



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Railroad Retirement Board

Report No. 11-020
April 2011

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Railroad Retirement Board's (RRB) ethics program in April 2011. The results of the review indicated that RRB's ethics program generally appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

Highlights

- RRB's ethics officials have shown consistent interest and enthusiasm by seeking further improvements to the ethics program.
- RRB provides targeted training to supervisors and other specialized groups as necessary.
- RRB's Office of the Inspector General (OIG) reports possible areas of risk to ethics officials who then address the risk areas with ethics advisories.
- All financial disclosure report filers receive a copy of their previous certified report to ensure complete reporting on the current report.
- Ethics duties are incorporated into the position description and performance appraisal of RRB's Alternate Designated Agency Ethics Official (ADAEO).

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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 RRB's ethics program, OGE examined a variety of documents provided by RRB's ethics office. OGE examined financial disclosure reports that were required to be filed at RRB in 2010, covering calendar year 2009. We examined all public and confidential financial disclosure reports required to be filed in 2010. In addition, the OGE review team met with RRB's Designated Agency Ethics Official (DAEO), ADAEO, an Ethics Advisor, the Inspector General (IG), a member of the Bureau of Human Resources (HR), and an RRB Board Member to (1) obtain additional information RRB's ethics program, (2) seek clarification on issues and (3) verify data collected.

Program Administration

The RRB's ethics program is administered within the Office of General Counsel. The General Counsel (GC) serves as the DAEO. An Assistant General Counsel serves as the ADAEO. The ADAEO and an Ethics Advisor are 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 RRB. OGE believes this agency structure is advantageous in proactively addressing ethics concerns that could affect the agency. In addition, ethics duties are incorporated into the position description and performance appraisal of the ADAEO. OGE considers this to be a model practice.

Financial Disclosure

The RRB ethics officials indicated that all covered employees filed the required financial disclosure reports in 2010. The OGE review team found that both the public and confidential financial disclosure reports it examined were generally filed, reviewed, and certified timely. At the beginning of the filing season, RRB ethics officials provide filers with certified copies of reports from the previous filing season to ensure reported information is consistent from year to year. OGE considers this to be a model practice.

Education & Training

The RRB's training program meets all relevant requirements. All required employees received initial ethics orientation (IEO) and annual ethics training in 2010. Additionally, RRB provides targeted training for supervisors and training for other non-covered employees as necessary. RRB also issues regular ethics guidance to employees in the form of ethics advisories. OGE considers these training efforts to be model practices.

The DAEO has delegated the responsibility of providing IEO to HR. All new employees are provided a packet of information which includes IEO materials. Included in the packet is a memorandum from the DAEO that discusses the purpose of the ethics program and provides a brief overview of the relevant ethics laws. A human resources specialist reviews the packet of information with each new employee directing them to the specific materials they must read.

While IEO meets the relevant regulatory requirements, OGE is concerned with the complete delegation of IEO to HR. Currently, ethics officials do not inquire regularly as to whether employees received IEO nor do they track completion of IEO. Ethics officials only become aware of this information when they obtain it from HR for purposes of completing the Annual Ethics Program Questionnaire. While the DAEO has the authority to delegate certain ethics-related responsibilities, the accountability for those responsibilities remains with the DAEO. As such, all reportable information concerning elements of the ethics program should be provided to the DAEO.

Suggestion

- Ensure that information concerning the tracking and completion of IEO is provided by HR to the ethics office on a regular basis.

Advice & Counsel

OGE reviewed a sample of the RRB's written advice and counsel issued to agency employees and found that all pieces of advice and counsel appeared to be accurate. The DAEO, ADAEO, or the Ethics Advisor responds to all ethics-related questions. Advice is typically shared between ethics officials to ensure consistency and accuracy. The three ethics officials responsible for providing advice and counsel share copies of advice to ensure accuracy and consistency. Some records are stored electronically on a shared drive or in paper files.

Enforcement

RRB reported no disciplinary actions based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635). There were 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). RRB made no referrals to the Department of Justice of potential violations of the

criminal conflict of interest statutes. The OIG is responsible for concurrently notifying OGE of referrals made to the Department of Justice.

RRB ethics officials appear to have a good working relationship with the OIG. Each office is aware of its responsibilities and works together effectively. When the OIG becomes aware of the potential for heightened risk in the ethics area, it contacts the ethics office and an ethics advisory on the matter is distributed to employees. OGE considers this to be a model practice.

1353 Travel Acceptances

RRB has written procedures that govern the acceptance of travel payments from non-Federal sources under 31 U.S.C. § 1353. RRB has consistently submitted to OGE in a timely manner the required semi-annual reports of payments accepted from non-Federal sources.

Agency Comments

RRB provided the attached formal response to a draft of this report on April 26, 2011.



UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
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GENERAL COUNSEL

April 26, 2011

Patricia Zemple, Associate Director
Program Review Division
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1201 New York Avenue, Suite 500
Washington, D.C. 20005-3917

Re: Comments on Draft Ethics Program Review Report

Dear Ms. Zemple:

This letter is in response to the draft report of the review of the ethics program of the Railroad Retirement Board conducted in April 2011.

The draft report contains one suggestion in the area of Education and Training. That suggestion is to ensure that information concerning the tracking and completion of initial ethics orientation is provided by the Board's Human Resources office to the ethics office on a regular basis. The Board's ethics staff agrees that the suggestion would improve our ethics program and plans to implement it as described in the following paragraph.

In my capacity as the Board's Designated Agency Ethics Official, I will ask the Director of Human Resources to provide me each month with a list of new employees. As a small agency, there may be months in which no new employees are hired; however, the request to the Director of Human Resources will explain that a report is required each month, even if it contains no new employees. Subsequent to receiving the monthly list of new employees, a member of the ethics staff will send an email to each new employee and to the employee's supervisor. The text of the email will reference the ethics material furnished at orientation, advise the employee that (s)he has one hour of official time to review that ethics material, and suggest that the employee call the ethics staff with any question about the ethics rules. The email will end with a request that the employee confirm via email that (s)he has been furnished the ethics orientation material, and has been allowed time to review it.

The only other comment we have about the draft report is a suggestion to change the reference to "the Trust's ethics program" to "the Board's ethics program" on page 3 in the next to last line of "Objectives, Scope, and Methodology".

We appreciate the opportunity to review and comment on the draft report.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Bartholow", with a long horizontal flourish extending to the right.

Steven A. Bartholow
General Counsel and
Designated Agency Ethics Official