



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

June 6, 2005

Colonel Donald Minner
Inspector General
Office of the Inspector General
Defense Threat Reduction Agency
Mail Stop Code 6201
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6201

Dear Colonel Minner:

The Office of Government Ethics has completed its first review of the ethics program at the Defense Threat Reduction Agency (DTRA). The review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's compliance with applicable statutes and regulations. We also evaluated DTRA's systems and procedures for ensuring that ethics violations do not occur.

DTRA's ethics program generally complies with the applicable statutes and regulations. Indeed, certain aspects of the education and training element of the program exceed the minimum regulatory requirements. We commend the ethics staff for their dedication to the success of the ethics program and the encouragement of ethical behavior by DTRA employees.

I have enclosed a copy of the report for your information. Please contact Traci M. Quan at 202-482-9271 if we may be of assistance.

Sincerely,

Marilyn L. Glynn
Acting Director

Enclosure



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

June 6, 2005

Kevin Flanagan
Designated Agency Ethics Official
Office of the General Counsel
Defense Threat Reduction Agency
Mail Stop Code 6201
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6201

Dear Mr. Flanagan:

The Office of Government Ethics (OGE) has completed its first review of the ethics program at the Defense Threat Reduction Agency (DTRA). This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's compliance with applicable statutes and regulations. We also evaluated DTRA's systems and procedures for ensuring that ethics violations do not occur. The review was conducted in March and April 2005. The following is a summary of our findings and conclusions.

HIGHLIGHTS

DTRA's ethics program generally complies with the applicable statutes and regulations. Indeed, certain aspects of the education and training element of the program exceed the minimum regulatory requirements. We commend the ethics staff for their dedication to the success of the ethics program and the encouragement of ethical behavior by DTRA employees.

BACKGROUND AND HISTORY OF DTRA

DTRA was established in 1998 by Department of Defense (DOD) Directive 5105.62. The Directive consolidated the Defense Special Weapons Agency, On-Site Inspection Agency, Defense Technology Security Administration (DTSA), and selected elements within the Office of the Secretary of Defense Staff into one agency.¹ DTRA's mission is to reduce the threat posed by weapons of mass destruction. Approximately 2,000 civilian and military personnel are assigned to the headquarters office in Fort Belvoir, Virginia and to more than 14 locations around the world.

¹ In 2001, the responsibilities of the former DTSA were removed from DTRA; DTSA was reestablished under the Under Secretary of Defense for Policy.

The Director and Deputy Director of DTRA are appointed by the Secretary of Defense. The Director is brought in under the Intergovernmental Personnel Act to serve for two years, but usually receives an extension to serve for an additional two years.² The current Deputy Director is a military officer.

PROGRAM STRUCTURE

The number of personnel assigned to administer the ethics program appears adequate. The ethics staff includes you, as the Designated Agency Ethics Official (DAEO), an Alternate DAEO (ADAEO), and an Ethics Program Coordinator (EPC), the latter being based in Albuquerque, New Mexico; administrative support is available from two legal assistants.³ In addition to being the DAEO, you serve as the General Counsel; the ADAEO serves as an Associate General Counsel; and the EPC serves as a Legal Assistant.

FINANCIAL DISCLOSURE SYSTEMS

The financial disclosure systems generally comply with the provisions of 5 C.F.R. part 2634.

Public Financial Disclosure

We examined all 17 public financial disclosure reports required to be filed in 2004; one new entrant, 13 incumbent, and 3 combination incumbent/termination reports were filed. While technical errors were found, we did not uncover any substantive deficiencies. All reports were filed and reviewed in a timely manner. We note that documentation in the files showed that there were questions from and annotations made by the reviewing official which indicated a thorough review of reports.

OGE DAEOgram DO-04-014, dated June 15, 2004, stated that agencies were to forward DAEO incumbent public reports to OGE soon after agency approval. DTRA was slow in its forwarding of the 2004 incumbent public report filed by you and the combination incumbent/termination report filed by the former DAEO to OGE for final review and certification.⁴ Both reports were received by OGE in January 2005, five and seven months after

² DTRA's dynamic mission necessitates the regular change of directors. As the priorities of DTRA change, so does its need for directors with the appropriate technical experience.

³ There was a Deputy DAEO until she left in August 2004.

