



United States Office
Of Government Ethics

Report Number 09 - 002

Highlights

Model Practices

- NAVAUDSVC leadership demonstrates significant support for the ethics program.
- NAVAUDSVC provides verbal training to all new employees.
- NAVAUDSVC utilizes its own written procedures, the NAVAUDSVC Management Handbook, to administer its ethics program.
- NAVAUDSVC plans to address ethics as part of each internal NAVAUDSVC audit.

If you have comments or would like to discuss this report, please contact Dale Christopher, Associate Director for Program Reviews, at 202-482-9224.

Ethics Program Review Naval Audit Service Department of the Navy

January 2009 Report

Executive Summary

The United States Office of Government Ethics (OGE) has completed its review of the ethics program at the Naval Audit Service (NAVAUDSVC), Department of the Navy (Navy). The purpose of a review is to identify and report on the strengths and weaknesses of a program by evaluating: (1) agency compliance with ethics requirements found in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program.

OGE's review identified several model practices implemented by NAVAUDSVC. These model practices include demonstrating significant agency leadership support for the ethics program, administering an ethics training program that exceeds the minimum training requirements for new employees, utilizing individualized written procedures to administer aspects of the ethics program, and expanding NAVAUDSVC's audit scope and objectives to help measure ethics program effectiveness at Navy entities audited by NAVAUDSVC.

This report has been sent to the Department of the Navy's Designated Agency Ethics Official, the NAVAUDSVC Auditor General, and the NAVAUDSVC Inspector General.



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Introduction

OGE MISSION

The United States Office of Government Ethics (OGE) provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance initiatives.

PURPOSE OF A REVIEW

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 found in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures in place for administering the program.

REVIEW AUTHORITY AND SCOPE

OGE has the authority to evaluate the effectiveness of executive agency ethics programs. See Title IV of the Ethics in Government Act of 1978, as amended (the Ethics in Government Act), and 5 CFR part 2638. OGE's review of the Naval Audit Service (NAVAUDSVC), Department of the Navy (Navy), focused on the elements listed below.

- Leadership involvement in the ethics program
- Program structure
- Financial disclosure systems
- Ethics training
- Ethics counseling services
- Enforcement of ethics laws and regulations
- Travel payments from non-Federal sources

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This report details OGE's review of NAVAUDSVC, located at the Washington Navy Yard in Washington, DC. The on-site fieldwork for this review was conducted intermittently in June and July 2008 and focused on calendar years 2007 and 2008.

OGE has also conducted reviews of the semi-autonomous ethics programs at the following Navy activities and components:

- Naval Hospital Pensacola;
- Naval Education and Training Command;
- Naval Air Systems Command (Headquarters);
- Naval Air Warfare Center, Aircraft Division; and
- Regional Legal Services Office, Naval District of Washington

Reports detailing OGE's review of the other activities and components will be issued separately.

Program Elements

This report consists of descriptions, analyses, and conclusions regarding each program element reviewed.

LEADERSHIP

Commitment and action by agency leadership is the keystone for ensuring the integrity of an agency's ethical culture and for fostering public confidence in the decision-making processes of Government. In conjunction with this review, the OGE review team met with both the Auditor General and the Deputy Auditor General to discuss the scope of the OGE review and the importance of agency leadership involvement in an ethics program, in accordance with 5 CFR § 2638.202(a). OGE found the NAVAUDSVC leadership to be significantly involved in supporting the NAVAUDSVC ethics program. Some of the leadership support actions follow.

- Throughout the year, the NAVAUDSVC leadership makes announcements and speeches in support of ethics that reiterate NAVAUDSVC's dedication to maintaining an ethical culture.
- Each year, the Secretary of the Navy (Secretary), with joint consensus from the Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC), establishes objectives on areas needing emphasis within the Navy. In 2006, the Secretary established an objective to "reinforce ethics as a foundation of conduct throughout the Navy," which has been continued in 2007 and 2008. To determine how to best accomplish this yearly objective, the Secretary tasked the Navy General Counsel, who also serves as the Navy's Designated Agency Ethics Official (DAEO), to lead efforts related to the objective with primary support from senior leaders throughout the Navy. NAVAUDSVC leadership plays an important role in these efforts as members of the Executive Steering Group.

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- The Auditor General expanded NAVAUDSVC's audit objectives and scope to address ethics during each NAVAUDSVC audit. (NAVAUDSVC's review procedures have been developed and modeled after OGE's program review guidelines.) In an effort to improve accountability Navy-wide, process-related functions are now being examined by NAVAUDSVC auditors such as: the collection, review, and evaluation of public and confidential financial disclosure reports; the rendering of ethics education and advice and counseling services to employees; the collection and reporting of travel payments from non-Federal sources under 31 U.S.C. § 1353; and the ethics-related support functions provided by human resource contacts. The focus of the reviews is to ensure that the audited activity has implemented an effective ethics program to reasonably ensure compliance with the Department of Defense's (DoD) Joint Ethics Regulation (JER) and OGE's ethics regulations.

