

United States Office of Government Ethics

Compliance Division

Ethics Program Review

United States Postal Service

Results

The United States Office of Government Ethics (OGE) conducted a review of the United States Postal Service (USPS) ethics program between April and July, 2015. The scope of the review focused on data covering calendar year 2014.

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Objectives, Scope and Methodology

OGE provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. 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. The Ethics in Government Act gives OGE the authority to evaluate the effectiveness of executive agency ethics programs. *See* title IV of the Ethics in Government Act, 5 U.S.C. app. § 402 and 5 C.F.R. part 2638.

To assess USPS’s ethics program, OGE examined a variety of documents including the 2014 Agency Ethics Program Questionnaire (Questionnaire), written procedures for administering the program, samples of the public and confidential financial disclosure reports filed in 2014, ethics training materials and a sample of the ethics advice and counseling rendered to employees. OGE also met with USPS headquarters and Office of Inspector General (OIG) ethics officials to discuss the information gathered, clarify issues identified during the review and evaluate ethics program operations in further detail.

Program Administration

USPS Background

With a history dating to 1775 when the second Continental Congress appointed Benjamin Franklin as the first Postmaster General, USPS provides mail delivery products and services, in addition to other products and services such as passport services, money orders and official mail. USPS is led by an 11-member Board of Governors (Board) that oversees over 600,000 employees and nearly 32,000 retail offices. Nine members of the Board are Presidentially appointed and Senate confirmed (PAS) while the remaining two, the Postmaster General and Deputy Postmaster General, are appointed by the Board. During 2014, five of the nine PAS Board positions were vacant.

Ethics Program Structure

The USPS ethics office is physically located at USPS headquarters and organizationally located within the Law Department. The ethics office is headed by the Associate General Counsel/Chief Ethics and Compliance Officer who serves as the Designated Agency Ethics Official (DAEO). The DAEO, while organizationally located under the General Counsel, reports directly to the Postmaster General on ethics matters and is assisted by the Alternate DAEO (ADAEO) who is a Senior Ethics Counsel. Three attorneys with primary ethics duties and one staff attorney who performs ethics duties part-time support the DAEO and ADAEO. The ethics office also employs a full-time ethics specialist to collect financial disclosure reports, provide initial ethics orientation to new headquarters employees and manage incoming requests for ethics advice.

USPS's ethics program is centrally administered by USPS's headquarters ethics office, with the exception of the OIG. OIG separately administers its ethics program and has assigned four attorneys and a paralegal to perform ethics duties, including collecting and reviewing OIG employee financial disclosure reports, preparing and delivering ethics training to OIG employees and providing ethics advice to OIG employees. While OIG employees who perform ethics duties are organizationally located under the Inspector General, they serve under the oversight of the USPS DAEO for ethics matters.

Financial Disclosure

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. To ensure this confidence, high-level federal officials publicly disclose their personal financial interests. Title I also authorizes OGE to establish a confidential financial disclosure system, in which less senior executive branch personnel in certain designated positions may be required to file confidential financial disclosure reports. Financial disclosure serves to prevent, identify, and resolve conflicts of interest by providing for a systematic review of the financial interests of officers and employees. The

financial disclosure reports assist agencies in administering their ethics programs and also assist in providing counseling to employees. *See* 5 C.F.R. part 2634.

Written Procedures

Section 402(d)(1) of the Ethics in Government Act requires that each executive branch agency establish written procedures for collecting, reviewing, evaluating, and where applicable, making publicly available financial disclosure reports filed by the agency's officers and employees. While USPS's written procedures for its public and confidential financial disclosure systems generally meet the requirements of the Ethics in Government Act, they had not been updated to include guidance on the collection, review, evaluation, and public availability of the periodic transaction reports required by the Stop Trading on Congressional Knowledge Act of 2012, Pub. L. No. 112-105 (2012) (STOCK Act). At the time of OGE's fieldwork ethics officials stated that USPS is in the process of updating all its ethics-related written procedures, including incorporating the STOCK Act requirements into its financial disclosure procedures.