⁴ DTRA does not employ Presidential appointees confirmed by the Senate; therefore, yours is the only public report required to be forwarded to OGE every year.

agency certification, respectively. Submitting these reports right after certification will enable OGE's review and any follow-up on questions to be accomplished in a timely fashion.⁵

Confidential Financial Disclosure

We examined a sample of 61 of the 621 confidential reports required to be filed in 2004; 36 new entrant, 19 annual, and 6 combination new entrant/annual reports were examined. While technical errors were found, we did not uncover any substantive deficiencies. With the possible exceptions of one combination new entrant/annual and three new entrant reports, all reports in our sample were reviewed in a timely manner.⁶ We note that documentation in the files showed that there were questions from and annotations made by the reviewing official which indicated a thorough review of reports. Additionally, "letters of warning" were issued to filers who reported financial interests in DTRA contractors.

Seven of the new entrant and combination new entrant/annual reports in our sample were filed between 1 and 8 months late.⁷ Previously, the ethics staff did not follow-up with new employees to ensure that filers submitted their confidential reports. A new process was instituted whereby the ethics staff receives the names of new employees and promoted employees from the Human Resources Division of the Business Directorate. The ethics staff sends an e-mail to the employees, which reminds them to have their supervisors determine whether the employees need to file confidential reports. This procedure should assist in the filing of future new entrant reports within 30 days of an employee's assumption of a position requiring the filing of a confidential report. The timely filing of new entrant reports will assist the ethics staff's identification of any potential or actual conflicts of interest in a timely manner.

OUTSIDE EMPLOYMENT AND ACTIVITIES

DTRA requires financial disclosure report filers to receive written approval before engaging in outside employment and activities in accordance with DOD's supplemental standards of ethical conduct at 5 C.F.R. part 3601, which are implemented by subsection 3-306 of DOD's Joint Ethics Regulation (JER).

We examined the approvals for 11 employees. All requests for prior approval were properly submitted and were approved in compliance with ethics laws and regulations.

⁵ In subsequent DAEOgram DO-05-009, dated April 13, 2005, we addressed the forwarding of incumbent public reports filed by DAEOs in 2005. We stated that DAEO reports filed in 2005 should be submitted to OGE soon after agency approval, but by no later than August 1, 2005.

⁶ These four reports lacked a date stamp of agency receipt. Therefore, the timeliness of filing and review could not be determined for these reports.

⁷ Additionally, four new entrant reports lacked the date of the filer's appointment. Therefore, the timeliness of filing could not be determined for these reports.

ETHICS AGREEMENTS

Eight confidential and one public filer executed disqualification statements in 2004. Supervisors act as screeners to ensure that their employees do not work on matters from which they are disqualified. No other remedial actions were taken, such as receiving 18 U.S.C. § 208(b)(1) waivers, to carry out ethics agreements.

ADVICE AND COUNSELING

Ethics advice and counseling services comply with 5 C.F.R. § 2638.203(b)(7) and (8). We examined 21 documents which consisted of ethics opinions and guidance rendered by you, the ADAEO, and the former Deputy DAEO from January 2004 to March 2005. Seeking employment and post-employment issues were the most popular topics of inquiry. Based on our examination, we believe the advice rendered was timely, thorough, and accurate.

In addition, DTRA requires financial disclosure report filers who plan to leave DTRA to schedule a post-employment briefing with the ADAEO as part of out-processing; non-filers receive written briefing materials and may request a briefing with the ADAEO. In addition to providing information on post-employment restrictions, the ADAEO provides his contact information and informs employees that they can contact the ethics staff for advice even after they leave the employ of DTRA.

TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

We examined the one travel payment of more than \$250 per event reported to OGE for the period covering October 1, 2003 through September 30, 2004. The acceptance appeared to comply with 31 U.S.C. § 1353, 41 C.F.R. chapter 304, the JER, and DTRA procedures.

ENFORCEMENT

Ethics and Office of the Inspector General (OIG) officials stated that an effective working relationship and good communication exist between the respective offices. No violations of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) took place and no alleged criminal conflict of interest violations were referred to the Department of Justice from January 2004 through March 2005.

Because OIG is not empowered to conduct criminal investigations, OIG would conduct an analysis of a criminal allegation and, if it is credible, forward the matter to the appropriate military law enforcement activity (e.g., an allegation concerning Army personnel would be forwarded to the U.S. Army Criminal Investigation Command).

FEDERAL ADVISORY BOARD

DTRA is responsible for providing support to one advisory board, the Veterans' Advisory Board on Dose Reconstruction.⁸ Because the newly formed advisory board has not been activated yet, this area of your program was not assessed for compliance with applicable statutes, regulations, and OGE guidance. However, in accordance with DOD policy, the advisory board members will be SGEs who file confidential financial disclosure reports and will receive ethics training.

