

United States Office of Government Ethics

Compliance Division

Ethics Program Review

U. S. Arctic Research Commission

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the United States Arctic Research Commission's (ARC) ethics program during April and May of 2013. The review indicated that ARC's ethics program appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

Highlight

- ARC has issued a comprehensive ethics policies and procedures manual that includes an overview of the agency's ethics program administration, financial disclosure policies and procedures, and conflict of interest policies for its Commissioners.

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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, 5 U.S.C. app. § 402, and 5 C.F.R. part 2638.

To assess ARC's ethics program, OGE examined the agency's 2012 Agency Ethics Program Questionnaire, its financial disclosure reports required to be filed in 2012, ethics training provided, and documented ethics advice and counseling rendered to employees. Members of OGE's Compliance Division also met with ARC ethics officials to discuss the information initially gathered, clarify issues identified during the review, and discuss ethics program operations in further detail.

Program Administration

ARC was established in 1984 to direct and promote Arctic research and interact with Arctic residents and other stakeholders to address Arctic research needs. It consists of seven Commissioners appointed by the President, including four members from academic or research institutions, two members from private industry undertaking commercial activities in the Arctic, and one member from among the indigenous residents of the U.S. Arctic. The Director of the National Science Foundation serves as an ex officio eighth member. While the Commissioners may be compensated for their services, they are not considered employees of the United States government, per 15 U.S.C. § 4102. The agency also utilizes advisors to obtain information and advice, review draft documents, and convey information on the various scientific and engineering disciplines they represent. These advisors are also not considered Federal government employees. *See* 15 U.S.C. § 4105.

To administer its activities, ARC employs an Executive Director and a Communications Specialist in its Arlington, Virginia office, and a Deputy Executive Director in its Anchorage, Alaska office. There are no advisory committees or special Government employees at ARC. The Executive Director is the agency's Designated Agency Ethics Official (DAEO) while the Communications Specialist is the Alternate DAEO (ADAEO). The DAEO and ADAEO utilize an ethics policies and procedures manual that includes the agency's overview of its ethics program administration, its financial disclosure policies and procedures, its conflict of interest policies for its Commissioners, and the contact information of its ethics officials.

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 publicly disclose their personal financial interests using the OGE Form 278. Title I also authorizes OGE to establish a confidential financial disclosure system, in which less senior executive branch personnel in certain designated positions may be required to complete the OGE Form 450. Financial disclosure serves to prevent, identify, and resolve conflicts of interest by providing for a systematic review of the financial interests of officers and employees. The financial disclosure reports assist agencies in administering their ethics programs and also assist in providing counseling to employees. *See* 5 C.F.R. part 2634.

Written Procedures

Section 402(d)(1) of the Ethics in Government Act requires that each executive branch agency establish written procedures for collecting, reviewing, evaluating, and where applicable, making publicly available financial disclosure reports filed by the agency's officers and employees. ARC has issued written procedures that cover the collection and review of public financial disclosure reports, including a section titled "Hints for the Reviewer" that provides guidance on reviewing a report. The procedures only cover public filers because ARC does not have any confidential filers. At the time of OGE's review, the procedures did not detail how the agency

would make the reports publicly available, if requested. Ethics officials stated that they would consult with OGE if a request for release of a public report were made. ARC subsequently updated its written procedures to reflect this approach.

Financial Disclosure

ARC's DAEO, who files a public financial disclosure report that is also reviewed by OGE, is the only filer at the agency. Its other two employees were determined to be in non-filing positions as their duties did not include tasks such as funds disbursement, procurement, grants decisions, or reviews affecting non-Federal entities.

The financial disclosure report filing process is initiated when the ADAEO reminds the DAEO of the approaching filing deadline. The ADAEO maintains a spreadsheet that contains the filing due date and tracks the filing, review, and submission to OGE each year. According to ARC's ethics officials, ensuring that the report is filed timely is not difficult since the submission date is the same every year and there is only one filer. Our review of the DAEO's financial disclosure report submitted in 2012 indicated that it was filed, reviewed, and forwarded to OGE in a timely manner.

