

United States Office of Government Ethics

Program Review Division

Ethics Program Review

Committee for Purchase From People Who Are
Blind or Severely Disabled

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review in August 2012 of the ethics program of the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee). The results of the review indicated that the Committee’s ethics program generally appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

Highlight

- In-person initial ethics orientation and annual training are provided to all employees.

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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 (Ethics Act) and 5 CFR, part 2638.

To assess the Committee’s ethics program, OGE examined a variety of documents provided by Committee ethics officials, including the 2011 annual questionnaire, public and confidential financial disclosure reports, prior program consultative memoranda, and advice and counsel provided to employees. In addition, members of OGE’s Program Review Division met with ethics officials to obtain additional information about the strengths and weaknesses of the Committee’s ethics program, seek clarification on issues that arose during OGE’s analysis of the documents collected, and verify data collected.

Program Administration

The Committee is an independent federal agency that administers the AbilityOne Program¹ pursuant to the Javits-Wagner-O'Day Act (41 USC Chapter 85). Through AbilityOne the Committee implements its mission to create employment and training opportunities for people who are blind or who have other significant disabilities. The Committee is composed of 15 members who are Presidential appointees. Of the 15 members, 11 are representatives of various Federal agencies (including Departments of Agriculture, Air Force, Army, Commerce, Defense, Education, Justice, Navy, and Veterans Affairs, and the General Services Administration) and have voting privileges. Their respective agencies determine the length of the appointments. The other four Presidential appointees are private citizens who serve five year terms and may be reappointed. These four Special Government employees (SGE) are knowledgeable about the employment problems of people who are blind or have other significant disabilities, including those employed by nonprofit agencies affiliated with the AbilityOne Program. The Committee is assisted by a full-time staff of approximately 27 employees in Arlington, VA.

The Committee's General Counsel is the Designated Agency Ethics Officer (DAEO). The Chief of Staff, who also serves as the Agency Resource Manager and Chief Human Capital Officer, is the Alternate DAEO (ADAEO). The DAEO, assisted by the ADAEO, manages the daily operations of the ethics program.

Financial Disclosure

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 this by disclosing publicly their personal financial interests by completing OGE Form 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 implements this authority by requiring the covered executive branch personnel to complete 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 assist agencies in administering their ethics programs and also assist in providing counseling to employees. See 5 CFR § 2634.104(b).

Written Procedures

The Committee has issued appropriate written procedures to administer its public and confidential financial disclosure systems. The procedures cover the designation of filers, and the collection, review, storage, and access to financial disclosure reports. Additionally, the procedures include instructions on requesting and granting filing extensions. However, at the

¹ Participants in the AbilityOne Program provide products and services to the federal government.

time of the review, the procedures did not specify the due dates for filing the annual financial disclosure reports. After OGE reviewers raised this issue, ethics officials updated procedures with the due dates for submission of reports.

Submission and Review of Financial Disclosure Reports

OGE examined the two 2011 public reports required to be filed with the ethics office. OGE also examined the 12 required 2011 confidential reports filed by Committee employees. All reports were filed, reviewed and certified timely and contained no apparent substantive deficiencies.

Additionally, members from the other Federal agencies are required to submit their financial disclosure reports to the Committee's DAEO at the same time they submit them to the ethics office at the agency they are representing. The DAEO reviews all reports for timeliness and for potential conflicts of interest by comparing them with the agendas of Committee meetings. OGE reviewed copies of the financial disclosure reports and determined that the reports were sufficiently reviewed by the DAEO.

During discussions with ethics officials, OGE also learned that the Committee has designated all positions above the GS-13 level to require the employee to file a confidential financial disclosure report. However, OGE suggests that the Committee reevaluate its designations of confidential filers periodically and make changes, as appropriate, to require financial disclosure filings by only those employees whose duties and responsibilities could present potential conflicts of interest.

Suggestion

- Reevaluate and formally document the Committee's designation of confidential filers using guidance found in 5 CFR § 2634.904 and DO-94-031.

Education & Training

According to subpart G of 5 CFR 2638 each agency must have an ethics training program to teach employees about ethics laws and rules and to tell them where to go for ethics advice. The training program must include, at least, an initial agency ethics orientation (IEO) for all employees and annual ethics training for covered employees. OGE determined that the Committee's training program generally met the relevant training requirements of subpart G of 5 CFR 2638, including documenting its annual ethics training plan.

Initial Ethics Orientation

According to 5 CFR § 2638.703, within 90 days from the time an employee begins work for an agency, the agency must provide the new employee with an IEO that includes the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards), any agency supplemental standards, contact information for the agency's ethics officials, and one hour to review the materials.

Given the size of the agency and the ADAEO's position as Chief Human Capital Officer, OGE was informed that ethics officials know all employees and are able to identify new employees promptly. The DAEO explained that he provides an in-person briefing about the Standards to each new employee and that there were two new employees in 2011, with both receiving IEO. OGE determined that the briefings provided satisfy the IEO requirements of 5 CFR § 2638.703.