Prior to the issuance of this report, USPS developed interim procedures related to the STOCK Act financial disclosure requirements and communicated these requirements to USPS public filers. USPS stated these procedures will be incorporated and published in USPS's financial disclosure management instruction by the end of 2015 and agreed to notify OGE once the revised instruction was published.

Public Financial Disclosure

In 2014, USPS had 76 public financial disclosure report filers. Headquarters ethics officials collect, review, certify and maintain the headquarters and field office employees' public financial disclosure reports, which are submitted in hardcopy format. OIG ethics officials collect, review, certify and maintain the OIG employees' reports.

Ethics officials at headquarters and OIG use an electronic tracking system named the Financial Disclosure System (FDS) to track financial disclosure filers. USPS human resources offices notify ethics officials of newly identified employees and prospective employees required to file public financial disclosure reports. Current employees promoted to public filing positions and prospective employees selected for public filing positions undergo a vetting process that requires them to complete a public financial disclosure report prior to entering into the position. The employee is then added to FDS by ethics officials once the employee has officially entered on duty.

During annual filing season headquarters and OIG ethics officials send notices of the public filing requirement to the public filers recorded in FDS. Filers are subsequently provided periodic filing reminders. Ethics officials also notify covered departing employees of the requirement to file termination reports. Departing employees are also required to attend post-employment briefings.

To evaluate USPS’s public financial disclosure system, OGE examined all 11 new entrant reports, a sample of 40 annual reports, and all 6 termination reports that were required to be filed in 2014. Table 1 below presents the results of OGE’s examination.

Table 1. Examination of USPS’s Public Financial Disclosure Reports

	New Entrant	Annual	Termination	Totals
278 Reports Sampled	11	40	6	57
Filed Timely	9 (82%)	40 (100%)	5 (83%)	52 (91%)
Certified Timely	11 (100%)	40 (100%)	6 (100%)	57 (100%)

In the course of conducting their review of the public reports, USPS ethics officials identify potential conflicts by comparing filers’ duties against the information disclosed on their financial disclosure reports. Ethics officials then follow-up on any potential conflicts. OGE’s examination of the sample of public reports indicated that the reports were sufficiently reviewed by USPS ethics officials, with evidence of follow-up with the filers to resolve any substantive issues.

OGE also examined the sample of annual reports filed in 2014 to identify transactions that would have required the filing of periodic transaction reports (OGE Form 278-T). OGE selected for review 12 such transactions reported on the annual reports of 6 filers. OGE confirmed that transaction reports were filed for 8 of the 12 transactions. Transaction reports were not filed for four transactions involving one filer, and USPS waived the late fee because the failure to file was determined to be inadvertent.

Because the four transactions that were not timely reported were all related to the same filer, failure to collect required transaction reports does not appear to be a systemic area of concern at USPS. Nonetheless, OGE reminds USPS to ensure that public filers submit reports of all covered transactions in a timely manner.

Confidential Financial Disclosure

In 2014, there were 1,652 confidential reports required to be filed at USPS. Confidential filers, like public filers, are tracked in FDS. However, unlike public filers, most confidential filers also file their financial disclosure reports electronically through FDS.

Confidential reports are collected and reviewed by USPS ethics officials and then certified by “certifiers” from the USPS’s individual organizational units. Certifiers are individuals determined by the Vice Presidents to have the requisite knowledge of the filers’ duties to identify potential conflicts of interest between these duties and the filers’ reported interests. In consultation with USPS ethics officials, Vice Presidents and certifiers also determine the confidential filing positions and reassess these determinations every two years.

Positions identified as filing positions by the Vice Presidents and certifiers are forwarded to USPS ethics officials where occupation codes for each position are added to FDS. FDS interacts with Active Directory, an electronic human resources tool at USPS that contains information concerning every postal employee, including the employee's occupation code. Ethics officials run a report prior to annual filing season in FDS to identify annual filers. Ethics officials then notify the annual filers of their requirement to file. Ethics officials run a report in FDS monthly to identify any new employees occupying filing positions. Ethics officials then notify the new entrants of their requirement to file.

