



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

November 8, 2004

Alberto J. Mora
Designated Agency Ethics Official
Department of the Navy
1000 Navy Pentagon
Washington, DC 20350

Dear Mr. Mora:

The Office of Government Ethics (OGE) has recently completed a review of the ethics programs at the Department of the Navy's (Navy) Commander, Navy Region Northeast (CNRNE), Groton, Connecticut; Naval Submarine Base (SUBASE), Groton; and Naval Station Newport (NAVSTA) in Newport, Rhode Island. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the programs' compliance with applicable ethics laws and regulations and to evaluate the systems and procedures at all three activities that ensure that ethics violations do not occur. Our current review was conducted during June 2004. The following is a summary of our findings and conclusions.

HIGHLIGHTS

Overall, we have concluded that the ethics programs at CNRNE, SUBASE, and NAVSTA all have effective systems, processes, and procedures in place to prevent ethics violations from occurring and to ensure the public's confidence in an ethical Government. We are pleased to report that all three activities surpass the minimum initial ethics orientation and annual ethics training requirement. The only issue we raised dealt with the timely identification of new entrant confidential financial disclosure filers. However, despite these difficulties, we applaud the efforts that have already been made in trying to remedy this problem through the development of new procedures that will help ensure that in the future new employees entering and those transferring into covered positions file a new entrant confidential financial disclosure report in accordance with 5 C.F.R. § 2634.903(b).

ADMINISTRATION OF ETHICS PROGRAM

The Navy Region Northeast (Region) was established in June of 1999 to provide military command and support over assigned shore activities for the operating forces of the Navy. The Region's military responsibilities encompass twelve states/six Canadian provinces comprised of seven installations, inclusive of associated tenant commands and other Naval activities.

In regards to the ethics program, there is one Regional Ethics Counselor, four installation Ethics Counselors, and three Office of General Counsel (OGC) Ethics Counselors. The Staff Judge Advocate (SJA) for CNRNE acts as Regional Ethics Counselor and also is responsible for administering the ethics program for CNRNE, with the respective SJAs at SUBASE and NAVSTA responsible for administering the program for their organizations.¹ All officials have been designated as Ethics Counselors (EC) under the Department of Defense (DOD) Joint Ethics Regulation (JER), and will hereafter be referred to as such for purposes of this report. Each of the ECs receive support from other attorneys, paralegals, and administrative staff within their offices.

EDUCATION AND TRAINING

We found that all three activities are fully meeting, and in some cases surpassing, the minimum initial ethics orientation and annual ethics training requirements found at 5 C.F.R. part 2638. We commend the ECs and their staffs for ensuring that employees often receive more than the requisite training.

Initial Ethics Orientation

Under CNRNE's new procedures to timely identify new employees entering on duty at CNRNE, all new employees are sent by e-mail a copy of the CNRNE Employee's Guide to the Standards of Conduct to satisfy the requirements found at 5 C.F.R. § 2638.703. New employees are also able to obtain ethics information from CNRNE's intranet Web site, where the JER, the DOD supplemental regulation, the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), and Executive Order 12674 are all accessible. Although these procedures have only recently been implemented, we were advised that to date approximately 10 new employees have already been timely identified and provided with initial ethics orientation (IEO) training.

New employees who enter on duty at NAVSTA and SUBASE are required to attend a command indoctrination program. This program is conducted monthly with the respective ECs presenting a live ethics orientation session as part of the program.

Annual Ethics Training

Each year, to satisfy the annual training requirement, all three organizations require their covered employees to complete the DOD Standards of Conduct Office's (SOCO) online ethics training module, which in 2003 focused primarily on Government travel. After completing the training, employees are required to file a certification of completion with each EC, which is tracked simultaneously with the tracking of the annual confidential reports. Our examination of the certifications on file, including some that we questioned, confirmed that all covered employees had

¹ In addition to administering CNRNE's ethics program, the CNRNE SJA provides support to all installation and OGC Ethics Counselors as well.

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in fact completed the training. This year's SOCO-prepared online ethics training module will focus on working with contractors.

Additional Training Efforts

In addition to the formal training programs, we acknowledge the extra efforts that all three organizations make to routinely keep employees aware of ethics-related issues. CNRNE, SUBASE, and NAVSTA all make it a practice to provide this information through a variety of media, such as sending routine e-mails to employees regarding various ethics topics and providing verbal ethics training to employees and department heads upon request.

