

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



Preventing Conflicts of Interest
in the Executive Branch



GOVERNMENT ETHICS CONFERENCE

Organizational Integrity is a Shared Responsibility

September 13-15, 2011

Back to the Basics Camp

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Even the most conscientious ethics official can miss some of the fine details required to comply with ethics-related statutes and regulations. And missing some of those fine details can result in an otherwise model ethics program getting less credit than it deserves because a few easily implemented steps were overlooked. This session is intended to encourage ethics officials to re-examine their processes and procedures to ensure they don't miss the little things that are important, but often forgotten.

Below are some common examples of requirements that can easily be met, but are often overlooked.

Financial Disclosure

Agencies must review each public and confidential financial disclosure report filed. Even if you "trust" your employees to self identify conflicts and automatically recuse when they think there's a conflict, **it's the ethics official's statutory obligation to review each report for conflicts of interest before signing as a reviewer or certifying official.**

Reports must be reviewed and certified within 60 days of the date of filing, unless ethics officials require additional information to complete their review or ensure that required remedial action is taken. The need to delay certification beyond 60 days should be clearly documented. Delaying certification for protracted periods for the convenience of the certifying official is not in compliance with relevant requirements.

Every agency is required to have written procedures for the administration of the public and confidential financial disclosure systems. **If an agency has an alternative financial disclosure system approved by OGE, written procedures for the administration of that system are also required.**

Written procedures **must also include steps to be taken when reports are delinquent and collection of the \$200 late filing fee for public reports is necessary.**

If an agency allows employees to use the *OGE Optional Form 450-A Confidential Certificate of No New Interest (Executive Branch)* the OGE Form 450 which supports it must be retained beyond the normal 6 year retention period. **The OGE Form 450 should be retained until the OGE Forms 450-A it supports are destroyed in accordance with the 6 year retention requirement.**

Ethics Training and Education

Initial Ethics Orientation (IEO) and Annual Training **must address all of the content requirements specified at 5 CFR §§ 2638.703 and .704, respectively.** While it is encouraged that agencies vary the content of training and entirely acceptable to focus on one or two aspects of the required content, training must address each of the specified subjects. (Also

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remember that training on the Hatch Act, EEO principles, or sexual harassment does not count as ethics training.)

Enforcement

Agencies are required to concurrently notify OGE when they make a referral to the Department of Justice concerning a violation of a criminal conflict of interest statute. **Agencies must also provide a report on the final disposition of the case.**

Advice and Counseling

When appropriate, **records must be kept when advice is rendered.** See OGE's DAEOfgrams DO-08-025 and DO-05-19.

There is **no attorney-client privilege** involved when an ethics official provides advice or counseling to an agency employee. This includes the head of an ethics official's agency.

Semiannual Reports of Payments Accepted from a Non-Federal Source (31 U.S.C. § 1353 Travel Reports).

Even if an agency has a strict policy against accepting such payments or simply did not receive any during a reporting period, **negative reports are required.**