



United States Office
Of Government Ethics

Report Number 09 - 006

Highlights

Model Practices

- NETC leadership provides support for the NETC ethics program.
- NETC provides verbal ethics training to all new employees and to non-filers.
- NETC uses discretionary training to reinforce the importance of ethics.

OGE Suggests

- NETC continually monitor the confidential financial disclosure filing process to ensure that all new entrant confidential reports are filed timely in light of the role financial disclosure plays in preventing employees from committing ethics violations.

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

Ethics Program Review Naval Education and Training Command Department of the Navy

January 2009 Report

Executive Summary

The United States Office of Government Ethics (OGE) has completed its review of the ethics program at the Naval Education and Training Command (NETC). 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's review identified several model practices implemented by NETC. These model practices include agency leadership support for the ethics program, an ethics training program that exceeds the minimum training requirements, and discretionary training that reinforces the importance of ethics as it relates to Government contractors in the Federal workplace.

In light of the role financial disclosure plays in preventing employees from committing ethics violations, OGE suggests that NETC continually monitor the confidential financial disclosure filing process to ensure that all new entrant confidential reports are filed timely.

This report has been sent to the Department of the Navy's Designated Agency Ethics Official, the NETC Commander, and the NETC Inspector General.



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Ethics Program Review

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Introduction

OGE MISSION

The United States 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 Naval Education and Training Command (NETC), Department of the Navy (Navy), focused on the elements listed below.

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

Ethics Program Review: NETC

This report details OGE's review of NETC located in Pensacola, Florida. The on-site fieldwork for this review was conducted in March 2008 and focused on calendar years 2007 and 2008.

OGE has also conducted reviews of the semi-autonomous ethics programs at the following Navy activities and components:

- Naval Hospital Pensacola;
- Naval Air Systems Command (Headquarters);
- Naval Air Warfare Center, Aircraft Division;
- Naval Audit Service; and
- Regional Legal Services Office, Naval District of Washington

Reports detailing OGE's review of these activities and components will be issued separately.

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. As part of OGE's ethics program review, the OGE review team met with the Commander of NETC to discuss the scope of the review and the importance of agency leadership in implementing an effective ethics program, in accordance with 5 CFR § 2638.202(a). OGE considers leadership involvement in an ethics program to be a model practice and noted that the Commander incorporates personal leadership into the day-to-day management of NETC's ethics program.

PROGRAM STRUCTURE

Responsibility for administering the ethics program at NETC is shared by the NETC Force Judge Advocate (FJA) and the NETC Counsel and Assistant Counsel. The FJA administers the program for military employees while the Counsel and Assistant Counsel administer the program for civilian employees. OGE found all ethics officials to have been delegated the authority to perform the duties and responsibilities as Ethics Counselors for NETC, in accordance with subsection 1-412 of the Department of Defense 5500.7-R, Joint Ethics Regulation (JER).

Ethics Program Review: NETC

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).

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 in providing counseling to employees. See 5 CFR § 2634.104(b).

Public Financial Disclosure System (SF 278)

The NETC Commander is the only employee that meets the filing criteria found at subpart B of 5 CFR part 2634 for public financial disclosure filing. OGE did not examine the Commander's report because it is filed with and maintained by the Navy's Judge Advocate General. OGE did, however, confirm that the annual report filed by the Commander was timely filed and reviewed and certified.

Confidential Financial Disclosure System (OGE Form 450)

The procedures in place to administer the confidential financial disclosure system at NETC are consistent with the requirements of the JER and appear to help ensure the systemic integrity of the confidential system.

The FJA is responsible for maintaining the master list of confidential filers, for notifying employees of their requirement to file, and for tracking new entrant and incumbent filers. In accordance with the requirements of Chapter 7 of the JER, completed confidential reports are forwarded to the filers' immediate supervisors who review them for conflicts of interest. (The review for potential conflicts is based on the supervisor's personal knowledge of the filer's duties and responsibilities.) Upon completing their review, supervisors are required to forward the reports to the FJA, who is responsible for the final review and certification of the reports filed by military employees and for forwarding the reports filed by civilian employees to the NETC Counsel for final review and certification.

Because all certified reports are returned to the various subordinate activities and detachments for retention, OGE limited the scope of its examination to the confidential reports filed and maintained at NETC Headquarters. As a result, OGE examined 11 reports that were required to be filed in 2008. These 11 reports consisted of:

Ethics Program Review: NETC

Type of Reports

- 8 annual reports
- 3 new entrant reports

11 total

Filing Timeliness

- All 8 annual reports were filed timely.
- All 3 new entrant reports were filed late. All were filed during the annual filing cycle.

Review/Certification Timeliness

- All 11 reports were reviewed and certified in a timely manner.

Quality of Review

- All 11 reports appeared to have been reviewed properly for potential conflicts of interest.

General Observation

Recognizing the challenges military agencies face to address the issue of timely new entrant filing, OGE does not consider the three late new entrant reports to be an egregious matter. However, in light of the role that financial disclosure plays in preventing employees from committing ethics violations, OGE suggests that ethics officials continually monitor the confidential filing process to ensure that all new entrant confidential reports are filed timely.

ETHICS 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.

