



U.S. Office of Government Ethics  
Program Review Division

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# Ethics Program Review

## Federal Maritime Commission

Report No. 11-005  
January 2011

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## Results in Brief

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The United States Office of Government Ethics (OGE) conducted a review of the Federal Maritime Commission (the Commission) ethics program between November and December, 2010. The results of the review indicated that the Commission's ethics program generally appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

### Highlights

- Ethics duties are incorporated into the job description and performance appraisal of the Commission's Designated Agency Ethics Official (DAEO). Ethics duties are also incorporated into the job description of the Alternate Designated Agency Ethics Official (ADAEO).
- The OGE review team was particularly impressed with the advice and counsel element of the Commission's ethics program.

### Suggestions

- Stamp or annotate the date of receipt when public financial disclosure reports are received.
- Include supervisors in the collection of confidential financial disclosure reports.
- Establish reminders for ongoing destruction of reports that are older than 6 years.
- Incorporate ethics office notes in the comment box of the financial disclosure reports or as accompanying memoranda.
- Utilize the ethics office's subject matter expertise by assuming responsibility for in-person delivery of initial ethics orientation.

We commend the Commission for addressing all of the suggestions prior to the issuance of the report; at times, action was taken almost immediately after the OGE review team raised issues. In response to our draft report, the Commission informed OGE that all of the issues raised have been addressed. OGE will schedule a follow-up within six months from the date of this report.

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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 the Commission's ethics program, OGE examined a variety of documents provided by ethics officials including the annual questionnaire, prior program review reports, all of the calendar year 2009 public and confidential financial disclosure reports, and advice and counsel provided to employees. In addition, members of OGE's Program Review Division met with the DAEO, the ADAEO, the Inspector General, the Counsel to the Inspector General, Director of Office of Human Resources, and a Human Resources Specialist to obtain additional information about the strengths and weaknesses of the Commission's ethics program, seek clarification on issues that arose through the documentation analysis, and verify data collected.

## Program Administration

The Commission's ethics program is administered within the Office of General Counsel (OGC). Two attorneys in the office serve in the position of DAEO and ADAEO. The DAEO is the primary, day-to-day administrator of the ethics program.

### Model Practice

- Ethics duties are incorporated into the job description and performance appraisal of the Commission's DAEO. Ethics duties are also incorporated into the job description of the ADAEO.

## Financial Disclosure

Commission Order 121 – the written procedures for the administration of the public and confidential financial disclosure systems given to OGE at the beginning of the review– contained some inaccuracies. The procedures stated that the Chairman shall review the DAEO’s public financial disclosure report; however, it appears that the ADAEO reviews the report. The procedures also contained an incorrect filing date for the OGE Form 450. The DAEO had revised the written procedures prior to OGE’s on-site review and the revised order became effective on December 17, 2010. Additionally, the Commission’s current procedures address delinquent filers who are more than 10-15 days past the collection deadline. OGE suggests that the DAEO use frequent, informal reminders to bring filers into compliance before the deadline.

Public financial disclosure reports were submitted by filers and certified by the DAEO in a timely manner.<sup>1</sup> Dates of receipt, however, were not stamped on the public forms as required. Therefore, OGE review team used the filer’s signature date to establish timely submission. During the course of the review, the OGE team suggested that the Commission amend their intake process to ensure financial disclosure reports are stamped or annotated with a date of receipt. According to the Commission, a date stamp has been ordered for use in this process.

More than half of the confidential financial disclosure reports were submitted late. The OGE review team suggested the Commission be more proactive in collecting financial disclosure reports and, if necessary, include supervisors in the collection process. According to the Commission, supervisors will be included in the collection of confidential reports in order to minimize late filing.

During our review of the financial disclosure reports we found some reports that dated back into the last decade. We informed the DAEO of the Commission’s responsibility to destroy reports older than 6 years unless needed in an ongoing investigation. After the onsite portion of our review, the DAEO informed the OGE review team that all reports older than 6 years had been destroyed. According to the Commission, the destruction of reports more than 6 years old will be incorporated into the process of reviewing and filing of the financial disclosure system.

