



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

March 10, 2003

Randi E. DuFresne  
General Counsel and  
Designated Agency Ethics Official  
National Security Agency  
9800 Savage Road, Suite 6205  
Fort George G. Meade, MD 20755-6205

Dear Ms. DuFresne:

The Office of Government Ethics (OGE) has completed its review of the National Security Agency's (NSA) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's effectiveness, measured by its compliance with applicable laws and regulations. The review was conducted during December 2002.

#### HIGHLIGHTS

We found that NSA has an exemplary ethics program supported by an abundance of written policies and procedures and useful resources for employees, including the Standards of Conduct Office's (SOCO) sophisticated Web site. You and your ethics staff provide informative ethics training, quality advice and counseling services, and thorough reviews of financial disclosure reports. In particular, we commend the Ethics Program Manager (PM) for her commitment to NSA's ethics program and all of the SOCO for successfully incorporating ethics into NSA's culture.

#### ETHICS PROGRAM ADMINISTRATION

The NSA SOCO, within the Office of General Counsel, administers the agency's ethics program, whereby you serve as the Designated Agency Ethics Official (DAEO), devoting 100 percent of your time to ethics. You are assisted by the Alternate DAEO, another ethics counselor, an administrative assistant, and a paralegal who, as NSA's PM, is also responsible for the day-to-day management of the program.

#### EDUCATION AND TRAINING

In the area of ethics education and training, we were pleased to find that NSA is exceeding OGE's minimal requirements for both initial ethics orientation and annual ethics training. The SOCO has established creative, informative ethics education initiatives and has designed many practical, user-friendly documents, booklets,

and brochures, which are available to employees in both hard copy and on its Web site. Besides providing annual ethics training to financial disclosure filers, the SOCO provides ethics training to other NSA employees, including Contracting Officers Representatives, credit card users, new senior cryptologic executives, and employees from NSA organizations requesting "special situation" ethics training.

#### Initial Ethics Orientation

The SOCO provides one-hour PowerPoint ethics briefings to all new NSA employees, including full-time and part-time employees, summer hires, and interns, on their first day of duty. The briefing covers gifts, conflicts of interest, outside activities, use of Government resources, political activities, an overview of the SOCO, and contact information for you and the other NSA ethics officials. Employees are given detailed summaries of the ethics rules to keep. In 2002, 25 briefings were provided to over 800 new employees.

#### Annual Ethics Training

NSA provided public filers annual ethics training during the months of June through November 2002. There were 10 one-hour PowerPoint ethics briefings covering interactions with non-Federal entities (outside activities). Public filers in the field fulfilled their training requirement by taking the Department of Defense (DOD) SOCO's online ethics training, available on NSA SOCO's Web site. NSA ethics officials are always available to answer questions related to the training. The PM diligently tracks each employee's completion of the required training using sign-in sheets and completion certificates. She also annotates the master list of public filers to note when training was completed and what type. At the time of our review, all but 22 employees had completed the 2002 annual ethics training; the PM assured us that these employees would complete the training before the end of the calendar year.

In 2002, all the required written training materials were distributed to confidential filers. In addition, the online ethics training described above was also available to confidential filers. Members of NSA's Advisory Board (NSAAB), all of whom are special Government employees (SGE), completed their annual ethics training by reviewing written materials covering conflicts of interest and signing a completion certificate. Prior to coming on board, NSAAB members receive a package containing a blank OGE Form 450, a disqualification statement, the ethics training materials, and the completion certificate. This practice ensures that members complete their financial disclosure report and review the training materials well in advance of their first meeting.

#### COUNSELING AND ADVICE

NSA has established counseling and advice services that meet the requirements of 5 C.F.R. § 2638.203(b)(7) and (8). The samples of written counseling and advice that we examined were complete, accurate, and consistent with applicable statutes and regulations.

The practicality and value of your ethics advice appears to result not only from the responses your office provides to individual NSA employees, but from the organization and accessibility of the ethics advice on the SOCO Web site your office has established on NSA's intranet. Responses to employees' inquiries, whether they were received via e-mail, telephone, or in-person, are entered and tracked in a database. The SOCO Web site offers legal guidance on conflicts of interest, financial disclosure, gifts and travel benefits, outside activities, post-Government employment, and use of Government resources. Ethics bulletins, booklets, and regulations are available, as well as a "feedback" page on which employees can enter a question and automatically send an e-mail to a SOCO attorney. The entire Web site is an extremely valuable resource for NSA employees and we commend you for investing the time in creating and maintaining it.

To complement the SOCO's organized tracking of ethics advice, we noted that the ethics office appears to be well-advertised and utilized. In addition to the information available on the SOCO Web site, television monitors located within the agency often run advertisements for employees to contact the SOCO if, for example, they are retiring or if a questionable gift was received. Lastly, the occasional ethics guidance (e.g., holiday reminders of the gift rules) that your office circulates to NSA employees are also effective advertisements for the SOCO.