Leadership support is critical in maintaining a viable ethics program, for employees as well as for ethics officials responsible for administering the program on behalf of the agency. OGE finds the above leadership actions to be model leadership practices that can be shared with other agencies. As OGE looks for ways to suggest how agency leaders can become more involved in ethics, OGE will recommend NAVAUDSVC's model leadership practices to help strengthen and promote an agency's ethical culture.

PROGRAM STRUCTURE

The ethics program at NAVAUDSVC is administered by the NAVAUDSVC Legal Counsel, who serves as the agency's designated Ethics Counselor and is responsible for managing and coordinating the day-to-day administration of the program. OGE found the NAVAUDSVC Legal Counsel to have been properly designated as a Navy OGC Ethics Counselor in accordance with the provisions of the JER.

NAVAUDSVC Management Handbook

During the review, OGE noted that NAVAUDSVC had established written procedures that were tailored to the needs of the agency. The written procedures are set forth within the NAVAUDSVC Management Handbook (Handbook), which contains guidelines for every sector of NAVAUDSVC work. Written procedures pertaining to ethics within the Handbook include administering the public and confidential financial disclosures systems, rendering ethics advice and training, and reporting alleged ethics violations. Also included are the 14 Principles of Ethical Conduct, the contact information for the NAVAUDSVC Legal Counsel, and links to several ethics Web sites, including OGE's. In light of the fact that the Navy DAEO is responsible for developing Navy-wide written procedures that provide the overall framework for administering both the public and confidential financial disclosure system, and noting that the requirement in section 402(d)(1) of the Ethics Act for developing written procedures is not clearly applicable to a subunit of an agency, OGE considers the NAVAUDSVC's individualized procedures to be a model practice and a valuable resource to both employees and ethics officials.

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FINANCIAL DISCLOSURE SYSTEMS

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 demonstrate that they are able to carry out their duties without compromising the public trust by disclosing publicly their personal financial interests (SF 278). Title I also authorizes OGE to establish a confidential financial disclosure system for less senior executive branch personnel in certain designated positions, to facilitate internal agency conflict of interest review (OGE Form 450).

Financial disclosure serves to prevent conflicts of interest and to identify potential conflicts by providing for a systematic review of the financial interests of both current and prospective officers and employees. The financial disclosure reports also assist agencies in administering their ethics programs in providing counseling to employees. See 5 CFR § 2634.104(b).

Public Financial Disclosure System (SF 278)

The procedures in place at NAVAUDSVC to administer the public financial disclosure system appear consistent with 5 CFR part 2634 as implemented by Chapter 7 of the JER.

Completed public reports must be forwarded to the filers' immediate supervisors for an initial compliance review. Upon completion, signed reports are then forwarded to the NAVAUDSVC Legal Counsel who provides a follow-up review for both technical and conflict-of-interest compliance. If no problems are found, reports are then forwarded to the Navy's Office of the General (OGC) for final review and certification. All completed NAVAUDSVC public reports are retained at the Navy OGC.

To evaluate the effectiveness of NAVAUDSVC's public financial disclosure system, OGE examined six public reports that were required to be filed at NAVAUDSVC in 2008. OGE evaluated the timeliness of filing and forwarding of the reports to the Navy's Office of General Counsel (OGC) as well as the thoroughness of review. The six reports examined consisted of:

Type of Report

- All 6 reports were annual reports.

Filing/Initial Review Timeliness

- All 6 reports were filed and initially reviewed timely.

Timeliness of Forwarding to Navy OGC

- All 6 reports were timely forwarded to the Navy OGC for final review and certification.

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Quality of Review

Written documentation on the reports or attached to the reports indicated that the reports underwent a thorough intermediate review by the NAVAUDSVC Legal Counsel. OGE also examined the accompanying cautionary letters included with some reports and found them to be useful in keeping filers apprised of potential conflicts.

Confidential Financial Disclosure System (OGE Form 450)

Much like the public system, OGE found the procedures used to administer the confidential financial disclosure system at NAVAUDSVC to be in compliance with the requirements found in the JER.

Completed confidential reports must be forwarded to the filers' immediate supervisors for an initial compliance review. Upon completion, signed reports are then forwarded to the NAVAUDSVC Legal Counsel who is responsible for providing final review and certification. All completed NAVAUDSVC confidential reports are retained with the NAVAUDSVC Legal Counsel.

To evaluate the effectiveness of NAVAUDSVC's confidential financial disclosure system, OGE examined the two confidential reports that were required to be filed in 2008. These 2 reports consisted of:

Type of Report

- Both reports were annual reports.