EDUCATION AND TRAINING

The education and training program is generally compliant with the provisions of 5 C.F.R. part 2638. Moreover, certain aspects of DTRA's education and training program exceed the regulatory requirements.

Initial Ethics Orientation Program

The initial ethics orientation (IEO) program generally complies with the provisions of 5 C.F.R. § 2638.703. New employees receive their IEO materials during biweekly employee in-processing sessions. The ADAEO provides a short briefing to introduce the ethics program and its officials, announces the next verbal IEO session, and discusses financial disclosure requirements and prior approval of outside employment. He distributes the written IEO materials which consist of a memorandum from you concerning ethics program requirements, a copy of the Standards, DOD's supplemental standards of ethical conduct, a list of ethics officials, an Employees' Guide to the Standards of Conduct, and a form used for submitting requests for approval of outside positions. Receipt of written IEO is tracked by the EPC who enters the names from the sign-in sheets into a database.

In addition to written IEO, employees are invited to attend a verbal IEO session provided by the ADAEO. We appreciate the opportunity to have observed one of these training sessions. At the live session, the ADAEO provided a briefing which covered, among other topics, the 14 Principles of Ethical Conduct, financial disclosure reporting requirements, and the Standards. Additionally, he distributed his contact information and OGE's "A Brief Wrap on Ethics"

⁸ Under section 601 of Public Law 108-183, Congress directed the secretaries of DOD and the Department of Veterans Affairs (VA) to appoint the advisory board to provide review and oversight of the Dose Reconstruction Program. According to the advisory board's charter, DOD, through DTRA, "provides dose estimates for veterans who participated in the 1945-1946 occupation of Hiroshima or Nagasaki, Japan, and in U.S. sponsored atmospheric nuclear testing between 1945 and 1962. These dose recommendations are used by the [VA] to evaluate and decide veterans' claims...."

Mr. Kevin Flanagan

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booklet. We applaud DTRA for exceeding the regulatory requirement by providing employees the opportunity to attend a verbal IEO session to reinforce the information provided in the written IEO materials.

According to the tracking records, 153 new employees did not receive IEO within 90 days after entrance on duty in 2004. Prior to the ADAEO's assumption of his position, there was a backlog of employees who needed to receive their IEO. With the exception of one employee who was called to active duty, all new employees eventually received their IEO.

Annual Ethics Training Program

DTRA's annual ethics training (AET) program generally complies with the provisions of 5 C.F.R. §§ 2638.704 and 2638.705. All covered employees received verbal AET for 2004 by the end of January 2005 (21 confidential filers were tardy in completing their AET). An additional 183 non-covered employees completed the training either at their supervisors' request or of their own accord. We applaud DTRA for exceeding the minimum regulatory requirements.

DTRA adapted the computer-based training module provided by DOD's Standards of Conduct Office. The 2004 module pertained to working with contractors. The goal of the training was to enhance employees' awareness of the differences in ethics rules governing relations with contractor personnel versus relations with fellow Government employees. The training topics included gifts, seeking employment, and post-employment restrictions.

Innovative Software Used

DTRA utilizes the Learning Management System (LMS) to administer training to employees. The LMS is a software program which contains tailored training plans, covering a variety of topics, for each employee. Employees register for a verbal IEO session via the LMS and access the AET module directly on the LMS. Completion of verbal IEO and AET is tracked via the LMS; the ethics staff can generate completion records which enable them to have managers follow-up with those who have not completed their training.

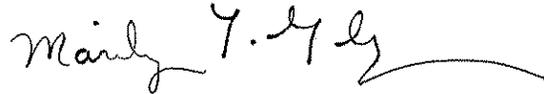
Ethics Resources on DTRA's Intranet

Ethics resources are contained on an Intranet Web site (DTRAnet) which employees can access. The resources include the ethics staff's contact information, financial disclosure forms, links to ethics pamphlets and guides, and information on seeking ethics advice, seeking employment, post employment, and accepting travel payments from non-Federal sources. We commend DTRA for making ethics information easily accessible to DTRA employees.

Mr. Kevin Flanagan
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In closing, I wish to thank the DTRA officials who were involved in this review for their cooperation on behalf of the ethics program. A copy of this report is being forwarded to DTRA's Inspector General via transmittal letter. Please contact Traci M. Quan at 202-482-9271 if we may be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Marilyn L. Glynn". The signature is written in black ink and includes a long horizontal flourish at the end.

Marilyn L. Glynn
Acting Director

Report Number 05- 011