#### FINANCIAL DISCLOSURE SYSTEMS

NSA's public and confidential financial disclosure systems are in compliance with applicable laws and regulations, with extensive written procedures governing who is responsible for each task and detailed instructions for financial disclosure report filers and reviewers. Electronically-fillable reports and a variety of useful documents (e.g., frequently asked questions regarding the confidential financial disclosure process) are available on the SOCO Web site. The PM plays an essential role in the timely dissemination of relevant memorandums, forms, and reminder notices related to the public and confidential systems. Her dedication to following up with filers, from their initial notification through the final certification of reports, communicates to employees the important role of financial disclosure in NSA's ethics program.

Lastly, the three-level review process, whereby the PM conducts a thorough review of all financial disclosure reports after the filer's direct supervisor's review and before your final

review and certification, appears to be an effective mechanism for identifying potential conflicts of interest.

#### Public Financial Disclosure System

In 2002, 416 of the required 421 public financial disclosure reports were filed (the filing of 5 termination reports was pending at the time of our review). We examined a sample of 76 reports, all of which were filed, reviewed, and certified timely. We found no substantive deficiencies and only a few minor technical issues.

#### Confidential Financial Disclosure System

In 2001, all 1,801 of the confidential financial disclosure reports for NSA's non-SGEs were filed as required. Of these, we examined a sample of 101 reports, consisting of 77 annual and 24 new entrant reports, and found that while most of the annual reports were filed timely, 16 of the 24 new entrant reports were filed late. After discussing possible remedies to this issue with the PM, we determined that you have already tried instituting several policies, including requiring supervisors to make a determination as to whether their employees are entering covered positions and subsequently ensure reports are filed where necessary. We concluded that the SOCO's existing new entrant procedures are adequate and, notwithstanding the proportion of late new entrant reports, the current procedures represent the most successful effort to meet this requirement. All the confidential reports in this sample were reviewed and certified timely and contained no substantive deficiencies.

In addition to the aforementioned confidential reports, all 48 SGEs on the NSAAB required to file confidential reports in 2002 did so. We examined all 48 reports and found that they were all filed, reviewed, and certified timely and contained no substantive deficiencies.

#### INSPECTOR GENERAL

NSA appears to be complying with 5 C.F.R. § 2638.203(b)(11) and (12) in utilizing the services of its Office of the Inspector General (OIG). As you know, agencies are required by 5 C.F.R. § 2638.603 to concurrently notify OGE of any referrals made to the Department of Justice (DOJ) of potential violations of the criminal conflict of interest statutes. However, our discussion with cognizant officials revealed that the responsibility to notify OGE had been inadvertently overlooked in the recent past. In April 2002, NSA referred a case involving an alleged 18 U.S.C. § 205 violation to DOJ which is currently under investigation by DOJ's Public Integrity Section. We reminded OIG officials of the concurrent notification requirement and advised them to designate one individual to be responsible for notifying OGE in the future. Information regarding the § 205 referral was subsequently sent to our office.

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According to OIG officials, a positive working relationship exists between the OIG and the SOCO and information is regularly shared between the two offices. Investigators often call you to seek advice and the IG has requested that you give various ethics-related presentations.

#### ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

During the period October 1, 2001 through September 30, 2002, NSA approved 33 payments of travel from non-Federal sources under 31 U.S.C. § 1353, the implementing regulation at 41 C.F.R. part 304-1, and its own written guidance. The guidance, provided to all employees, includes a requirement for a traveling employee's supervisor and a SOCO attorney to approve the travel prior to acceptance. All 33 travel payments were approved in accordance with the statute, regulation, and SOCO written guidance and payments of more than \$250 per event were reported semiannually to OGE in accordance with 41 C.F.R. part 304-1.9.

#### CONCLUSIONS

Our review demonstrated that NSA has an outstanding ethics program that generally meets or exceeds OGE's minimal regulatory requirements. You and your ethics staff have established a strong ethics program reflective of your collective dedication. The PM's organized, thorough execution of policies undoubtedly enhances the program's effectiveness. Further, we concur with the DOD General Counsel's 1999 independent review of NSA's ethics program, in which it was noted that the NSA ethics program operates "with remarkable efficiency."

We wish to thank you and all other NSA personnel involved in this review for your efforts on behalf of NSA's ethics program. A follow-up review will not be necessary. Copies of this report are being sent to NSA's Director and Inspector General. Please contact Jan E. Davis at 202-208-8000, extension 1176, if we can be of further assistance.

Sincerely,



Jack Covaleski  
Deputy Director  
Office of Agency Programs