



United States Office  
Of Government Ethics

Report Number 09-016

## Highlights

### Model Practices

- Exhibiting leadership involvement in NWTRB'S ethics program
- Creating a guide for reviewing confidential financial disclosure reports

# Ethics Program Review Nuclear Waste Technical Review Board

April 2009 Report

## Executive Summary

The United States Office of Government Ethics (OGE) has completed its review of the ethics program at the Nuclear Waste Technical Review Board (NWTRB). 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.

During its ethics program reviews, OGE identifies model practices that agencies have implemented to enhance their programs. OGE's review of NWTRB's ethics program identified two model practices. The model practices include:

- exhibiting leadership involvement in the ethics program, and
- creating a guide for reviewing confidential financial disclosure reports.

This report has been sent to NWTRB's Designated Agency Ethics Official.

If you have comments or would like to discuss this report, please contact  
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**United States Office  
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## Ethics Program Review

# **Nuclear Waste Technical Review Board**

April 2009 Report

### **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 Nuclear Waste Technical Review Board (NWTRB) focused on the elements listed below.

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

OGE's on-site fieldwork was conducted at NWTRB in November 2008.

## **Ethics Program Review: NWTRB**

### **Program Elements**

This report consists of descriptions, analysis, 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. Leadership involvement in the ethics program at NWTRB is evident. The NWTRB Chairman and Executive Director are present and visible to the agency's small staff. Their guidance and support of the ethics program encourages respect for Government ethics rules and alerts employees to be wary of even the appearance of conflicts of interest.

#### **PROGRAM STRUCTURE**

NWTRB's ethics program is managed by the Director of Administration who is the Designated Agency Ethics Official (DAEO). The DAEO is assisted by the Executive Director who is the Alternate DAEO. NWTRB also has an ethics committee which is made up of the DAEO, the Alternate DAEO, and the NWTRB Chairman. A Records Manager assists the DAEO with various day-to-day tasks within the ethics program.

#### **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).

#### **Financial Disclosure Tracking System**

During the on-site fieldwork, OGE found NWTRB to have a reliable financial disclosure tracking system. Moreover, the DAEO's frequent interaction with NWTRB employees combined with low employee turnover helps to ensure the accurate and timely tracking of filers' financial disclosure reports.

## **Ethics Program Review: NWTRB**

### Review Guide

NWTRB ethics officials have created a financial disclosure report review guide that directs the reviewer through the financial disclosure process. The use of a review guide is a model practice that helps to ensure a consistent review.

### Conflicts of Interest Analyses

Conflicts of interest analyses of NWTRB financial disclosure reports appear to be conducted in a thorough and complete manner. In accordance with 42 U.S.C. 10262, no NWTRB member can be an employee or contractor of the Department of Energy (DOE). NWTRB's mission involves a continuous independent and expert technical review of the DOE program. NWTRB reports the conclusions and recommendations based on its review to Congress and the Secretary of Energy. This focused mission makes possible conflicts of interest very narrow in scope and fosters an efficient analysis of NWTRB financial disclosure reports.

### Public Financial Disclosure System (SF 278)

To evaluate the filing, review, and certification of public reports at NWTRB, OGE examined all 19 public reports required to be filed by NWTRB employees and detailees in 2007. The following is a summary of OGE's examination of the 19 reports:

#### Type of Report

- 18 annual reports
- 1 termination report

19 total

#### Filing Timeliness

- All 19 reports were filed timely.

#### Review/Certification Timeliness

- All 19 reports were reviewed and certified timely.

#### Quality of Review

Public financial disclosure reports filed by NWTRB employees are reviewed and certified by the DAEO. (The DAEO's report is reviewed by the Alternate DAEO.) The DAEO uses the Internet to research assets in conducting a substantive review of the reports for conflicts of interest. She is also aware of filers' responsibilities and of the potential for conflicts of interest between those responsibilities and the filers' financial interests.

## Ethics Program Review: NWTRB

The DAEO appeared to have conducted a thorough review for conflicts of interests on the reports OGE examined. Written comments on the review worksheets and documentation in the files indicated that the reports underwent a thorough review by NWTRB's DAEO. For example, in some cases there were indications of communications between a filer and the DAEO regarding follow-up questions.

### Confidential Financial Disclosure System (OGE Form 450/A)

To evaluate the confidential financial disclosure system at the NWTRB, OGE examined 5 confidential reports required to be filed by NWTRB employees in 2008. The following is a summary of OGE's examination of the 5 reports:

#### Type of Report

- 5 annual reports

#### Filing Timeliness

- 4 reports were filed timely.
- 1 report was filed late.

5 total

#### Review/Certification Timeliness

- All 5 reports were reviewed and certified timely.

#### Quality of Review

Confidential financial disclosure reports are reviewed and certified by NWTRB's DAEO. Similar to the public reports, OGE found written comments and documentation on the review worksheets of confidential reports that indicated that the reports underwent a thorough review by the DAEO.

## ETHICS EDUCATION AND 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.

## Ethics Program Review: NWTRB

### 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. An initial ethics orientation must include:

- the Standards of Ethical Conduct for Employees of the Executive Branch (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.*

To meet the initial ethics orientation requirement, within 90 days from the time an employee begins work at NWTRB, the employee is provided with:

- the Standards;
- the names, titles, office addresses, and phone numbers of ethics officials; and
- a one hour briefing hosted on the online training site [www.ethicsburg.gov](http://www.ethicsburg.gov).

Initial ethics orientation was provided to all new employees who began employment at NWTRB during 2007.

### Annual Ethics Training

Public financial disclosure filers are required to receive verbal annual ethics training each year. *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 annual ethics training at least once every three years and may receive written annual 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).*

NWTRB uses [www.ethicsburg.gov](http://www.ethicsburg.gov) to meet the annual ethics training requirement. OGE's review of this Web site found it to meet the annual ethics training content requirements.

NWTRB's ethics officials stated that all NWTRB employees required to receive annual ethics training in 2007 received it.

## **Ethics Program Review: NWTRB**

### **ETHICS COUNSELING**

The 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.

To meet the counseling requirements at NWTRB, ethics-related counseling is provided to employees primarily by the DAEO. To evaluate the ethics counseling provided, NWTRB's OGE Desk Officer analyzed samples of memorialized ethics counseling. Generally, the ethics counseling was in the areas of outside activities and gifts. The Desk Officer found that the advice rendered was useful in making employees aware of actual and apparent conflicts of interest and of when to seek counseling.

### **ENFORCEMENT**

The 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).

NWTRB has no Inspector General (IG). There is a standing interagency agreement between NWTRB and the General Services Administration (GSA) for NWTRB to use GSA's IG if necessary.

There were no alleged criminal conflict of interest violations referred to the Department of Justice (DOJ) during 2007. During the same period, there were no substantiated violations of the Standards. According to NWTRB ethics officials, if a violation were substantiated, the individual would be appropriately disciplined, and if necessary, the matter would be referred to DOJ.

### **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 to OGE of travel payments from non-Federal sources in excess of \$250. *See* 31 U.S.C. § 1353.

## **Ethics Program Review: NWTRB**

NWTRB rarely accepts payments under 31 U.S.C. § 1353 and did not accept any such payments in 2007. The DAEO prepares the semiannual reports, including negative reports, that are submitted to OGE.

### **Conclusion**

During its ethics program reviews, OGE identifies model practices that agencies have implemented to enhance their programs. OGE's review of NWTRB's ethics program identified two model practices:

- exhibiting leadership involvement in the ethics program, and
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