



May 28, 2004

Rudy Sanchez
Designated Agency Ethics Official
Selective Service System
1515 Wilson Boulevard
Arlington, VA 22209-2425

Dear Mr Sanchez

The Office of Government Ethics (OGE) has completed its review of the Selective Service System's (Service) ethics program. The review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended (the Ethics Act). Our objective was to determine the program's compliance with applicable laws and regulations. We also evaluated the Service's systems and procedures for ensuring that ethics violations do not occur. This review was conducted intermittently from March through May 2004.

HIGHLIGHTS

While our examination of your program found a few system- and process-related faults, we are pleased that corrections and improvements were made both before and during the time frame of our review to ensure that your program complies with applicable ethics statutes and regulations. Our concern about the Service's program focuses on its continued viability based on the high turnover rate in Designated Agency Ethics Officials (DAEO), five different employees (including you) have served as DAEO since 2000. Subsequent to our exit briefing with ethics officials, which was held on May 6 when you held the Alternate DAEO (ADAEO) position, we were told that the Service's new Acting Director had appointed you as DAEO. The former DAEO was appointed ADAEO. While this change comports with the concerns we raised about the former DAEO's temporary appointment status, it again highlights the turnover rate issue.

PROGRAM STRUCTURE

Current staffing level for the ethics program appears appropriate given the agency's size, organizational structure, and mission. At the time of our review, the agency's Executive Officer had been serving for a year as DAEO for the approximately 160 Service employees located at headquarters in Arlington, Virginia, a Data Management Center, and three regional offices around the country. While the Service did not have an ADAEO for many years, just before the start of our review, you, as the agency's one attorney-advisor, were appointed to fill that position. You had long

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provided legal advice for the ethics program before your ADAEO appointment. The switch in appointments between you and the former DAEO was made on May 12.

We believe that most of the ethics program breakdowns outlined in this report can be attributed to the high turnover rate in DAEOs over the past few years. Despite the Service's ongoing restructuring and management changes, we encourage you to maintain a stable ethics program structure as a means by which to sustain the program's viability.

ETHICS AGREEMENTS

There are no ethics agreements in effect for current employees. However, the nominated Service Director (whose Senate hearing was held on January 28, 2004, but who has not yet been confirmed) does have a pending ethics agreement.¹ After the submission of his nominee report to our Office, he subsequently entered into an agreement with the Service's Senate confirmation committee which we were not aware of until the time of our exit briefing with you. We clarified with your predecessor the requirements of 5 C.F.R. § 2634.803(a)(2) concerning immediately notifying OGE of agreements such as this. In addition, we clarified the following requirements that actions(s) to comply with the agreement be taken within the time frame prescribed in the agreement (§ 2634.802(b)), that there be written evidence of the action(s) taken (§ 2634.804(b)), and that such supporting documentation be forwarded to OGE shortly after the actions are taken (§ 2634.804(a)(1)).

ENFORCEMENT

Based on the fact that there have been neither any recent alleged violations of the criminal conflict-of-interest laws nor the standards of conduct, we were unable to assess whether you are ensuring that the Service promptly and effectively deals with those employees who engage in unethical conduct (5 C.F.R. § 2638.203(b)(9)). In addition, we could not assess whether information developed by an office of inspector general (OIG) is reviewed by ethics officials or whether OIG services are used as appropriate (5 C.F.R. § 2638.203(b)(11) and (12)).

The Service has an agreement with the Smithsonian Institution OIG to provide investigative services. According to discussions with you, an OIG official, and a Service employee who serves in a liaison capacity with the OIG, there have been no recent investigations involving employee misconduct. If ever required, it is likely that the OIG and DAEO would jointly and concurrently notify OGE of any referrals to the Department of Justice alleging violations of the criminal conflict-of-interest laws, in accordance with 5 C.F.R. § 2638.603(b).

¹The Service Director is the agency's only Presidentially-appointed, Senate-confirmed (PAS) position. We were advised that the Service now has an Acting Director serving on a part-time basis who is a PAS employee from another agency.

