



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Defense Contract Audit Agency

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Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Defense Contract Audit Agency's (DCAA) ethics program in June 2011. The results of the review indicated that DCAA's ethics program is effectively administered and in compliance with applicable laws, regulations, and policies.

Highlights

- Leadership visibly supports the ethics program.
- Ethics officials have created comprehensive standard operating procedures for all elements of its ethics program.
- Annual ethics training is provided to all employees, which exceeds the minimum regulatory requirements.
- Ethics officials have implemented numerous model practices for most elements of its ethics program.

Concern

- Challenges exist in timely identifying new entrant confidential financial disclosure filers.

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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 assess DCAA's ethics program, OGE examined a variety of documents provided by DCAA's ethics office. OGE also examined all public and a sample of confidential financial disclosure reports required to be filed in 2011. In addition, the OGE review team met with the Designated Agency Ethics Official (DAEO), the alternate DAEO (ADAEO), the Deputy DAEO, representatives of the Human Resources Division, and the Acting Director of the Department of Defense Office of Inspector General (DODIG) to obtain additional information on DCAA's ethics program, seek clarification on issues and verify data collected.

Program Administration

DCAA's ethics program is administered within the Office of the General Counsel, Defense Legal Services (DL). The General Counsel (GC) serves as the DAEO; the Deputy GC serves as the ADAEO. An Assistant General Counsel serves as the Deputy DAEO. The Deputy DAEO, who is supported by three ethics counselors and a Paralegal Specialist, is responsible for day-to-day administration of the ethics program.

Model Practice

- Ethics duties are incorporated into the job description and performance appraisals of the Deputy DAEO.

Financial Disclosure

DCAA has comprehensive standard operating procedures for the administration of its financial disclosure program. In 2011 DCAA began implementing the Army Financial Disclosure Management System (FDM) to file, review and certify financial disclosure reports electronically.

DCAA provides checklists and advice regarding common filing mistakes to both filers and reviewers of financial disclosure reports in its intranet ethics web page. Additionally, training for Management Review Officials (MROs) and FDM online tutorials are available for employees. OGE commends DCAA on the use of aids to improve the quality of filing and reviewing financial disclosure reports.

The review team examined all required public reports in 2011, as of the time of the review, and a sample of confidential reports filed in 2011. OGE was impressed by DCAA's high rate of timely annual financial disclosure submissions. All 116 annual financial disclosure forms reviewed by OGE were filed timely. Public new entrant and termination reports were also filed timely. Written comments on financial disclosure reports, documentation in files and conversations with ethics officials indicated that the reports underwent a thorough review.

All financial disclosure reports undergo an intermediate review which includes a conflict of interest analysis by the filer's supervisor. Public reports are sent to the Deputy DAEO for review and then forwarded to the DAEO for final certification. Confidential financial disclosure reports are reviewed by MROs, who perform an initial cursory review of the annual and new entrant confidential reports to ensure proper completion by both filers and supervisors. Then, the Deputy DAEO or an ethics counselor certifies the confidential reports.

The supervisor's intermediate review of confidential reports was timely 97 percent of the time. However, of the 130 confidential reports examined, 58 received a final certification beyond 60 days. While the intermediate supervisor performs a conflict of interest review, occasionally, the final certifier identifies additional potential conflicts during the final certification and requests filers to enter into disqualification agreements. The occasional identification of potential conflicts of interest during the final review illustrates that a timely certification is important. DCAA ethics officials acknowledge the importance of a timely certification and are taking action to ensure compliance.

DCAA's only noticeable vulnerability in its financial disclosure program is the submission of new entrant confidential financial disclosure reports. Of the 30 new entrant reports in the sample, 11 were filed beyond the filing deadline. As a result, these employees performed their government duties without the safeguards of a timely conflict of interest review. During the review, ethics officials acknowledged their difficulty in capturing new entrant filers when employees have been promoted or are acting in a covered position. Ethics officials have taken measures to increase the timely identification of new entrants:

- Appointing regional MROs and Ethics Point of Contact (POC) to assist ethics officials in identifying, tracking and submitting to DL all new entrant financial confidential financial disclosure reports for all new hires or promotions to covered positions.
- Ensuring that job announcements for covered positions contain the requirement to file.

Additionally, the Human Resources Division (HR) sends ethics officials a bi-weekly report of employees in covered positions. However, the report is often inaccurate and ethics officials are forced to compare lists to attempt to identify the new entrants. While DCAA has taken steps to increase the timely identification of new entrants, there is still room for improvement in this area.

Recommendation

- Ensure an effective mechanism is in place to timely identify new entrant confidential financial disclosure filers.

Suggestion

- Reduce the time of the final certification of confidential financial disclosure reports to 60 days or less from the filing date.

Model Practices

- Ethics officials have implemented the use of the Army Financial Disclosure Management System.
- Both filers and reviewers are provided with aids to assist them in the financial disclosure process.

