



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

International Trade Commission

Report No. 12-47
March 2012

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the International Trade Commission's (ITC) ethics program in February 2012. The results of the review indicated that ITC's ethics program generally appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

Highlights

- ITC has comprehensive written policies and procedures for all elements of its ethics program assuring a viable succession plan.
 - ITC has a screening process to ensure certain employees do not work on cases that could pose a conflict of interest.
 - ITC provides mandatory post-employment advice and counsel to all employees.
 - ITC provides verbal training annually to all employees.
 - ITC's annual training includes interactive software and is updated each year to address current issues.
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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 ITC's ethics program, OGE examined a variety of documents provided by ITC's ethics office. OGE examined a sample of financial disclosure reports that were required to be filed at ITC in 2011. In addition, the OGE review team met with ITC's Designated Agency Ethics Official (DAEO), Alternate Designated Agency Ethics Official (ADAEO), a Paralegal, Counsel to the Inspector General (IG), and a Human Resources Specialist from the Human Resources Office (HRO) to (1) obtain additional information ITC's ethics program, (2) seek clarification on issues and (3) verify data collected.

Program Administration

The ITC's ethics program is administered within the Office of General Counsel. The General Counsel (GC) serves as the DAEO. An Attorney Advisor serves as the ADAEO. The ADAEO is primarily responsible for the day-to-day administration of the ethics program. A Paralegal Specialist serves as a Deputy Ethics Counselor.

Because the DAEO also holds the position of GC, ethics officials consistently have a voice in matters affecting the ITC. OGE believes this agency structure is advantageous in proactively addressing ethics concerns that could affect the agency. In addition, ethics duties are incorporated into the position description of ITC's DAEO.

Financial Disclosure

ITC ethics officials indicated that all covered employees filed the required public and confidential financial disclosure reports in 2011. The OGE review team reviewed a sample of public financial disclosure reports and confidential financial disclosure reports required to be filed in 2011. OGE found that the public financial disclosure reports were generally filed, reviewed and certified timely.

OGE found that one out of the ten new entrant confidential financial disclosure reports examined was filed late. The ADAEO indicated that the filer was promoted into a position that required filing and the ethics office did not receive timely notification of the promotion from HRO. The ADAEO discussed that problem with HRO employees and the ADAEO was advised that the oversight should not occur again. Several years ago, ITC ethics officials and HRO developed an internal process which informs ethics officials of all ITC personnel actions. Every two weeks, the HRO sends a report to the ethics office that includes new employees and promotions. Ethics officials email the new covered employees on the list notifying them of the requirement to file. The process ensures that all new confidential filers are timely notified to file their new entrant reports. This process is in addition to notice about filing financial disclosure reports given in the packet of ethics materials handed to new employees by HRO on their first day at the ITC.

OGE found that five of the 49 annual confidential disclosure reports examined were filed late. The ADAEO indicated that some of the late filers were on detail at another agency and others were on extended leave. In addition, four of the 49 reports examined were certified late. The ADAEO reported that, in October 2011, a Paralegal Specialist was assigned to assist in ethics part time and now serves as a Deputy Ethics Counselor. She will assist with the tracking and collection of reports in addition to other ethics responsibilities. The ADAEO believes that this additional resource will assist in ensuring all reports are collected and certified timely.

ITC ethics officials developed an additional screening process to ensure that commissioners, office directors, and administrative law judges, at higher risk for conflicts of interest and appearance issues, do not work on cases that pose potential regulatory or statutory violations. The ADAEO provides a list of financial holdings that the participants in the screening program report on their financial disclosure reports to four officials who are responsible for coordinating the screening within their different areas of Commission work. These officials notify the

ADAEO if a holding is involved in an upcoming case. The ADAEO emails the filer with the information provided by the screening officials, seeks additional information from the screening officials when needed, and advises the filer about whether a recusal is required. OGE considers this to be a model practice.

