



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW., Suite 500  
Washington, DC 20005-3917

January 3, 2012

Steven G. McManus  
Chief Operating Officer  
Armed Forces Retirement Home  
3700 N Capitol Street Northwest  
Washington, DC 20011

Dear Mr. McManus:

The United States Office of Government Ethics has completed its review of the ethics program at the Armed Forces Retirement Home. OGE's primary objective was to identify and report on the strengths and weaknesses of the 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.

Enclosed is a report on the results of our review. The results of our review indicated that the AFRH's ethics program is administered in accordance with relevant ethics laws and regulations. OGE found that AFRH's ethics program has several strong program elements, particularly in the area of gift acceptance that assist in promoting an ethical climate.

I appreciate the courtesies extended to the OGE program review staff. If you would like to discuss the report, please contact me at 202-482-9317.

Sincerely,

A handwritten signature in black ink that reads "Rashmi Bartlett".

Rashmi Bartlett  
Associate Director

Enclosure

**United States Office of Government Ethics**

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Program Review Division

Ethics Program Review

Armed Forces Retirement Home

## Results in Brief

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The United States Office of Government Ethics (OGE) conducted a review of the Armed Forces Retirement Home's (AFRH) ethics program in July 2012. The results of the review indicated that AFRH's ethics program generally appears to be effectively administered and in compliance with applicable laws, regulations, and policies.

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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 evaluate AFRH's ethics program OGE examined various documents provided by AFRH ethics officials, including the 2011 annual questionnaire, procedures that establish the authority, and responsibilities of ethics program officials, the agency's organization charts, list of public and confidential financial disclosure filers, training materials, and other documents relating to the administration of the ethics program. OGE examined AFRH's 2011 financial disclosure reports that were required to be filed in 2012 to verify compliance with applicable laws and regulations. OGE also met with the Designated Agency Ethics Official (DAEO), the Assistant Designated Agency Ethics Official (ADAEO), the former Designated Agency Ethics Official (DAEO) who is now the AFRH Inspector General (IG), and a paralegal to obtain information about the strengths and weaknesses of AFRH's ethics program, seek clarification on issues that arose during OGE's analysis of documents collected, and verify data collected.

## Program Administration

AFRH is an agency whose mission is to provide living quarters, retirement care, and other support services for America's military veterans during their retirement. AFRH has two campuses, one located in Gulfport, Mississippi and the other in Washington DC, which also serves as AFRH's headquarters. AFRH employs approximately 283 employees to carry out its mission.

The ethics program is located in AFRH's Legal Office and is administered by the DAEO and ADAEO, with the assistance from a paralegal. The General Counsel serves as the DAEO and the Assistant General Counsel serves as ADAEO. The agency's ethics program is managed jointly by the DAEO and ADAEO. In addition, each campus has a Deputy DAEO that assists the DAEO and ADAEO in implementing the ethics program at the facility level. The current DAEO, who was appointed in May 2012, also receives assistance from the former DAEO who was appointed AFRH's IG in May 2012. The ethics office's written procedures, *AFRH Notice # 09-08*, not only detail the ethics-related duties and responsibilities of officials in the ethics office (DAEO, ADAEO, Deputy DAEOs), but also prescribe the roles of AFRH's Chief Operating Officer, Deputy Chief Operating Officer/Chief Financial Officer, and Directors. OGE determined that these procedures provide adequate guidance to the key AFRH personnel on how to operate the agency's ethics program.

## 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. High-level Federal officials demonstrate this by disclosing publicly their personal financial interests by completing OGE Form 278. Title I also authorizes OGE to establish a confidential financial disclosure system for less senior executive branch personnel in certain designated positions to facilitate internal agency conflict of interest reviews. OGE implements this authority by requiring the covered executive branch personnel to complete OGE Form 450.

Financial disclosure serves to prevent conflicts of interest and to identify potential conflicts by providing for a systematic review of the financial interests of both current and prospective officers and employees. The financial disclosure reports are also a source of important information that agency ethics officials need to administer ethics programs and provide counseling to employees. See 5 CFR § 2634.104(b).