Headquarters ethics officials provide yearly financial disclosure review training to the certifiers to aid in identifying filing positions and performing financial disclosure reviews. Headquarters ethics officials are also consulted when potential conflicts are identified during conflicts analysis of the confidential reports.

To evaluate USPS's confidential financial disclosure system, OGE examined a sample of 31 new entrant and 30 annual reports that were required to be filed in 2014. Table 2 below presents the results of OGE's examination.

Table 2. Examination of USPS's Confidential Financial Disclosure Reports

	New Entrant		Annual		Totals	
450 Reports Sampled	31		30		61	
Filed Timely	28	(90%)	30	(100%)	58	(95%)
Certified Timely	31	(100%)	30	(100%)	61	(100%)

OGE's examination indicated that USPS's confidential reports were timely filed and certified. OGE followed up with a certifier on one apparent potential conflict identified during OGE's examination and determined that the certifier had properly addressed the issue raised by the employee's reported holdings.

Retention of Financial Disclosure Reports

Public and confidential financial disclosure reports are to be retained by agencies for six years and then destroyed unless needed for an ongoing investigation. *See* 5 C.F.R. §§ 2634.603 and 604. OGE observed that public and confidential reports were stored in locked cabinets at a secure location. However, reports older than six years were not consistently destroyed, as required.

Subsequent to the completion of the onsite review fieldwork, the USPS DAEO informed OGE that USPS had destroyed all reports older than six years and that in the future, all such reports will be purged on an annual basis.

Initial Ethics Orientation

OGE regulations require that all new agency employees receive ethics official contact information along with the following material within 90 days of beginning work for an agency: (1) the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards) and any agency supplemental Standards to keep or review; or (2) summaries of the Standards, any agency supplemental Standards, and the Principles of Ethical Conduct (the Principles) to keep. Employees must receive one hour of official duty time to review the material. *See* 5 C.F.R. § 2638.703.

USPS's initial ethics orientation material includes handouts containing summaries of the Standards, the agency supplemental regulations, the Principles, the conflict of interest statutes and the Hatch Act requirements, as well as ethics contact information. Additionally, new employees are provided a slide show presentation where the Standards are covered in-depth.

Initial ethics orientation at USPS headquarters is conducted as one of several sessions in a new employee's overall orientation. Ethics officials at headquarters and OIG develop and present the initial ethics orientation for their respective new employees.¹ Human resources officials at the field offices conduct the initial ethics orientation for new field office employees using material prepared by headquarters ethics officials and direct the employees to contact headquarters ethics officials with any ethics questions they may have.

USPS's 2014 Agency Ethics Program Questionnaire indicates that all new employees received initial ethics orientation, as required. OGE reviewed the orientation delivery confirmations provided by the various human resources offices to the headquarters ethics office. The confirmations indicated that all new employees received initial ethics orientation as required.

Annual Ethics Training Plan

OGE regulations at 5 C.F.R. § 2638.706 require agencies to develop, at the beginning of each year, a written plan for annual ethics training. The plan must contain a brief description of the agency's annual training and include estimates of the number of employees who will receive verbal and written training. While the USPS annual ethics training plan for 2014 describes the training to be provided, the plan does not include estimates of the number of employees that are expected to receive the training. OGE therefore recommends that USPS include estimates of the number of employees expected to receive verbal and written training in future annual training plans.

¹ OIG's training material was reviewed by headquarters ethics officials in 2014.

Recommendation

- Include estimates of the number of employees expected to receive verbal and written training in future annual training plans.

Annual Ethics Training

OGE regulations require all covered employees to receive annual ethics training consisting of a review of: (1) the Principles; (2) the Standards; (3) any agency supplemental Standards; (4) the criminal conflict of interest statutes; and (5) ethics official contact information. Training length and delivery method may vary by an employee's financial disclosure filing status. *See* 5 C.F.R. §§ 2638.704 and 705.