Education & Training

ITC's training program meets all relevant requirements. ITC has written policies and procedures for both annual ethics training and IEO; both of which include procedures for following up with employees who have not met the training requirements. All but three employees received initial ethics orientation (IEO) and annual ethics training in 2011. Of the three new employees who did not receive IEO in 2011, one left the agency one month after his arrival and the remaining two were temporary student employees. On their first day at the ITC, all new employees are provided a packet of information which includes IEO materials. Included in the packet is a memorandum from the DAEO that discusses the purpose of the ethics program and provides a brief overview of the relevant ethics laws. The ADAEO reviews the packet of information with new employees for approximately 40 minutes, discussing the principles, statutes, and regulations included in the packet of information. In addition, new employees watch a 20 minute video presentation of *Integrity in Public Service: Earning the Public's Trust*. After the video, new employees are encouraged to ask questions in a group or individual setting

In 2011, the ITC provided interactive verbal training for all its employees. The ITC will be providing verbal training annually. OGE considers these training efforts to be model practices. The verbal training provided will vary from year to year and will include a 75 minute interactive session. ITC is using interactive training, such as games, for its annual training to engage employees. ITC annual training is re-created each year to specifically address current ITC ethics issues.

Advice & Counsel

OGE reviewed a sample of the ITC's written advice and counsel issued to agency employees and found that all pieces of advice and counsel appeared to be accurate. The ADAEO responds to all ethics-related questions and maintains a log of ethics questions and answers. All ethics officials have access to the log to ensure consistency and accuracy.

All ITC employees are required to meet with the ADAEO, or other ethics official in the ADAEO's absence, to receive post-employment counseling prior to departing the agency. ITC includes the ethics office on the sign out sheet so that employees cannot be released until they have an ethics official's signature. ITC also has written policies and procedures for the advice and counseling element of the ethics program. OGE considers these to be model practices.

Conflict Remedies

ITC has written policies and procedures for the administration of ethics agreements. ITC also has written policies and procedures for meeting requirements related to the ethics pledge. OGE considers these efforts to be model practices.

Enforcement

ITC reported no disciplinary actions based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635). There were 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). ITC made one referral to the Department of Justice (DOJ) for potential violations of the criminal conflict of interest statutes. Per the ADAEO and Counsel to the Inspector General (IG), the DOJ declined to prosecute and the employee has since left the agency. The DAEO and ADAEO are responsible for concurrently notifying OGE of referrals made to the Department of Justice.

The ITC Office of the IG is responsible for investigating any potential violations of the standards of conduct provisions or violations of the criminal conflict of interest statutes. The IG is also responsible for any referrals to DOJ. The Inspector General indicated a close working relationship with the ethics office. Each office is aware of its responsibilities and works together effectively. ITC has written policies and procedures for corrective actions in cases involving violation of the Standards of Ethical Conduct and for disciplinary actions involving the violation of criminal conflict of interest statutes.

1353 Travel Acceptances

ITC has written procedures that govern the acceptance of travel payments from non-Federal sources under 31 U.S.C. § 1353. ITC has consistently submitted to OGE in a timely manner the required semi-annual reports of payments accepted from non-Federal sources.

Agency Comments

OGE provided ITC with a draft copy of this report for comment. Their comments are included below.

We wish to thank OGE for the helpful review conducted at our agency. As a result of the review we were able to improve our procedures for collecting and certifying the OGE-450 reports. First of all, the assistance of our Paralegal Specialist, assigned to the Ethics program part time in October 2011 and who is now a Deputy Ethics Counselor, has been very important in keeping track of the filings to be sure they are timely received, reviewed, and certified.

For the reports due on February 15, 2012, we doubled the number of times we notified our filers of the due date. As a result of the increased number of reminders, 93% of the 220 reports required to be filed were filed by the deadline. The remaining 7% of the filers asked for extensions. We have received all of the reports for the extension dates that have already passed.

All but a small number of our reports have already been certified. Those that remain required additional information or were filed under extensions. This year we have made a point to note on the report itself when extensions were given and when additional information is required in order avoid confusion about whether there was a late filing or a late certification.