### AFRH's Financial Disclosure Program

The financial disclosure program at AFRH is administered in accordance with applicable ethics laws and regulations. AFRH has appropriate written procedures that cover the collection and review of public and confidential reports. OGE's review of AFRH's public and confidential reports verified that the Legal Office performed detailed analysis to ensure that there were no conflicts of interest. For example, the Legal Office compares holdings listed on financial

disclosure reports to a list of AFRH's contractors to ensure that filers do not have conflicts of interest involving the contractors. In addition, prior to review by the Legal Office, intermediate reviews of the reports are conducted by the ethics office paralegal and by the Deputy DAEOs who are also responsible for the collection of the reports at their respective campuses. After the intermediate reviews, the final certification is completed by the DAEO.

#### OGE's Examination of Public Reports

AFRH's ethics officials are responsible for conducting a technical review of the public financial disclosure reports to ensure that the financial interests and relationships identified in the reports are disclosed completely and accurately. Ethics officials then review and certify that the reports are free from potential conflicts of interest. If conflicts are identified, the ethics office provides remedies to resolve them. OGE reviewed the public financial disclosure reports to verify that ethics officials performed adequate reviews to prevent, detect, and address conflicts of interest.

OGE examined all seven required public reports filed in 2012. All reports were filed and certified timely. Annotations from ethics officials indicated that ethics officials had conducted thorough reviews of the reports.

#### OGE's Examination of Confidential Reports

OGE examined all 39 confidential reports required to be filed in 2012 and found that 37 of the 39 reports were filed timely and that all reports were certified timely. The two delinquent filers were verbally counseled by the DAEO to prevent future late filings.

OGE also found that 24 of the 39 confidential filers filed OGE Form 450-A for the 2012 filing season instead of the OGE Form 450. According to 5 CFR §2634.905(b)(5), in each year divisible by four, beginning in 2000, all incumbent filers, as described in 5 CFR § 2634.903(a), must file a new OGE Form 450 rather than OGE Optional Form 450-A, regardless of how recently they may have filed an OGE Form 450 (either as a new entrant or as an annual filer who was not eligible to use, or chose not to use, the optional certificate). OGE reminded ethics officials of these requirements and requested that they ensure that confidential filers file OGE Form 450-A for no more than three consecutive years as allowed by 5 CFR §2634.905 (b)(5). AFRH ethics officials assured OGE that they will require all confidential filers to file a new form 450 for next year, and going forward, will no longer use 450-As.

### **Education & Training**

According to subpart G of 5 CFR 2638, each agency must have an ethics training program to teach employees about ethics laws and rules and to provide guidance on where to obtain ethics advice. The training program must include, at least, an initial agency ethics orientation for all employees and annual ethics training for covered employees.

OGE reviewed AFRH's education and training program and determined that it meets all the regulatory requirements. OGE reviewed AFRH's 2012 Annual Ethics Training Plan, which

detailed the agency's strategy for delivering training to new employees, public filers, confidential filers, contracting officers and any other designated employees. The agency also gives all employees an hour of in-person instruction on gifts and financial dealings with retirement home residents, a topic specific to AFRH.

### Initial Ethics Orientation

Pursuant to 5 CFR 2638.703(a), within 90 days from the time an employee begins work, executive agencies are required to provide the new employee with an IEO that includes the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards), any agency supplemental standards, contact information for the agency's ethics officials, and one hour to review the materials. According to AFRH, its Human Resources (HR) department ensures that all new employees receive in person initial ethics orientation (IEO) as part of the in-process and on-boarding protocol. New employees are not allowed to assume their job responsibilities until the ethics office receives documentation from HR that the employees completed IEO. The IEO training consists of a presentation of the Standards, the 14 General Principles of Ethical Conduct for Federal Employees (14 Principles), as well as the contact information for ethics officials in accordance with 5 CFR 2638.703. The IEO also includes an hour of supplemental classroom instruction on acceptance of gifts from and financial dealings with residents. AFRH's annual agency questionnaire that was submitted to OGE identified 37 new employees in 2011. According to AFRH ethics officials, all 37 required employees received IEO.