USPS provides verbal annual ethics training to public filers throughout the year.² The verbal presentations cover the Standards, USPS's supplemental regulations and the conflict of interest statutes. Following the verbal presentation, ethics officials send the public filers an email containing links to the Principles and the Standards. Ethics officials then record filers' receipt of the training in FDS. OGE's review of the FDS records indicated that all public filers required to receive annual ethics training received the training in 2014.

Annual ethics training tracking for other covered employees is accomplished through FDS where the covered employee accesses an online presentation and self-certifies completion by adding the completion date in FDS. Employees also have the option of electronically submitting any questions they have about the training to ethics officials. OGE's review of the FDS records provided by USPS showed that 1,633 of the 1,652 non-public filers (99%) certified completion of 2014 annual ethics training.

OGE's review of the training material for other covered employees indicated that while there was coverage of the Standards, USPS's supplemental regulations and ethics official contact information, the training did not include complete coverage of the Principles and the conflict of interest statutes. Training for other covered employees at OIG similarly did not include coverage of all the conflict of interest statutes. OGE therefore recommends that future annual ethics training for other covered employees include complete reviews of the Principles and the conflict of interest statutes.

Recommendation

- Ensure that annual ethics training for other covered employees includes complete reviews of the Principles and the conflict of interest statutes.

² Public filers also have the option of viewing an online presentation prepared for non-public filers.

Advice and 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 C.F.R. § 2638.203. The DAEO may delegate to one or more deputy ethics officials the responsibility for developing and conducting the counseling program. *See* 5 C.F.R. § 2638.204.

At USPS, requests for advice and counseling from employees may arrive via email, telephone or in-person visits. Headquarters ethics officials provide advice to headquarters personnel and field office personnel, while OIG ethics officials provide ethics advice to OIG personnel. Field office personnel typically discuss ethics matters with human resources officials at the field offices. The field office human resources officials are trained by the headquarters ethics officials to recognize ethics issues and forward questions to the headquarters ethics office.

When responding to requests for advice, ethics attorneys at headquarters or OIG may discuss atypical matters amongst themselves or refer to databases that store past advice provided. During 2014, headquarters ethics officials responded to approximately 5,451 requests (an average of 105 per week) for advice and counseling, while OIG ethics officials responded to approximately 195 requests. OGE's review of the samples of advice and counseling provided by headquarters and OIG ethics officials indicated that the guidance was provided in a timely manner and was supported by detailed citations to statutory and regulatory criteria. The sample covered a broad range of ethics topics including financial conflicts of interest, impartiality, post-employment, gifts, financial disclosure and outside activities.

Agency-Specific Ethics Rules

As authorized by Executive Order 12674 and implemented by 5 C.F.R. § 2635.105, an agency may modify or supplement the Standards, with the concurrence of OGE, to meet the particular needs of that agency. A supplemental agency regulation is issued jointly by the agency and OGE and is published in title 5 of the Code of Federal Regulations.

USPS's supplemental regulation, codified at 5 C.F.R. part 7001, incorporates prohibitions on the following outside employment and business activities:

- The manufacture of any uniform or other product required by USPS for use by its employees or customers;
- The transportation of mail under USPS contract to or from the postal facility at which the employee works, or to or from a postal facility within the delivery area of a post office in which the employee works;
- Providing consultation, advice, or any subcontracting service, with respect to the operations, programs, or procedures of USPS, to any person who has a contract with USPS or who the employee has reason to believe will compete for such a contract;

- The operation of a commercial mail receiving agency registered with USPS, or the delivery outside the mails of any type of mailable matter, except daily newspapers;
- Engaging in any sales activity, including the solicitation of business or the receipt of orders, for oneself or any other person, while on duty or in uniform, or at any postal facility;
- Interest in any contract for carrying the mail, or to act as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before USPS.