Filing Timeliness

- OGE noted that both reports were submitted more than 30 days late. The NAVAUDSVC Legal Counsel assured OGE that the late filing was due to an administrative error rather than the filers' unwillingness to file their confidential reports timely. OGE reminded the NAVAUDSVC Legal Counsel to remain diligent in ensuring that all confidential reports are filed timely in view of the role financial disclosure plays in preventing employees from committing ethics violations.

Review/Certification Timeliness

- Once submitted, both reports were reviewed and certified timely by the NAVAUDSVC Legal Counsel.

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Quality of Review

Both reports appeared to have been given a thorough review for compliance and completeness.

ETHICS TRAINING

An ethics education and training program is essential to raising awareness among employees about ethics laws and rules and informing them that an agency ethics official is available to provide ethics counseling. Each agency's ethics training program must include at least an initial ethics orientation for all employees and annual ethics training for covered employees.

OGE found the NAVAUDSVC ethics training program to exceed the minimum training requirements found at subpart G of 5 CFR 2638, as evidenced by NAVAUDSVC's commitment to provide verbal initial ethics orientation briefings to new employees and, when appropriate, annual ethics training to all employees. OGE also noted that NAVAUDSVC provides discretionary training throughout the year for both filers and non-filers to help keep employees aware of ethics laws and regulations. The discretionary training is done through a variety of methods including: sending ethics advisories and routine e-mails to employees regarding various ethics topics, updating appropriate ethics sections of the Handbook, and conducting post-employment briefings to departing employees. OGE considers the use of the discretionary training to be a useful way to reinforce the importance of ethical conduct and to ensure that employees understand what standards of ethical behavior are required within NAVAUDSVC. NAVAUDSVC's training efforts clearly indicate that ethics is a significant and continuous part of the NAVAUDSVC management culture.

Initial Ethics Orientation

Within 90 days from the time an employee begins work for an agency, the agency must provide the employee with an initial ethics orientation. Initial ethics orientation (IEO) must include:

- the Standards of Ethical Conduct for Executive Branch Employees (Standards) and any agency supplemental standards;
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials; and
- at least one hour of official duty time to review the items described above. *See 5 CFR § 2638.703.*

All new NAVAUDSVC employees are provided face-to-face IEO presentations on the key ethics principles as part of their new employee orientation. The ethics portion of the orientation is presented by the NAVAUDSVC Legal Counsel who uses a Navy OGC-produced ethics videotape in combination with a verbal overview of the required content and issues regarding:

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- misuse of Government resources,
- impartiality in performing official duties,
- conflicting financial interests,
- gifts between employees, and
- representation of private interests before the Government.

IEO completion is tracked through the collection of sign-in sheets by the NAVAUDSVC Human Resources Office. During the review, OGE confirmed that there were 79 new NAVAUDSVC employees who received IEO during the period of January 2007 through June 2008.

Other Forms of IEO

While new employee orientations at NAVAUDSVC are primarily scheduled during the months of January, June, and July, new employees are instructed to complete one of the DoD Standards of Conduct Office (SOCO) online ethics training modules to satisfy the basic requirements of IEO if they are unable to attend an orientation session within 90 days. Moreover, employees are required to complete the training within the first week of being hired. A check-in sheet is used to verify training completion.

Annual Ethics Training

Public financial disclosure filers are required to receive verbal annual ethics training. *See* 5 CFR § 2638.704(a). Verbal training includes training prepared by a qualified instructor and presented by telecommunications, computer, audiotape, or videotape. *See* 5 CFR § 2638.704(c)(2). Other covered employees (e.g., confidential filers) are required to receive verbal ethics training at least once every three years and may receive written training in the intervening years. *See* 5 CFR § 2638.705(c). The content requirements for both public filers and other covered employees are the same. Agencies are encouraged to vary the content of annual training from year to year but the training must include, at least, a review of:

- the 14 Principles of Ethical Conduct,
- the Standards,
- any agency supplemental standards,
- the Federal conflict of interest statutes, and
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials. *See* 5 CFR § 2638.704(b).

To satisfy the annual training requirement, NAVAUDSVC requires all covered employees to complete the SOCO-prepared online ethics training module. The 2007 training focused on conflicting financial interests, outside employment and activities, fundraising, gifts between employees, contractors and holiday parties, post-Government service restrictions, and supervisor responsibilities. Upon the completion of training, covered employees are required to file a certificate of completion with the NAVAUDSVC Legal Counsel, which are retained in each filer's report folder. After examining NAVAUDSVC's master lists of both public and

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confidential filers and cross-referencing the names on the lists with the training certifications on file, it appeared that all covered employees completed annual ethics training in 2007.