Additionally, we found CNRNE's intranet Web site to be an outstanding resource and comprehensive ethics tool for providing periodic updates, points of contact information, immediate access to both OGE regulations and the JER, and general guidance on areas governing ethics in Government.

CONFIDENTIAL FINANCIAL DISCLOSURE SYSTEMS

All three of the organizations we examined effectively managed their annual confidential financial disclosure systems, even though the 2003 filing cycle was the first year that all ECs throughout the Region were directly involved with the confidential disclosure review process.² The CNRNE EC acknowledged and our examination confirmed that the timely identification of new entrant confidential filers is a problem throughout the Region. Although we were advised that this has been a real challenge due to the great geographic disparity of the Region, we applaud the steps that have already been taken by the CNRNE EC to remedy this problem through the development of new procedures to help identify new entrant filers and timely provide them with their confidential report.

To accomplish this, CNRNE will begin to coordinate with the Region's Comptroller for access to the payroll system to help identify new civilian employees and with the Region's Manpower office to help identify new military employees receiving orders to CNRNE. Once identified, all new employees will be instructed via e-mail to check with their supervisor to determine whether or not they are required to file a confidential report. The supervisor will be responsible for notifying the ECs who will provide information on the new entrant filing requirements, inclusive of instructions on how to download the electronic version of OGE Form 450, to all those entering into a covered position. We were advised that these procedures will also enable new employees to receive their required IEO more timely because instructions for completing this training will also be included within the e-mail (as discussed in the "Education and Training"

² Prior to the 2003 filing cycle, all confidential reports were reviewed and certified by the CNRNE EC at the regional level.

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section). Although we are not making a formal recommendation in this area, we strongly suggest that ongoing monitoring of the procedures be done to ensure they are effective in operating as designed.

Additionally, we were advised that the 2003 filing cycle also marked the first year of compliance with the Navy's internal policy of including as confidential disclosure filers: employees who have blanket purchase authority and are contracting officer's representatives, purchase cardholders with the authority to spend in excess of \$100,000, and purchase card authorizing officials who approve in excess of \$100,000.³

CNRNE Confidential System

To evaluate CNRNE's confidential system, we examined all 47 of the confidential financial disclosure reports required to be filed in 2003. These consisted of 15 new entrant and 31 annual OGE Form 450s and 1 OGE Optional Form 450-A. Although the majority of the annual reports were timely filed, eight reports were filed late. All annual reports were reviewed thoroughly, as evidenced by the number of reports that were sent back to the filers for additional clarification or corrections regarding technical deficiencies. Additionally, we examined a sample of the accompanying cautionary memoranda attached to these reports and found them very useful in keeping filers apprised of potential conflicts.

Of the 15 new entrant reports, 8 were filed late, 6 of which were captured during the annual filing cycle. Additionally, we could not determine filing timeliness for two other reports because we could not ascertain the filers' appointment dates. Nevertheless, all reports were reviewed timely once filed.

SUBASE Confidential System

At SUBASE we examined all 85 of the confidential disclosure reports required to be filed in 2003. These consisted of 26 new entrant and 59 annual OGE Form 450s. Our examination of the 59 annual reports found only 1 report that was filed late. All were reviewed thoroughly, as evidenced by the limited number of technical reporting omissions. We also examined a sample of the accompanying cautionary memoranda attached to these reports and found them very useful in keeping filers apprised of potential conflicts. Although we found limited technical deficiencies, we did notice seven instances where the most recent version of the OGE Form 450 was not used. Notwithstanding this, we were assured that all filers will be provided with the most recent version of the form in the future.

Our examination of the 26 new entrant reports found the majority of these reports to either have no date of appointment recorded or, in two cases, an incorrect appointment date. As at

³CNRNE is working directly with the purchase card program manager to help identify new employees who are assigned purchase card responsibilities that meet the threshold for filing.

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CNRNE, we also found several reports that were captured during the annual filing cycle. Once received, however, all were reviewed timely.

NAVSTA Confidential System

We examined all 118 reports that were required to be filed by NAVSTA employees in 2003. Our sample included 116 annual and 2 new entrant OGE Form 450s. We found no substantive deficiencies during our examination of these reports. Of the 116 annual reports, only two reports were filed late. Notwithstanding this, all were reviewed timely and thoroughly as evidenced by the limited number of technical reporting omissions and by the notes made by the NAVSTA EC when reviewing each report. A sample of the accompanying cautionary memoranda attached to these reports were also examined and were found to be very useful in keeping filers apprised of potential conflicts. Similar to our finding at SUBASE, we did notice three instances where the most recent version of the OGE Form 450 was not used. After discussing this matter with the NAVSTA EC, we are confident that all filers will be provided with the most recent version of the form in the future.

