



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Defense Logistics Agency

Report No. 12-02
October 2011

Results in Brief

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

Highlights

- DLA leadership visibly supports the ethics program.
- DLA has comprehensive standard operating procedures for all elements of its ethics program.
- DLA has implemented numerous model practices for some elements of its ethics program.

Concerns

- Some public reports were not certified timely.
- 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 DLA's ethics program, OGE examined a variety of documents provided by DLA's ethics office. OGE examined a sample of the public and confidential financial disclosure reports that were required to be filed at DLA in 2010, covering calendar year 2009. In addition, the OGE review team met with the Designated Agency Ethics Official (DAEO), the Alternate DAEO (ADAEO), the Primary Deputy DAEO, the Chief of Staff, and an Associate General Counsel to obtain additional information on DLA's ethics program, seek clarification on issues and verify data collected.

Program Administration

DLA's ethics program is administered within the DLA General Counsel and located at the DLA Headquarters. The General Counsel (GC) serves as the DAEO; the Deputy GC serves as the ADAEO. An Associate General Counsel serves as the Primary Deputy DAEO. The Primary Deputy DAEO is responsible for day-to-day administration of the ethics program and is supported by three ethics counselors at headquarters. The Chief Counsel for each of DLA's Primary Level Field Activities (PLFA) is also appointed as Deputy DAEO. The ethics counselors assist the Deputy DAEOs within their PLFAs. All DLA ethics counselors are appointed by the DAEO.

In October 2010, DLA used a survey to assess its ethical culture. Ethics counselors incorporated questions into the survey to assess employees' awareness of the ethics program.

Model Practice

- Ethics counselors used a survey to assess employees' awareness of DLA's ethics program.

Financial Disclosure

DLA has comprehensive standard operating procedures for the administration of its financial disclosure program. Additionally, DLA provides checklists and advice concerning common filing questions to both filers and reviewers of financial disclosure reports on its intranet ethics web page. OGE recognizes the use of aids to improve the quality of filing and reviewing financial disclosure reports as a model practice.

OGE was impressed by DLA's high rate of timely annual financial disclosure submissions. Of the 295 annual financial disclosure forms reviewed by OGE, 97 percent were filed timely. Public new entrant reports were also filed timely. Because ethics counselors did not indicate date received on the public financial disclosures reports, OGE reviewers used filers' signatures to evaluate timeliness of filing. Ethics counselors assured the reviewers that after reviewing OGE's *Public Financial Disclosure: A Reviewer's Reference*, they better understand how this block should be used.

DLA procedures require that all financial disclosure reports undergo an intermediate review by the filers' supervisors. The supervisory review includes a conflict of interest analysis. Public filers who report to an SES or Flag Officer submit their reports to their supervisors for an intermediate review. The reports are then forwarded to the DLA General Counsel. Public filers who report directly to the DLA Director send their reports to the Primary Deputy DAEO who conducts the intermediate review and coordinates with the DLA Director when a potential conflict of interest is identified. An ethics counselor certifies all public financial disclosure reports.

Most public reports in the sample reviewed by OGE did not show annotations or the signature of the supervisor as evidence of an intermediate supervisory review prior to the final certification. Additionally, 66 percent of annual public reports were not certified timely. Ethics counselors assured the review team that the intermediate review for conflicts was performed for all reports. Ethics counselors explained that during OGE's review they realized that evidence of an intermediate review should have been annotated on the report. Ethics counselors also noted that many of the public reports that were certified late were submitted before the May 15 deadline, one as early as February. They explained that they did not set up a tickler system to review reports received prior to the deadline.

In 2011, DLA began implementing the Army Financial Disclosure Management System (FDM) to file, review, and certify financial disclosure reports electronically. Ethics counselors expect to have the entire agency using FDM by the 2012 filing seasons. Currently, ethics counselors are in the process of scheduling FDM training at activities which will be using FDM for the first time. Ethics counselors anticipate that the use of FDM will address the financial disclosure issues that were identified during OGE's review and stated that they have already seen significant improvement during the 2011 public financial disclosure filing season. Ethics counselors explained that FDM will allow them to do the following:

- Automatically record the date received on the report, therefore eliminating the need for a date stamp.
- Automatically record when the ethics counselor/supervisor first reviews the report. Subsequent correspondence and follow-up with the filer is also recorded.
- Automatically generate an email to the certifier once the report has been submitted, which should prevent late certification. In addition, the program also allows the ethics counselor to review a list of reports by the date received by the agency. The ethics counselor can use this feature to prioritize reports for review.

OGE identified as a potential vulnerability the late submission of new entrant confidential financial disclosure reports. Of the 30 new entrant confidential filers in the sample, 7 were submitted late, including 5 who filed more than 6 months late. These employees performed their government duties without the safeguards of a timely conflict of interest review by the ethics office.

Recommendation

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

Suggestion

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

Model Practice

- Both filers and reviewers are provided with aids to assist them in the financial disclosure process.

Education & Training

Initial ethics orientation was provided to all required employees in 2010. DLA provided annual training to 99 percent of covered employees. The remaining 1 percent of covered employees who missed annual training were on military deployments or extended leave. Additionally, annual ethics training was offered to all DLA employees. OGE reviewed DLA's training materials and found them to be in compliance with all relevant requirements. OGE also examined DLA's headquarters' and PLFA's 2011 annual training plans and found that they 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 DLA Director and other senior leaders provide visible support of the ethics training program by regularly sending policy letters and emails to the workforce on ethics issues.

