



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Election Assistance Commission

Report No. 12-19
December 2011

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Election Assistance Commission's (the Commission) ethics program between November and December 2011. The results of the review indicated that the Commission's ethics program is effectively administered and in compliance with applicable laws, regulations, and policies.

Highlights

- Comprehensive written determination of Special Government Employee status for Federal advisory committee members
- Timely submission, review and certification of public and confidential financial disclosure
- Detailed advice and counsel frequently provided through formal memoranda

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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; other documents that the Commission forwarded to OGE, including the 2010 annual questionnaire; all of the Commission's public and confidential financial disclosure reports; and a sample of advice and counsel provided to the Commission's employees. In addition, members of OGE's Program Review Division met with ethics officials 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 office consists of a Designated Agency Ethics Official (DAEO) and Alternate DAEO (ADAEO). The Commissioners and Executive Director are supportive of the ethics program. Although not active in day-to-day program operations, the Executive Director receives annual updates on confidential filer designations and assists ethics officials' collection of financial disclosures near the filing deadline.

The ADAEO is OGE's ethics contact point for the approximately 50-person agency. In consultation with the DAEO, she is the primary ethics advisor and financial disclosure reviewer. The DAEO also serves as the Commission's general counsel. The ethics program is well-situated within the Commission to provide timely and responsive ethics services.

Financial Disclosure

The Commission's financial disclosure program is well-documented in the U.S. Election Assistance Commission Administrative Manual, Section 11.2. Ethics officials annotate public and confidential financial disclosure receipt, certification, and contact dates for each filer on dedicated tracking spreadsheets. Reports are centrally located in a secure location, organized by filing year, and readily available for annual conflicts review and record destruction when required.

The ADAEO manages the financial disclosure program. Commission employees submitted reports in a timely manner which were all reviewed and certified by the ADAEO prior to the established deadlines. Reviewers noted the ADAEO's correspondence with filers to resolve questions and evidence of counseling when a possible conflict was identified. Reports were technically sufficient with some minor over-reporting of information noted.

Education & Training

The Commission's ethics officials provide annual ethics training to both full-time and special government employee advisory committee members. Ethics officials track training alongside financial disclosure information, providing a rapid assessment of covered employee training status. The Commission's human resources staff notifies ethics official of new employees, usually prior to their start dates, to coordinate initial ethics orientation. Employees are then added, as necessary, to the list of covered employees for annual ethics training.

Ethics material covered during annual training and initial ethics orientation complied with regulatory requirements. Additionally, OGE commends the Commission's ethics officials for providing supplemental ethics training, covering subject matter beyond the minimum requirement for regulatory compliance.

Advice & Counsel

The Commission's DAEO and ADAEO provide ethics advice and counsel based on written delegation of authority letters and direction from the Commission's administrative manual. OGE reviewers examined samples of the Commission's ethics guidance and found them to be detailed, timely, and often presented in a formal memorandum. OGE commends the Commission for documenting, through its administrative manual, that requests for ethics advice be made in writing. In some instances, Commission employees formally acknowledge receipt of advice and counsel by countersigning the guidance memorandum.

Conflict Remedies

No ethics agreements or 18 U.S.C. § 208 waivers were established during the period covered by this program review. Ethics officials attend all public advisory committee meetings to ensure attendees comply with their existing ethics agreements. Ethics officials recognize the requirement to consult with OGE on 18 U.S.C. § 208 waivers.

Enforcement

The Commission's ethics officials and Office of Inspector General (OIG) jointly address incoming ethics issues. The OIG identifies ethics issues received on the OIG hotline and transfers them to ethics officials for resolution. The DAEO keeps the OIG informed with the status and resolution of previously referred issues. A written memorandum identifies each office's responsibilities for review, remedial action, investigation and referral of potential ethics violations.

Special Government Employees

The Commission employs several SGEs on two of the agency's three Federal advisory committees. The status of committee members as SGEs or representatives is set forth in a 2005 policy paper detailing each committee, the responsibilities of each position, and the reasoning used when making the determination. The policy paper was drafted by ethics officials in conjunction with the Department of Commerce/NIST for the Commission's Executive Director.

Ethics officials review SGE financial disclosures and counsel SGEs to notify their Designated Federal Official (DFO) of any changes prior to subsequent meetings throughout the year. When advisory committee members belong to other agencies, their home agencies hold financial disclosure review responsibility. The Commission provides guidance if potential conflicts are identified by the home agency. To further reduce the possibility of conflicts, ethics officials attend committee meetings and forward relevant screening arrangements to the committee's DFO and employees' supervisors as necessary. The Commission also provides compliant ethics training to its advisory committee SGEs.

1353 Travel Acceptances

The Commission filed the required semi-annual reports of travel acceptance with OGE in a timely manner. A travel acceptance policy is set forth in a Commission policy paper including processes for information collection and conflicts analysis. The Commission's ethics officials typically receive requests for travel acceptance by formal memorandum and consult with the sponsor organization for information necessary to perform a conflicts analysis. OGE supports the Commission's travel acceptance process whereby ethics officials analyze travel requests for conflicts and forward their recommendation to the Executive Director for final approval.

Agency Comments

The Commission provided comments via email on December 13, 2011. They are reproduced below in their entirety.

“U.S. Office of Government Ethics 2011 Agency Audit Reply

As noted in OGE's audit report, the U.S. Election Assistance Commission (EAC) is a small agency. But its dedication to a strong professional culture based on the principle that public service is a public trust, is surpassed by no other Federal agency. That culture is set at the top, by the Commissioners, the Executive Director, and senior management. The ability of the DAEO and ADAEO to meet their statutory and regulatory responsibilities is further advanced by the excellent lines of communication with the staff at OGE.

It is difficult to measure success by what does not happen. But in the ethics field, that is how success is measured. We are pleased that this audit report confirms in a positive way the EAC's commitment to high ethics standards and appreciation of the public trust.”