OGE noted that in 2007 the NAVAUDSVC Legal Counsel encouraged all other NAVAUDSVC employees to complete the online training since it covered a variety of ethics topics that covered situations NAVAUDSVC employees commonly encounter. According to documents provided to OGE, 161 non-covered employees completed the annual training. OGE acknowledges the provision of ethics training to non-covered employees as a good management practice and encourages the NAVAUDSVC Legal Counsel to continue this effort.

ETHICS COUNSELING

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

OGE's assessment of an ethics counseling program focuses on five factors: (1) accuracy, (2) timeliness, (3) transparency, (4) accountability, and (5) consistency. To determine whether an agency's counseling program successfully addresses these factors, OGE reviews and assesses the program's processes and written procedures. Further, OGE reviews selected samples of advice to assess whether processes and written procedures are effective.

OGE examined a sample of the ethics-related counseling memorialized in writing by the NAVAUDSVC Legal Counsel in 2007 and 2008. OGE concluded that NAVAUDSVC has complied with 5 CFR § 2638.203 (b)(7) and (8) by developing and conducting a counseling program for employees concerning all ethics matters, including post employment, wherein records are kept, when appropriate, on the counseling rendered. The counseling services provided by the NAVAUDSVC Legal Counsel also appeared to be timely which is important in preventing conflicts of interest and other ethics violations. Moreover, OGE found the counseling to document the specific issue(s) at question and the basis for the counseling being rendered, thus enhancing the transparency of the counseling program.

OGE also found NAVAUDSVC met the requirements of subsection 9-502 of the JER in regards to providing guidance on the relevant Federal and DoD post-Government service employment restrictions to departing employees. The NAVAUDSVC Legal Counsel provides in-person, post-employment counseling to those departing Federal service as part of NAVAUDSVC's Departure procedures. Employees are given a post-employment reference guide, Reference Guide to Post-Government Service Employment Activities of the Department of the Navy Personnel, and a post-Government service ethics questionnaire, which is used by the NAVAUDSVC Legal Counsel to provide written counseling on the post-Government service restrictions.

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ENFORCEMENT

An agency DAEO is required to ensure that (1) information developed by internal audit and review staff, the Office of the Inspector General, or other audit groups is reviewed to determine whether such information discloses a need for revising agency standards of conduct or for taking prompt corrective action to remedy actual or potential conflict of interest situations and (2) the services of the agency's Office of the Inspector General are utilized when appropriate, including the referral of matters to and acceptance of matters from that Office. *See* 5 CFR § 2638.203(b)(11) and (12).

OGE found that the NAVAUDSVC Legal Counsel and the NAVAUDSVC Inspector General share a strong working relationship as evidenced by regular communication on matters of mutual interest. Both offices consider their coordination with one another fundamental to their respective missions. Based on discussions with both parties, OGE is satisfied that procedures are in place to effectively exchange ethics-related information and to resolve ethics issues.

During the period covered by OGE's review, there were no matters referred by NAVAUDSVC for prosecution to the Department of Justice (DOJ) involving alleged violations of the criminal conflict-of-interest statutes. However, if a referral had been made, the Naval Criminal Investigative Service (NCIS)¹ would be responsible for concurrently notifying OGE of the referral as well as reporting the disposition, in accordance with the procedures prescribed in 5 CFR § 2638.603 and Chapter 10 of the JER.

With regard to violations of the Standards or other rules governing conduct, OGE noted that there was one administrative action taken against a NAVAUDSVC employee for a violation of the Standards in 2007. OGE determined that prompt and effective action was taken to remedy the violation.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

An employee may accept payment of travel expenses from non-Federal sources on behalf of the employee's agency for official travel to a meeting or similar function when specifically authorized to do so by the agency. Agencies must submit semiannual reports of travel payments from non-Federal sources in excess of \$250 to OGE. *See* 31 U.S.C. § 1353.

The procedures for accepting travel payments from non-Federal sources under the authority of 31 U.S.C. § 1353 are specified in Chapter 4 of the JER. Though NAVAUDSVC allows its employees to accept payments under this authority, gifts of travel were not offered during the timeframe of this review. OGE notes that if a travel payment had been accepted, the NAVAUDSVC Legal Counsel would be responsible for collecting the information to be

¹ NCIS is the primary law enforcement and counterintelligence arm of the Navy. All suspected criminal matters, including violations of the conflict of interest statutes, are referred to NCIS for investigation.

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reported, drafting the semiannual report of payments of more than \$250 per event, and forwarding the report to the Navy DAEO for inclusion in the Navy's semiannual report to OGE.

Summary

OGE's review identified several model practices implemented by NAVAUDSVC. OGE's review identified several model practices implemented by NAVAUDSVC. The model practices include demonstrating significant agency leadership support for the ethics program, administering an ethics training program that exceeds the minimum training requirements for new employees, utilizing individualized written procedures to administer aspects of the ethics program, and expanding NAVAUDSVC's audit scope and objectives to help measure ethics program effectiveness at Navy entities audited by NAVAUDSVC.

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