

**United States Office of Government Ethics**

---

Program Review Division

# Ethics Program Review

International Joint Commission

## Results in Brief

---

The United States Office of Government Ethics (OGE) conducted a review of the International Joint Commission's (the Commission) ethics program in May 2012. The results of the review indicated that the Commission's ethics program is generally effectively administered. However, our review revealed that an improvement in the area of education and training is necessary to ensure compliance with applicable statutes and regulations.

### Concern

- The Commission's annual ethics training did not cover some of the criminal conflicts statutes contained in 18 U.S.C. § 202-209

### Contents

Objectives, Scope, and Methodology.....	2
Program Administration.....	3
Financial Disclosure.....	3
Education & Training.....	4
Advice & Counsel.....	5
Enforcement.....	5
Conflict Remedies.....	6
1353 Travel Acceptances.....	6
Agency Comments.....	6

### 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 evaluate the Commission's ethics program, OGE examined a variety of documents and evidence relating to the administration of their ethics program. OGE examined the Commission's 2011 Annual Questionnaire, organizational chart, 2012 Annual Ethics Training Plan, delegation memorandum, as well as written procedures for financial disclosure, enforcement actions, 1353 Travel along with additional documents relating to the ethics pledge.

During onsite fieldwork, OGE also examined public and confidential financial disclosure reports, samples of advice and counseling provided to employees and the 2011 Annual Ethics Training Plan.

In addition, OGE's review team met with the Designated Agency Ethics Official (DAEO) to obtain supplemental information and documentation regarding the Commission's ethics program, to verify data collected, and to seek clarification on issues as a result of the documentation analysis.

### **Program Administration**

The Commission is an independent binational organization which was established by the United States and Canada under the Boundary Waters Treaty of 1909. The Commission's purpose is to help prevent and resolve disputes as well as manage and protect boundary waters between the United States and Canada. The Commission is headed by six commissioners, three from each country. The three U.S. Commissioners are Presidentially appointed and Senate-confirmed (PAS). The U.S. section of the Commission has approximately 15 employees located in its Washington, D.C. office. The Commission's Legal Advisor serves as the DAEO and the Public Information Officer serves as the Alternate Designated Agency Ethics Official (ADAEO). The day to day management of the ethics program functions is administered by the DAEO. The Department of State provides certain administrative services including personnel support and assistance to the Commission pursuant an existing agreement.

### **Financial Disclosure**

The ethics office has extensive written procedures for the administration of both its public and confidential financial disclosure program. Written procedures for financial disclosure should cover the review, collection, evaluation and public availability of reports to comply with all applicable requirements. At the time of the review, the Commission's written procedures did not address how the ethics office handles follow-up with delinquent filers. OGE reviewers explained that a formalized process for following up with delinquent filers is a critical component of a complete report collection process. Subsequently the DAEO updated the written procedures to include following up with delinquent filers.

OGE reviewers examined all four of the non Presidentially appointed and Senate confirmed (PAS) public financial disclosure reports that were required to be filed in 2011. OGE reviewers also examined all four confidential financial disclosure reports, required to be filed in 2011 and 2012. All public reports were timely filed. The same filer submitted a confidential report late in 2011 and 2012. However, the DAEO explained that this individual has historically been assigned to remote locations, making communication of filing requirements and deadlines a challenge.

OGE reviewers inquired about the late confidential reports. The DAEO explained that a reminder of the filing due date was sent by e-mail to confidential filers in early February.

Filers were asked to contact the ethics office to request an extension; however, no filers requested additional time. To prevent late filing of confidential financial disclosure reports going forward, the DAEO explained that IJC's ethics office will institute the following practices:

- Annual ethics training will cover financial disclosure report filing requirements, including due dates and report preparation overview.
- Initial and reminder notifications will be sent to filers by e-mail the first week in January and the first week in February.
- Delinquent filers will be notified that IJC supervisors will take follow-up action in connection with late reports that may include appropriate disciplinary action pursuant to the IJC policy on financial disclosure reporting.

The financial disclosure reports were generally certified timely. In addition, several reports showed various correspondence between the ethics official and the filers to obtain clarifying information. The DAEO is very familiar with each filer's holdings, job responsibilities and potential assignments, allowing the ethics office to be proactive in identifying potential conflicts.