### Annual Ethics Training

Executive agencies are required by 5 CFR § 2638.704 and 5 CFR § 2638.705 to provide covered employees annual ethics training that includes a review of the Principles, the Standards, any agency supplemental standards, the Federal conflict of interest statutes, and the names, titles, office address, and telephone numbers of the DAEO and other agency ethics officials available to advise the employee of ethics issues. AFRH's annual training focuses on the Standards, 14 Principles and the Federal conflict of interest statutes. According to AFRH, in-person annual training is conducted by the DAEO and ADAEO in two separate sessions at both campuses. There are two sessions to ensure that any employees who missed the initial training session are trained through the second session. Employees are mandated to attend at-least one of the training sessions provided during the year. Attendance is documented by a sign in sheet that is maintained by the ethics officials. AFRH provided OGE with a copy of the sign in sheets that document the employees' attendance. Subsequent to OGE's review, AFRH has also begun incorporating ethics briefings during the monthly all hands meetings held at the Washington DC campus. The monthly ethics briefing is comprised of excerpts from the presentation that was shown at the two annual ethics training sessions.

## Advice & Counsel

Pursuant to 5 CFR § 2638.203(b)(7) and (8), the DAEO is responsible for ensuring that a counseling program for agency employees concerning all ethics and standard of conduct matters, including post employment matters is developed and conducted.

At AFRH the DAEO, ADAEO and Deputy DAEOs provide advice and counsel to employees. According to ethics officials, there is a low volume of requests for advice and counsel due of the small size of the agency. However, the ethics office documents in writing all advice or counsel provided and maintains the documentation in folders labeled by the year the advice was provided. The DAEO also maintains an electronic version of the documentation that is accessible by Ethics Office personnel. OGE reviewed the one piece of advice and counsel delivered in 2011 that covered the areas of impartiality in performing duties and the criminal statute contained in 18 U.S.C. 208. OGE found the advice rendered to be timely, consistent and accurate.

## Agency-Specific Ethics Rules

As a matter of policy contained in AFRH's Ethics Policy Memorandum, the agency prohibits the acceptance of gifts from residents. This restriction, which was instituted because of concerns over the appearance of favoritism or impropriety, is covered in annual training to employees. During training, AFRH warned employees that violation of the policy could result in termination. While OGE understands AFRH's concerns regarding this issue, any guidance given to employees regarding gifts must be in accordance with the applicable laws and regulations. Since AFRH does not have separate statutory or regulatory authority relating to gift acceptance, employees may not be prohibited from taking gifts that current regulations permit them to accept. If the agency wants to maintain the prohibition, it must issue a supplemental regulation in coordination with OGE.

Subsequent to the review, AFRH modified its policy and rescinded its standard operating procedures that prohibited employees from accepting gifts. AFRH issued a revised policy that strongly discourages employees from accepting gifts. However the amended policy does not prohibit acceptance, if allowed under current ethics regulations. OGE determined that the new policy provides appropriate guidance to employees and is therefore not making a recommendation in this area.

## Enforcement

According to 5 CFR § 2638.603, when any matter involving an alleged violation of Federal conflict of interest law is referred to the Department of Justice (DOJ), the agency shall concurrently notify the Director of OGE of the referral and provide a copy of the referral document, unless such notification or disclosure would otherwise be prohibited by law. OGE discussed with the Inspector General and the ADAEO the concurrent notification requirements at 5 CFR § 2638.603 and the use of OGE Form 202 to notify OGE of referrals. According to the IG and ADAEO, the DAEO would be responsible for the concurrent notification of referrals.

AFRH reported no criminal conflict of interest violations that were referred to the DOJ. No disciplinary actions have been taken for violations of the standards of conduct during the time period covered by this review. Because AFRH's former DAEO is now the Inspector General (IG), there is likely to be a high level of coordination between the ethics and IG offices on enforcement matters.

### **1353 Travel Acceptances**

Federal agencies may accept payments from non-Federal sources for travel, subsistence, and related expenses incurred on official travel under the authority of the General Services Administration (GSA) regulation at 41 CFR chapter 304, implementing 31 U.S.C. § 1353. Semiannual reports of payments accepted under 31 U.S.C. § 1353 must be submitted to OGE by May 31 and November 30 of each year.

As a matter of AFRH policy, employees are not permitted to accept payments from non-Federal sources for travel, subsistence, and related expenses incurred on official travel under 31 U.S.C. § 1353. OGE examined AFRH's last two semiannual travel reports submitted for the reporting periods from April 1, 2011 through March 31, 2012 and found both reports were submitted to OGE timely and did not contain any payments by non-federal sources..

### **Agency Comments**

In response to OGE's draft report, AFRH stated that it was in agreement with the contents of the report and that OGE's review of their ethics program was extremely helpful in guiding improvements and changes.