Annual Training

Executive agencies are required by 5 CFR § 2638.704 and 5 CFR § 2638.705 to provide covered employees annual ethics training that includes a review of the 14 General Principles of Ethical Conduct for Federal Employees (14 Principles), the Standards, any agency supplemental standards, the Federal conflict of interest statutes, and the names, titles, office address, and telephone numbers of the DAEO and other agency ethics officials available to advise the employee of ethics issues. Annual ethics training is a vital component of an agency's ethics program and is intended to assist employees carry out their official responsibilities in a manner consistent with ethics-related statutes and regulations. Additionally, annual training helps to prevent violations and maintain the public's positive perceptions of an agency and the executive branch.

Committee Members who are representatives from other Federal agencies receive annual training from their parent agency. Therefore, the Committee only provides annual training to its own 12 covered employees. (See next section for discussion of SGE training.) To satisfy the annual training requirement in 2011, the DAEO emailed all covered employees a copy of the Standards and OGE's Pamphlet "A Brief Wrap on Ethics", which covers the 14 Principles and the criminal conflicts of interest statutes. Employees were required to email the DAEO acknowledging receipt and review of the materials. In addition, during the agency's monthly all-hands meetings, the DAEO provided in-person briefings that covered items of timely interest. For example, the DAEO briefed employees on Hatch Act requirements prior to the election period and covered gifts during the holiday season. OGE reviewed the training confirmation emails to verify that all required employees received annual training in 2011.

Special Government Employees

Special Government employees (SGE) are officers or employees of the executive or legislative branch, retained, designated, appointed or employed to perform their duties, full-time or intermittently, for not more than 130 days in any 365 day period. See 18 U.S.C. § 202(a). The Committee's four private citizen members are designated as SGEs.

Financial Disclosure

The financial disclosure system for the four SGE Committee members, who file confidential reports, appears to be operating effectively. OGE examined all three annual financial disclosure reports due by the established February 15 filing deadline and one report for a newly appointed member. OGE found that all reports had been filed, reviewed, and certified timely and contained no apparent substantive deficiencies. However, OGE also noted a minor technical issue of

reappointed SGEs marking the “incumbent” box to indicate the type of report, rather than the “new entrant” box, as required. The ethics office agreed to instruct all SGEs to check the “new entrant” box on their financial disclosure reports and include information for the preceding 12 months from the date of filing.

Education and Training

The DAEO, immediately after she was sworn in, provided initial ethics orientation to the one new SGE in 2012. Annual ethics training is provided in-person by the DAEO and includes a briefing on the ethics rules. SGEs were also provided the OGE pamphlet “To Serve with Honor- A Guide on the Ethics Rules That Apply to Advisory Committee Members Serving as Special Government Employees.” This pamphlet covers the Standards, the Criminal Conflicts of interest statutes and information pertaining to the unique status of SGEs. All four SGEs completed this training in 2011.

Advice & Counsel

Pursuant to 5 CFR § 2638.203(b), the DAEO is required to ensure that a counseling program for agency employees that covers ethics and standards of conduct matters, including post-employment, is developed and conducted. The DAEO may delegate this responsibility to one or more deputy ethics officials. See 5 CFR § 2638.204. Accordingly, the Committee’s DAEO and ADAEO are responsible for providing employees advice and counsel on all ethics-related matters, including post-employment activities. Advice and counsel are typically provided in person, and OGE was informed that the ethics office does not document verbal advice. OGE, however, examined the one available piece of written advice on post-employment restrictions and determined that the advice rendered was detailed, timely, and accurate.

Enforcement

The Committee does not have its own Inspector General (IG). If an ethics issue or an allegation of a criminal conflict violation were to arise, the DAEO would coordinate with senior management for a possible referral to the Department of Justice. OGE provided the DAEO with contact information for the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to assist the Committee in securing IG services. CIGIE is statutorily established as an independent entity within the executive branch. CIGIE members include all IGs whose offices are established under section 2 or section 8G of the Inspector General Act of 1978, as amended (5 U.S.C. App.). CIGIE could be a valuable resource should the Committee require services to investigate potential ethics violations.

The Committee reported no disciplinary actions based wholly or in part upon violations of the criminal conflict of interest statutes (18 U.S.C §§ 203, 205, 207, 208, and 209) or the standards of conduct provisions (5 CFR part 2635).

Suggestion

- Establish a formal relationship with an IG to provide investigatory services to the Committee for potential ethics violations, which can be done through a memorandum of understanding.

1353 Travel Acceptances

Federal agencies may allow its employees to accept payments from non-Federal sources for travel, subsistence, and related expenses incurred on official travel under the authority of the General Services Administration regulation at 41 CFR chapter 304, implementing 31 U.S.C. § 1353. Semiannual reports of payments accepted under 31 U.S.C. § 1353 must be submitted to OGE by May 31 and November 30 of each year.

As a matter of policy, Committee employees are not permitted to accept payments from non-Federal sources under 31 U.S.C § 1353. OGE examined the Committee's last two semiannual travel reports submitted for the reporting periods from April 1, 2011 through March 31, 2012. OGE found that both reports were submitted to OGE timely, and consistent with Committee policy, the reports did not contain any listings of payments accepted by Committee employees from non-Federal sources.

Agency Comments

The draft report was provided to the ethics officials. The Committee had no substantive comments to add to the report.