Education & Training

DCAA's ethics training program exceeds all relevant requirements at subpart G of 5 CFR § 2638. Initial ethics orientation was provided to all required employees in 2010. Additionally, annual ethics training was provided to all DCAA employees. OGE reviewed DCAA's training materials and found them to be in compliance with all relevant requirements. OGE also examined DCAA's 2011 annual training plan and found that it met the requirements of 5 CFR § 2638.706.

Commitment and action by agency leadership is a keystone for ensuring the integrity of an agency's ethical culture and for fostering public confidence in the decision-making processes of Government. The DCAA Director showed visible support of the ethics training program by requiring all supervisors to attend targeted training to help them understand their obligations and responsibilities within the ethics program.

Model Practices

- All DCAA employees are provided annual ethics training.
- Completion of ethics training is automatically recorded in DCAA's training account management program. Emails are sent inviting or reminding employees to complete training.
- Public filers receive in-person annual training provided by the DAEO or ADAEO.
- Supervisors are provided targeted ethics training to help them understand their obligations and responsibilities under the ethics program.
- DCAA's Intranet Ethics Web Page provides employees with comprehensive ethics guidance and training materials.

Advice & Counsel

DCAA has comprehensive written procedures for advisory opinions. Most advisory opinions are rendered in writing and are kept on a shared drive available to all ethics counselors. The DAEO reviews all formal opinions before they are issued. Written advice and counsel samples reviewed by OGE were consistently accurate and issued in a timely manner.

The majority of DCAA employees are auditors. As a result, DCAA ethics counselors tailor their formal opinions to address ethical concerns that are unique to auditors. DCAA auditors are required to follow both the ethics regulations and GAGAS independence requirements and, where one rule is more restrictive, follow the more restrictive rule. Hence, DCAA policy requires ethics counselors to coordinate all similar matters when providing advice to employees, and issue Combined ethics/GAGAS opinions covering the requirements in both the ethics regulations and under GAGAS. In addition to general advisory opinions, ethics counselors issue post-employment advisory opinions and Combined Ethics/Generally Accepted Government Auditing Standards (GAGAS) opinions.

During their out-processing, all departing Senior employees are provided written post-employment advisory opinions tailored to his or her future job aspirations or arrangements. Post-employment advisory opinions to employees GS-15 and below are provided upon request. A questionnaire (DD Form 2945) is sent to the requestor at the time of the request. The questionnaire's objective is to enable ethics counselors to render ethics advice to military and civilian employees leaving Government service. Ethics counselors prepare the post-employment opinions based upon the information provided in the questionnaire. The post-employment advisory opinions include a list of audit assignments worked by the auditor.

Model Practices

- Ethics advice is kept in a database accessible to all ethics counselors.
- Ethics officials provide customized post-employment advisory opinions to all senior employees and other employees as requested.
- Ethics officials provide tailored advice to meet the need of a specific audience.

Agency-Specific Ethics Rules

DCAA supervisors utilize OGE Form 450 to review and approve outside employment and activities from their employees in accordance with Department of Defense Directive. DCAA DL is considering the use of a standard form for employees to request supervisory approval of outside activities.

Enforcement

During the last two years, DCAA reported two disciplinary actions based wholly or in part upon violations of the standards of conduct provisions. DCAA reported no violations of the criminal conflict of interest statutes, and made no referrals to the Department of Justice (DOJ) of potential violations of the criminal conflict of interest statutes.

According to DCAA standard operating procedures, the Director of DCAA established an Internal Review Directorate (IRD) in late 2008 (DCAA Regulation 7600.1 effective May 9, 2011) to receive and investigate allegations of fraud, waste, and abuse within the agency and to receive complaints through a DCAA hotline. The procedures explain that the IRD is required to

coordinate all investigations of allegations involving potential conflicts of interest with DCAA's DAEO. DCAA standard operating procedures also define the roles of the IRD and the Department of Defense Office of Inspector General (DODIG). According to the procedures, the IRD is subject to oversight and review by the DODIG. Alleged violations of the criminal conflict of interest statutes will be referred to the Defense Criminal Investigative Organization (DCIS) through a referral to DODIG. Typically, DODIG will determine whether an allegation will be reported to DOJ and the Director of OGE. OGE commends DCAA on its comprehensive written procedures for this element of its ethics program.

1353 Travel Acceptances

The required semi-annual reports of payments accepted from non-Federal sources were submitted to OGE in a timely manner. In April 2011, DCAA issued MRD No. 11-DL-004 which provides the procedures that must be followed when accepting payments on behalf of the agency under 31 U.S.C. § 1353. DCAA follows DoD Standards of Conduct Office guidance, which requires a conflict of interest review by an ethics counselor prior to the acceptance of travel.

Agency Comments

On August 11, 2011, DCAA provided formal comments to the draft report. Those comments are attached. In summary, DCAA agreed in principal with the findings and conclusions, although it believed it was in compliance with guidelines concerning the timelines for final certification. In addition, DCAA agreed to work toward improving the timeliness of its new entrant filers.