interest laws, the conflict of interest exemptions, the seeking employment restrictions, the post-employment restrictions, and the Hatch Act.

Ethics Program Review: Board

video, *Integrity in Public Service*. After the video presentation, the DAEO or the Deputy DAEO discusses the criminal conflicts of interest laws, OGE rules, the Board's supplemental rules, the Hatch Act, and other provisions outlined in the previously mentioned PowerPoint presentation. The ethics officials discuss these provisions in the context of examples specifically tailored to the duties of new employees in attendance.

According to the Board's ethics officials, initial ethics orientation was provided to all new employees who entered on duty during 2007.

Annual Ethics Training

Public financial disclosure filers are required to receive verbal annual ethics training each year. See 5 CFR § 2638.704(a). Verbal training includes training prepared by a qualified instructor and presented by telecommunications, computer, audiotape, or videotape. See 5 CFR § 2638.704(c)(2). Other covered employees (e.g., confidential filers) are required to receive verbal annual ethics training at least once every three years and may receive written annual training in the intervening years. See 5 CFR § 2638.705(c). The content requirements for both public filers and other covered employees are the same. Agencies are encouraged to vary the content of annual training from year to year but the training must include, at least, a review of:

- the 14 Principles of Ethical Conduct;
- the Standards;
- any agency supplemental standards;
- the Federal conflict of interest statutes; and
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials. See 5 CFR § 2638.704(b).

OGE reviewed the following Board annual ethics training materials:

- *Annual Ethics Training*, a presentation which focused on all employees, and
- *Monetary and Consumer Affairs Section: Ethics Training*, which focused on a particular division.

OGE's review of these materials found them to meet the annual ethics training content requirements.

In 2007 all 5 PAS public filers received one-on-one annual ethics training and all of the required non-PAS public financial disclosure report filers were trained. The Board's ethics officials stated that all 384 confidential financial disclosure report filers were trained.

Ethics Program Review: Board

ETHICS COUNSELING

The DAEO is required to ensure that a counseling program for agency employees concerning ethics and standards of conduct matters, including post-employment matters, is developed and conducted. *See* 5 CFR § 2638.203. The DAEO may delegate to one or more deputy ethics officials the responsibility for developing and conducting the counseling program. *See* 5 CFR § 2638.204.

OGE's assessment of an ethics counseling program focuses on five factors: (1) accuracy, (2) timeliness, (3) transparency, (4) accountability, and (5) consistency. To determine whether an agency's counseling program successfully addresses these factors, OGE reviews and assesses the program's processes and written procedures. Further, OGE reviews selected samples of advice to assess whether processes and written procedures are effective.

To meet the counseling requirements at the Board, ethics-related counseling is provided to employees primarily by the DAEO and Deputy DAEO.

To evaluate the ethics counseling provided, OGE analyzed samples of memorialized ethics counseling. Generally, the ethics counseling was in the areas of criminal statutes, gifts (including gifts from outside sources and gifts between employees), misuse of position, impartiality, and outside employment. OGE found that the advice rendered was thorough, accurate, and consistent with applicable statutes and regulations.

OUTSIDE EMPLOYMENT

All of the Board's employees who are required to file a financial disclosure report must obtain written approval prior to beginning any outside employment. *See* 5 CFR § 6801.109. The employee's Division Director must review the outside employment request and provide an approval signature. The request is then forwarded to the DAEO for concurrence under 5 CFR § 6801. Outside employment is tracked via the FDDTRACS tracking system and a copy of the form is included in the employee's financial disclosure file.

ENFORCEMENT

The DAEO is required to ensure that (1) information developed by internal audit and review staff, the Office of the Inspector General, or other audit groups is reviewed to determine whether such information discloses a need for revising agency standards of conduct or for taking prompt corrective action to remedy actual or potential conflict of interest situations and (2) the services of the agency's Office of the Inspector General are utilized when appropriate, including the referral of matters to and acceptance of matters from that Office. *See* 5 CFR § 2638.203(b)(11) and (12).

Ethics Program Review: Board

Ethics officials at the Board are meeting the requirements of 5 CFR § 2638.203(b)(11) and (12) by coordinating with the Office of the Inspector General (OIG) on ethics-related matters. The Board's ethics officials have an effective working relationship with OIG and coordinate as necessary with OIG. The Assistant Inspector General explained that there is an effective working relationship with the ethics officials at the Board.

There were no criminal conflict of interest violations referred to the Department of Justice during 2007. During the same period, there were no substantiated violations of the Standards of Ethical Conduct for Employees of the Executive Branch.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

An employee may accept payment of travel expenses from a non-Federal source on behalf of the employee's agency for official travel to a meeting or similar function when specifically authorized to do so by the agency. Agencies must submit semiannual reports of travel payments from non-Federal sources in excess of \$250 to OGE. *See* 31 U.S.C. § 1353.

The Board accepts travel payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel for attendance at a meeting or similar function under the authority of 31 U.S.C. § 1353. The procedures for requesting and receiving authorization for acceptance of travel payments from a non-Federal source are outlined in internal operating procedures. Employees must provide specific information regarding the acceptance of the payment in advance.

Agencies are required to submit to OGE semiannual reports of all payments accepted by the agency under 31 U.S.C. § 1353. OGE reviewed two semiannual reports sent to OGE covering the period from October 1, 2006 through September 30, 2007. All of the semiannual reports were submitted using the appropriate SF 326. Both semiannual reports were submitted to OGE in a timely manner. As part of this review, OGE examined the supporting documentation for 20 of the reported 118 acceptances. Of the 20 acceptances OGE examined, OGE found that all were approved prior to the occurrence of travel. It appeared that the travel payments accepted under § 1353 were properly authorized. Conflict of interest analyses were conducted as part of the approval process for each acceptance.

Summary

OGE's review determined that there is reasonable assurance that the performance and management of the Board's program is effective.

OGE also identified several model practices that the Board's ethics office has implemented. The model practices include:

Ethics Program Review: Board

- preparing financial disclosure packages with useful documents;
- creating an advanced tracking system for financial disclosure, training, outside employment, and waivers;
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