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ETHICS COUNSELING AND ADVICE

There is a process in place to provide ethics counseling and advice to employees to meet the requirements of 5 C F R § 2638 203(b)(7) and (8), however, overall, minimal advice is dispensed since Service employees ask few ethics-related questions. The two e-mail determinations provided to individual employees in the past year showed that the advice was accurate and consistent with applicable laws and regulations.

To keep employees informed of ethics matters, ethics officials have issued a few e-mails to them referencing ethics rules and OGE's Web site. Ethics officials also assured us that departing Service employees are given either a post-employment briefing or written materials depending on their situation. When we last met, we spoke about the benefits of establishing an intranet ethics Web site at your agency as a way to easily provide ethics-related information on matters germane to Service employees.

ETHICS EDUCATION AND TRAINING

Based on recently made improvements, we found that OGE's ethics education and training requirements are now being met at the Service. Though the Service's ethics training plan had not been routinely documented in the past, in accordance with 5 C F R § 2638 706, in 2004 a written plan was developed with assistance provided by the Service's OGE Desk Officer. We are satisfied that initial ethics orientation is met for new employees shortly after they in-process through the Human Resources Division. Materials given to new employees include a copy of the Standards of Conduct. In addition, ethics officials recently instituted a practice of sending a welcome notice to them via e-mail, which ensures meeting the requirements of 5 C F R § 2638 703(b) and (c).

Our review of an attendance roster from an April 2003 annual ethics training class confirmed that in-person training was provided to all covered employees by two OGE desk officers. By the time of our last meeting, we were informed that you had recently trained all four public filers in order to fulfill their 2004 ethics training requirement and that you plan to train other covered employees in October 2004.

We were also told that you intend to personally provide an ethics orientation briefing to the new Director after his confirmation and appointment. In addition, you intend to annually provide personalized ethics training to him. We advocate these ethics training practices.

FINANCIAL DISCLOSURE SYSTEMS

Based on the changes and corrections instituted during our review, we determined that the Service's public and confidential financial disclosure systems are now in compliance with OGE's financial disclosure requirements, and related processes are back on-track. During our review ethics officials (1) documented the agency's procedures for administering the financial disclosure systems,

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in accordance with the Ethics Act, (2) certified financial disclosure reports that the previous DAEO had not certified and assured to us that there were no conflicts of interest, (3) collected a long overdue termination public report from the previous Director,² (4) disposed of financial disclosure reports older than six years, and (5) made additional annotations to reports to clarify reported entries. We were also assured that for the annual confidential financial disclosure filing cycle, ethics officials would not request employees to file OGE Forms 450 earlier than October 1.


We determined that all 6 public³ and all 18 confidential reports required to be filed in 2003 were filed, reviewed, and certified timely. It appeared that the review of the reports was thorough based on the few notations and corrections made on them.

TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

We could not assess the acceptance of payments for travel, subsistence, and related expenses from non-Federal sources since the Service does not accept this type of payment. However, we found that for the last several years the Service had not submitted all of the required semiannual negative reports to our Office. During the time frame of our review, ethics officials provided the negative reports to OGE, in addition to providing a negative report for the most recent time frame (covering October 1, 2003 through March 31, 2004).

In closing, I wish to thank you for all of your efforts on behalf of the ethics program. No six-month follow-up review is necessary in view of the fact that we have no recommendations for improving your program at this time. Please contact Ilene Cranisky at 202-482-9227 if we may be of further assistance.

Sincerely,


Jack Covaleski
Deputy Director
Office of Agency Programs

Report Number 04 - 010

²The previous Director, who left the agency in January 2003, did not file his termination report until March 2004. Due to confusion on the part of previous DAEOs, it was not until the start of our current review that the collection of his report was pursued. Based on the circumstances described in the correspondence accompanying the previous Director's report, your predecessor appropriately granted him a waiver of the \$200 late filing fee.

³In 2003, two termination, two new entrant, and two annual public reports were required.