### Suggestions

- For public financial disclosure reports, amend intake process to include that reports are to be stamped with the date of receipt.
- For confidential financial disclosure reports, include supervisors in the collection process to minimize late filing.
- Establish reminders for ongoing destruction of reports that are older than 6 years.
- Incorporate ethics office notes in the comment box of the financial disclosure reports or as accompanying memoranda.

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<sup>1</sup> During our review of the public financial reports, we uncovered a report from a new employee who entered a covered position in October 2009. The employee filed his new entrant public report in January 2010 instead of 30 days after entering his position, as required. Because he entered his position before November 1, he needed to file an incumbent report during the following annual cycle; he did not. The Commission has placed a memorandum in the employee’s financial disclosure file explaining that the employee did not file due to an administrative oversight.

## Education & Training

The Commission's annual ethics training materials are in compliance with 5 CFR 2638.704 and 2638.705. The Commission reported that all required employees received initial ethics orientation and annual ethics training in 2009. The ADAEO provides in-person training to public filers.

The Commission's ethics office oversees the initial ethics orientation (IEO) training by selecting the materials for the HR office to provide to all new employees. Orientation packages, which include IEO materials, are provided to new employees on the first day of duty. During OGE's on-site review, issues with IEO were uncovered: (1) new employees were not told that they had an hour to review the materials given, (2) new employees were not confirming receipt of initial ethics orientation, and (3) employees were not provided with readily available access to the complete text of the Standards of Conduct in their immediate office area.

The DAEO is responsible for coordinating and managing the ethics program, including the initiation and maintenance of ethics education and training programs as specified in 5 CFR § 2638.203. Therefore, OGE recommends that the Commission's ethics office provide oversight regarding the content, delivery, and tracking of receipt of IEO to ensure that it fully meets the requirements of 5 CFR § 2638.203. New employees would be better served if IEO were provided in-person by individuals with detailed knowledge of the subject matter who are able to explain and respond to questions regarding conflict of interest laws. In response to our draft report, the Commission acknowledged the value of conducting in-person delivery of IEO by the ethics office and will do so in the future.

After the on-site portion of the review, the DAEO drafted an action plan with important changes for the implementation of IEO. These changes included providing the required documentation and having new employees sign a certification form. The form also explains that employees have an hour to review the conflict of interest laws and regulations, including the Standards of Conduct.

### Suggestion

- OGE strongly suggests that the Commission's ethics office utilize its subject matter expertise by assuming in-person delivery of initial ethics orientation.

## Advice & Counsel

The Commission's advice and counsel process is clearly defined. The DAEO handles all ethics-related questions. The written advice and counsel opinions reviewed by OGE were consistently accurate and timely. The DAEO usually responds to requests for advice within the same day. The OGE review team was particularly impressed with the advice and counsel element of the Commission's ethics program.

## Ethics Agreements

The Commission had no active ethics agreements for non-PAS employees during the period under review.

## Enforcement

The Commission reported no disciplinary actions based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635) or the criminal conflict of interest statutes (18 U.S.C §§ 203, 205, 207, 208, and 209). The Commission made no referrals to the Department of Justice of potential violations of the criminal conflict of interest statutes.

## 1353 Travel Acceptance

The Commission submitted to OGE in a timely manner the required semi-annual reports of payments accepted from non-Federal sources. The DAEO reviews each travel request for conflicts of interest. A clear system exists to identify and communicate with those employees who might file a report under 31 U.S.C. § 1353.

## Agency Comments

The Commission provided the following general comments:

“The ethics office at the Commission appreciates the opportunity to provide general comments on the draft ethics program review report. While it is stated in the report that overall, the agency’s ethics program is in compliance with Office of Government Ethics regulations, several issues are raised. It should be noted that all of the issues raised in the report have been addressed and resolved.”