Employees are also required to obtain prior approval from ethics officials for the following activities:

- Engaging in outside employment or business activities with or for any person with whom the employee has official dealings on behalf of USPS; or
- Engaging in outside employment or business activities, with or for a person, including oneself, whose interests are (A) Substantially dependent upon, or potentially affected to a significant degree by, postal rates, fees, or classifications; or (B) Substantially dependent upon providing goods or services to, or for use in connection with, USPS.

OGE's examination of samples of public and confidential financial disclosure reports did not reveal any reported outside activities prohibited by USPS's supplemental regulation. Additionally, OGE's examination of samples of advice provided to employees indicated that advice rendered on employees' outside activities were in conformance with USPS's supplemental regulation.

Conflict Remedies

The criminal conflict of interest law at 18 U.S.C. § 208 prohibits an employee from participating in an official capacity in a particular matter in which he or she has a financial interest. Congress included two provisions that permit an agency to issue a waiver of the prohibition in individual cases. Under Executive order 12674, agencies must consult with OGE, where practicable, prior to issuing a waiver under section 208. During 2014, USPS did not issue any waivers under the provisions of 18 U.S.C. § 208(b)(1).

The Ethics in Government Act expressly recognizes the need for PAS nominees to address actual or apparent conflicts of interest by requiring written notice of the specific actions to be taken in order to alleviate the conflict of interest. *See* 5 U.S.C. app. § 110. In addition, OGE regulations at 5 C.F.R. part 2634 provide guidance on compliance deadlines for taking actions to alleviate conflicts of interest and the notification requirements for affirming compliance. USPS's PAS officials are 9 of its 11 Board members. Of these, four members served during 2014 while five of the positions were vacant. OGE's review of the financial

disclosure files of the four Board members who served during 2014 showed them to be in compliance with the terms of their ethics agreements.

Enforcement

USPS reported no disciplinary actions based wholly or in part upon violations of the criminal conflict of interest statutes (18 U.S.C. §§ 203, 205, 207, 208, and 209) and nine disciplinary actions based wholly or in part upon violations of the Standards (5 C.F.R. part 2635). The violations related to employees' misuse of their positions, including misuse of government property, improper use of nonpublic information and use of public office for private gain. According to the DAEO, there were likely more than the nine disciplinary actions based wholly or in part upon violations of the Standards that were known to the ethics office, but USPS does not track or record disciplinary actions on an agency-wide basis, and thus it is not possible to obtain complete statistics regarding such disciplinary actions.

USPS OIG conducts investigations of potential violations of the criminal conflict of interest statutes and makes any necessary referrals to the Department of Justice (Justice). OIG is also responsible for notifying OGE of any referrals made to Justice. USPS made two referrals to Justice in 2014 and OGE was notified of both referrals. Of these, one was accepted by Justice for prosecution while action had not yet been initiated on the other.

Special Government Employees

Special Government employees (SGE) are officers or employees of the executive or legislative branch, retained, designated, appointed or employed to perform their duties, full-time or intermittently, for not more than 130 days in any 365-day period. SGEs typically serve on agency advisory boards or commissions.

USPS's PAS Board members are its only SGEs and their ethics program requirements are administered by headquarters ethics officials. OGE confirmed the timely filing and review of Board members' financial disclosure reports during 2014. OGE also verified that the 2014 annual ethics training for the Board members met the content requirements and that all members completed the training.

Agency Comments

(Comments provided by USPS on 8/21/15)

The Postal Service appreciates the assistance OGE provides to the USPS ethics program. We regularly rely on the advice and assistance of OGE staff members, and the review process itself has been helpful to us. Through this process, we have identified certain areas where we can improve upon what we believe is already an excellent program.

We have carefully reviewed this report and are pleased that it reveals a robust and healthy ethics program. We agree with and are committed to implementing the two recommendations made in the report. Additionally, we will work closely with OGE so that the USPS continues to achieve high levels of compliance with the Standards in the years ahead.