Education and Training

Initial Ethics Orientation

OGE regulation requires all new agency employees receive ethics official contact information along with the following material within 90 days of beginning work for an agency: (1) the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards) and any agency supplemental Standards to keep or review; or (2) summaries of the Standards, any agency supplemental Standards, and the Principles of Ethical Conduct (the Principles) to keep. Employees must receive one hour of official duty time to review the material. *See* 5 C.F.R. § 2638.703.

ARC has not hired a new employee since 2009. However, ethics officials stated that if a new employee were hired, the initial ethics orientation for new employees would include the Standards, the Principles, a portion of the criminal conflict of interest statutes, and the agency's ethics officials contact information. Ethics officials also stated that they would discuss ethics matters with the new employee at the time the new employment orientation material is provided. OGE reviewed the training materials for initial ethics orientation and found them to meet regulatory requirements.

Annual Ethics Training Plan

OGE regulations under 5 C.F.R. § 2638.706 require agencies to develop, at the beginning of each year, a written plan for annual ethics training. The plan must contain a brief description of the agency's annual training and include estimates of the number of employees who will receive written training.

ARC's annual training plan contains all the elements required by 5 C.F.R. § 2638.706. At the time of OGE's review the agency updated its training plan to include coverage of the Principles, the Standards, and the criminal conflict of interest statutes.

Annual Ethics Training

OGE regulation requires all covered employees receive annual ethics training consisting of a review of: (1) the Principles; (2) the Standards; (3) any agency supplemental Standards; (4) the criminal conflict of interest statutes; and (5) ethics official contact information. Training length and delivery method vary by an employee's financial disclosure filing status. *See* 5 C.F.R. § 2638.704 and 705.

According to ARC's ethics officials, annual ethics training consists of a discussion between the DAEO and ADAEO of ethics topics applicable to the agency and current events related to ethics. We suggested that it would be beneficial for ethics officials to also utilize OGE's online educational resources and various web-based ethics training offered by other Federal agencies. ARC's update of its annual training plan, as discussed above, and the resources suggested by OGE, should ensure that ARC's annual training meets the content requirements of 5 C.F.R. § 2638.704 and 705.

Advice and Counsel

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 C.F.R. § 2638.203. The DAEO may delegate to one or more deputy ethics officials the responsibility for developing and conducting the counseling program. *See* 5 C.F.R. § 2638.204.

ARC's ethics officials stated that the only instance where advice and counsel was needed in 2012 was when the DAEO requested guidance from OGE on accepting compensation from a non-Federal entity. We were provided a copy of that communication with OGE. According to the DAEO, communications relating to advice on ethics matters are maintained in email. In addition, ethics officials said their practice is to consult with OGE on any matter that requires providing ethics advice or counsel. We suggested that ARC reflect this in its ethics policies and procedures manual. OGE reviewed ARC's updated policies and procedures manual and confirmed that the agency had taken action on the suggestion.

Enforcement

ARC 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 upon violations of the Standards (5 C.F.R. part 2635). The agency utilizes the National Science Foundation's Inspector General for investigative services. However, ethics officials informed us that they would contact

OGE for advice on how to proceed on any matter involving a conflict of interest that may require a referral to the Department of Justice. We suggested that ARC incorporate this practice into its ethics policies and procedures manual. OGE reviewed ARC's updated policies and procedures manual and confirmed that the agency had taken action on the suggestion.

1353 Travel Acceptances

Federal agencies may allow 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 (GSA) regulation at 41 C.F.R. 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.

While ARC's submission of the semi-annual report due in May 2012 was timely, its report due in November 2012 was submitted only in April 2013. Ethics officials stated that the agency overlooked the submission, because it was a "negative" report containing no record of travel. We suggested that ARC institute reminders to ensure that semi-annual reports are submitted on a timely basis.

Agency Comments

ARC concurred with the contents and findings of this report.