## **Education & Training**

The Commission's 2012 Annual Training Plan is comprehensive and satisfies 5 CFR § 2638.706. The written procedures include the topics and methods of delivery of the annual training and estimates of the number of employees who will receive training. OGE concluded that the education and training program generally met the relevant training requirements at subpart G of 5 CFR part 2638.

### Initial Ethics Orientation

All three required employees received initial ethics orientation (IEO) in 2011. The Department of State's Human Resources Office (HR) is responsible for processing the hiring of new Commission employees as well as providing them with a new entrant ethics briefing and written materials during the on-boarding process. As part of the new hire process that all employees go through at State, HR provides financial disclosure filers with a packet of written materials which includes a copy of the U.S. Department of State's "Government Ethics Guidance for New Entrants" as well as a summary of the Standards of Ethical Conduct, the 14 Principles and the conflicts of interest criminal statutes.

Once the new employees arrive at IJC, the ethics office provides additional ethics training through either online access to The U.S. Department of Agriculture's module "New Employee Ethics Orientation" or an in-person briefing. New employees are given contact information for directing ethics questions to the DAEO.

## Annual Ethics Training

All eight required employees received annual ethics training in 2011. The DAEO developed in-person annual training using materials from the Department of Agriculture and OGE. The hour-long ethics training focused primarily on financial disclosure reporting requirements, gifts, outside activities and ethics rules on teaching, speaking and writing. The DAEO also provided her contact information for additional questions. However, only 18 U.S.C. § 207 and 208 were included in the training. Sections 202, 203, 205 and 209 were not addressed. While OGE commends the DAEO for tailoring the training to the specific needs of the agency filers, OGE reviewers reminded the DAEO of the importance of covering all of the criminal conflicts of interest statutes during annual training.

## Recommendation

- Ensure coverage of all criminal conflicts statutes contained in 18 U.S.C. § 202-209 during annual training.

## **Advice & Counsel**

The DAEO is primarily responsible for providing ethics related advice and counsel, with the ADAEO occasionally providing advice. The DAEO provides advice to employees via email, telephone and in-person. When deemed necessary, the DAEO composes and distributes memoranda to all employees on questions and topics that apply broadly, such as acceptable teaching, speaking and writing engagements. The DAEO stores all email correspondence on a shared ethics drive and a hardcopy is maintained in employee files.

OGE inspected a sample of advice and counsel related to serving on Boards and or Committees, teaching and speaking engagements, and invitations to various events. OGE reviewers determined the advice to be detailed, clear, timely, and appeared accurate.

## **Enforcement**

The Commission 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 utilize the Department of State policies that are in place, but the Commission would process any personnel actions relating to the occurrence. The Commission would also consult with the Department of State on steps for notifying the Department of Justice and OGE regarding violations of Title 18. However, upon further review of the services that the Department of State provides to the Commission, OGE reviewers learned that the enforcement of IG responsibilities is not formally established.

### Suggestion

- Establish a formal relationship with The Department of State's Office of Inspector General to provide investigatory services to the Commission for potential ethics violations, which can be done through a memorandum of understanding.

### **Conflict Remedies**

All PAS officials have satisfied the terms of their ethics agreements. The Commission reported no waivers of 18 U.S.C. § 208 were issued in 2011. The DAEO is aware of the requirement to consult with OGE on 18 U.S.C. § 208 waivers.

### **1353 Travel Acceptances**

The Commission submitted the required semi-annual reports of travel payments accepted from non-Federal sources to OGE in a timely manner. The Commission's procedures require employees to obtain approval through a chain of command in which the DAEO or ADAEO conducts a technical compliance review and analyze any offers prior to the acceptance of travel.

### **Agency Comments**

To respond to the report's recommendation, the IJC's Annual Ethics Training Plan for 2012 has been amended to ensure that annual ethics training includes coverage of the Fourteen Principles of Ethical Conduct for Federal Employees (E.O. 12674) and coverage of all criminal conflicts statutes contained in 18 U.S.C. Section 202-209. Please see the attached revised 2012 training plan. Verbal or web-based training will be supplemented with materials covering all the criminal conflicts statutes. Please let me know if this response is sufficient to satisfy the 60-day response requirement of OGE for the IJC to respond to report recommendations. The response may be referenced as an agency comment when the IJC's ethics program review is posted.