Model Practices

- At the request of the Director, in-person annual training is provided to all DLA senior leaders by the DAEO and senior ethics counselors.
- DLA's intranet ethics web page provides employees with comprehensive ethics guidance and training materials.
- Ethics counselors distribute additional training in a variety of creative ways such as posters, handouts, ethics screensavers, audio announcements, and newsletters. Additionally, educational ethics tips are distributed via organizational email in a "Did You Know" series.

- Employee feedback is solicited after completion of online ethics training.

Advice & Counsel

DLA has comprehensive written procedures for the administration of the ethics-related advice and counsel element of its ethics program. Ethics advice is provided directly to employees by ethics counselors at headquarters, PLFAs and regional offices. While DLA's ethics program is highly decentralized and dispersed, ethics officials have incorporated various ways to ensure that adequate communication exists between headquarters ethics counselors and their counterparts at the PLFAs and regional offices.

According to ethics officials, oversight and policy guidance for the DLA ethics program is provided by headquarters through email to encourage discussion among ethics counselors regarding ethics issues. Also, PLFAs send weekly reports regarding significant ethics issues to the General Counsel at headquarters.

To ensure consistency of advice and counsel, ethics counselors utilize the DLA Ethics Sharepoint site for Ethics Counselors which allows work products to be shared. Written advice and counsel samples reviewed by OGE were consistently accurate and issued in a timely manner.

Model Practices

- Ethics advice is kept in a database accessible to all ethics counselors.
- Ethics counselors provide customized post-employment advisory opinions to all senior employees and other employees as requested.
- Regular communication mechanisms exist between ethics counselors at headquarters and the PLFAs.
- An annual counsel seminar is held to provide a forum for ethics briefings and discussion amongst ethics counselors.
- Kiosks with ethics counselors phone numbers are available to employees who have no access to email.
- Ethics counselors review senior leaders' calendars on a daily basis to identify potential ethics issues and provide ethics guidance as needed.

Agency-Specific Ethics Rules

DLA requires employees in covered positions to obtain written approval from their supervisors before engaging in an outside activity or compensated employment with a prohibited source in accordance with Section 3-306 of the Joint Ethics Regulation. If an outside position is listed on a financial disclosure report and an ethics counselor believes there is a potential conflict, the ethics counselor verifies with the supervisor that approval was granted.

Enforcement

During 2010, DLA reported 16 disciplinary actions based wholly or in part upon violations of the standards of conduct provisions. DLA 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 the DLA Chief of Staff, the agency will have a new DLA Office of Inspector General (IG), which was formerly the DLA Accountability Office. The new DLA IG office is the single office for DLA-wide audits, criminal investigations, hotlines and vulnerability assessments. A memorandum of understanding exists between DLA and the Defense Criminal Investigative Service (DCIS) of the Department of Defense IG. OGE commends DLA on its comprehensive written procedures for the enforcement 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 2010. DLA has standard operating procedures for accepting payments on behalf of the agency under 31 U.S.C. § 1353 and how to report them to OGE.

Agency Comments

On September 13, 2011, DLA provided a response to OGE's draft report. Below is a summary of DLA's comments; their full response is attached.

DLA plans to use the feedback provided in OGE's report as a guide to improve their ethics program over the next year. DLA understands that there is room for improvement in the areas of timely certification of public reports and identification of confidential report filers and believes that FDM will dramatically improve, if not eliminate, any concerns about timely certification of public reports. Additionally, DLA plans to continue to work with DLA Human Resources and better educate their supervisors during the 2011 annual training to make the identification of new entrant filers more effective and efficient.

DLA appreciates the opportunity to comment on OGE's report and the recognition of several model practices currently in place at DLA.



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SEP 13 2011

Ms. Patricia Zemple
Director, Program Review Division
Office of Government Ethics
1201 New York Avenue, Ste. 500
Washington, DC 20005

Re: Review of the Defense Logistics Agency
Ethics Program

Dear Ms. Zemple:

Thank you for the opportunity to comment on the Office of Government Ethics (OGE) Ethics Program Review report for the Defense Logistics Agency (DLA). As indicated by the DLA Director, myself, and my team during the program review, DLA considers maintaining an effective Ethics Program within DLA as critical to our mission and to protecting the integrity of decision-making in the agency. We owe no less to our employees, our customers, and to our nation to ensure we are compliant with all laws and regulations and continue to adhere to the Principles of Ethical Conduct.

We plan to use the feedback provided in your report as a guide to improve our ethics program over the next year. Although you identified numerous model practices and strengths within our program, particularly with our leadership involvement and training, we understand that we have room to improve in the areas of timely certification of public reports and identification of confidential repOli filers. As indicated in your report, we believe that implementation of the Financial Disclosure Management program (FDM) will dramatically improve, if not eliminate, any concerns about timely certification of public reports. Regarding identification of new entrant filers, we plan to continue to work with DLA Human Resources and better educate our supervisors during the 2011 annual training to make this process more effective and efficient.

We also appreciate the recognition in your report of 12 model practices currently in place at DLA, in addition to highlighting our comprehensive Standard Operating Procedures for each ethics program discipline, consistently timely and accurate legal advice and counsel, and compliant reporting of travel payments accepted pursuant to 31 U.S.C. 1353. Over the next couple years, we plan to expand some of these model practices as well as look for areas and ideas to incorporate new model practices. Please note that if, during the course of your program reviews in the future, you discover an agency that might benefit from one of the model practices that DLA has already incorporated, please do not hesitate to put them in contact with us, so we may assist and provide more information on these practices.

It was truly a pleasure working with your team during their visit. They were helpful, friendly, and truly professional. Their review was thorough, and their thoughts and insight will be invaluable as we continue to better the DLA ethics program. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Fred T. Pribble
General Counsel
Designated Agency Ethics Official