Our examination of NAVSTA's two new entrant OGE Form 450s found both of them to have been filed, reviewed, and certified in a timely manner.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

All three organizations have accepted relatively few travel payments from non-Federal sources for travel, subsistence, and related expenses incurred by agency employees on official travel under the authority of 31 U.S.C. § 1353. In fact, according to the SUBASE EC, SUBASE did not accept any such payments during the period covered by our review.

We examined the four travel payments accepted by CNRNE under this authority during the period of April 1, 2003 through March 31, 2004. Based on our examination of the underlying documentation supporting these acceptances, we conclude that these acceptances were in compliance with the relevant requirements.

Additionally, although we were advised that only one travel payment was accepted during the period of April 1, 2003 through September 30, 2003, we noticed that eight other acceptances were listed on the Region's Semiannual Report of Payments Accepted from a Non-Federal Source report that was forwarded to the Navy for semiannual reporting to OGE of travel payments of more than \$250 received from non-Federal sources under 31 U.S.C. § 1353. The CNRNE EC advised us that the eight payments accepted by the Navy Band Northeast were mistakenly included on the report because, at the time, there was some confusion as to whether travel payments accepted by the band for various summer concerts performed were gifts of travel under 31 U.S.C. § 1353. The CNRNE EC was subsequently advised by Navy officials that band concerts should be accepted under the authority of DOD's Component Gift Acceptance Statute at 10 U.S.C. § 2601.

ADVICE AND COUNSELING SERVICES

ECs and their respective staffs provide effective and useful ethics advice and counseling to their employees on a wide range of issues. The CNRNE EC also provides assistance to the other ECs in providing ethics-related advice to their employees when needed. Employees are encouraged to contact the ECs via all forms of communication, including e-mail, telephone, and in-person. However, most inquiries are made and advice rendered via e-mail or through formal written correspondence.

We examined a sample of the e-mail advice dispensed by all three organizations on a variety of issues dealing with topics such as gift acceptance, fund-raising, post-employment restrictions, and interaction with outside entities. We found these determinations to be comprehensive and consistent with the appropriate laws and/or regulations as well as responsive to employees' needs in terms of timeliness, as responses were generally rendered promptly to the questions that were posed.

ENFORCEMENT

The ECs at SUBASE and NAVSTA both serve as Special Assistant United States Attorneys (SAUSA) for the States of Connecticut and Rhode Island, respectively, and are responsible for prosecuting potential violations of the criminal conflict-of-interest laws. We discussed with both of them the requirement to notify OGE concurrently when a case involving an alleged violation of a criminal conflict-of-interest law is referred to the Department of Justice (Justice). They both agreed that in their role as SAUSA, they would be the officials responsible for notifying OGE of all referrals and any other matters required to be reported to OGE by 5 C.F.R. § 2638.603. While there were no recent alleged violations of the criminal conflict-of-interest laws referred for prosecution to Justice by either organization during the period covered by our review, we are satisfied that if a referral is made in the future both ECs will comply with the prescribed procedures.

Additionally, we were advised by the SUBASE EC of five administrative actions that were taken against SUBASE employees, all for violations of the Standards. After examining these actions, in accordance with Section 2638.203(b)(9), we found them all to have been prompt and effective in remedying violations of the Standards, as all actions were taken within one month of SUBASE officials learning of the violation.

At CNRNE, the Deputy to the Commander also serves as the Inspector General (IG) for CNRNE. Based on our discussions with both the CNRNE EC and the IG, we believe that the services of the IG would be utilized when appropriate, including the referral of matters to and the acceptance of matters from the IG, as required by 5 C.F.R. § 2638.203(b)(12). Although there were no recent alleged violations of the criminal conflict-of-interest laws referred for prosecution to Justice during the period covered by our review, we were advised of one administrative action that was taken by CNRNE for violation of the Standards during the period covered by this review. After examining the documentation related to this action, we found the action to have been prompt and effective in remedying the violation.

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In closing, I wish to thank all of the ECs and their staffs for their efforts on behalf of the ethics program. A brief follow-up review is typically scheduled within six months from the date of this report. However, as this report contains no formal recommendations to improve the program, no such follow-up will be necessary. Please contact David A. Meyers at 202-482-9263, if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Jack Covaleski". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

Jack Covaleski
Deputy Director
Office of Agency Programs

Report number 04- 022