Initial Ethics Orientation

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

- the Standards of Ethical Conduct for Executive Branch Employees (Standards) and any agency supplemental standards;

Ethics Program Review: NETC

- the names, titles, office addresses, and phone numbers of the Designated Agency Ethics Official (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.*

NETC exceeds the minimum IEO requirement by providing new employees with an in-person IEO presentation on the key ethics principles. The NETC Counsel or Assistant Counsel provides new employees with an overview of:

- the 14 Principles of Ethical Conduct for Government Officers and Employees;
- the Navy Code of Ethics, which briefly summarizes ethics issues;
- special topics such as the Hatch Act, fundraising, and endorsement issues; and
- the contact information for NETC ethics officials.

According to NETC ethics officials, an IEO was provided to all new employees who began work at NETC during 2007.

Annual Ethics Training

Public financial disclosure filers are required to receive verbal annual ethics training. *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 ethics training at least once every three years and may receive written 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).*

To satisfy the annual training requirement for 2007, NETC required all covered employees to complete the Department of Defense (DoD) Standards of Conduct Office's online ethics training module, which in 2007 focused on a variety of ethics topics including conflicting financial interests, outside employment and activities, fundraising, gifts between employees, contractors and holiday parties, post-Government service restrictions, and supervisor responsibilities.

Upon the completion of training, covered employees were required to email or provide a hard copy of their training certificate to the Ethics Office through their supervisor to certify their

Ethics Program Review: NETC

training completion. During discussions with NETC ethics officials, OGE was assured that all covered employees completed annual ethics training in 2007.

OGE's annual training requirement was exceeded in that all NETC employees, not only covered employees, were required to receive annual ethics training in 2007. OGE acknowledges that providing ethics training to non-covered employees is a model agency practice and encourages NETC ethics officials to continue this effort.

Discretionary Training

NETC conducts specialized in-person briefings for NETC employees who work closely with contract personnel. These briefings are designed to promote awareness, to address issues of concern, and to help generate questions and answers. OGE considers the use of discretionary training, particularly as it relates to Government contractors in the Federal workplace, to be a model agency practice and a useful way to reinforce the importance of ethical conduct.

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 counseling to assess whether processes and written procedures are effective.

NETC has complied with 5 CFR § 2638.203(b)(7) and (8) by developing and conducting a counseling program for employees concerning all ethics matters, including post employment matters, with records being kept, when appropriate, on the counseling rendered. OGE examined a sample of the ethics-related counseling dispensed by NETC ethics officials in 2007 and 2008 on various ethics-related issues and found the counseling to have been responsive to the needs of NETC employees. The counseling that OGE reviewed was generally rendered promptly and was consistent with applicable laws, regulations, and OGE guidance.

OGE found that NETC met the requirements of subsection 9-502 of the JER with regard to providing guidance on the relevant Federal and DoD post-Government service employment restrictions to departing employees. Post-employment counseling is provided in the form of three separate documents prepared by DoD's Standards of Conduct Office. The documents outline the basic post-employment restrictions. These documents consist of Post-Employment Service Employment Restrictions, Procurement Integrity Act Restrictions, and Seeking Employment Restrictions (Rules When You are Looking for a New Job). Should an employee have specific

Ethics Program Review: NETC

questions or request a formal ethics opinion, a post-Government service ethics questionnaire is required to be used. This questionnaire provides NETC ethics officials with the pertinent information needed to provide written counseling to the employee on the post-Government service restrictions.

ENFORCEMENT

The Navy 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).

It appears that an effective working relationship has been established between NETC ethics officials and the NETC Inspector General, as evidenced by their regular communication on matters of mutual interest. Both parties consider their coordination with one another fundamental to their respective missions.

There were no referrals for prosecution to the Department of Justice involving alleged violations of the criminal conflict of interest statutes during the period covered by OGE's review. However, OGE determined that NETC ethics officials are aware of the requirements prescribed in 5 CFR § 2638.603 and Chapter 10 of the JER to ensure that OGE is concurrently notified of all referrals, declinations to prosecute, and disciplinary or corrective action initiated, taken, or to be taken relating to any such alleged violations. OGE was advised that, in the event a referral had been made, the Naval Criminal Investigative Service (NCIS)¹ would be responsible for concurrently notifying OGE of the referral as well as reporting the disposition, in accordance with the procedures prescribed in 5 CFR § 2638.603 and Chapter 10 of the JER.

OGE was also advised that there were no violations of the Standards during the period covered by OGE's review.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

An employee may accept payment of travel expenses from non-Federal sources 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.

¹ NCIS is the primary law enforcement and counterintelligence arm of the Navy. All suspected criminal matters, including violations of the conflict of interest statutes, are referred to NCIS for investigation.

Ethics Program Review: NETC

NETC permits employees to accept travel payments from non-Federal sources under the authority of 31 U.S.C. § 1353. While the procedures for accepting these payments are specified in Chapter 4 of the JER, they are also detailed in internal written travel procedures developed by the Navy and NETC.

OGE examined the one travel payment accepted by NETC under this authority during the period of April 1, 2007 through March 31, 2008. OGE concluded that this payment was accepted in compliance with relevant requirements.

Summary

OGE identified several model practices that NETC has implemented. The model practices include:

- the involvement of NETC leadership in support of the NETC ethics program;
- an ethics training program that exceeds the minimum training requirements found at subpart G of 5 CFR part 2638; and
- the use of discretionary training to reinforce the importance of ethical conduct, particularly as it relates to Government contractors in the Federal workplace.

Suggestion

OGE suggests that NETC:

- Continually monitor the confidential financial disclosure filing process to ensure that all new entrant confidential reports are filed timely in light of the role that financial disclosure plays in preventing employees from committing ethics violations.

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