
Corruption prevention in the midst of crisis?

Workshop 4: Ethics offices for the public administration?

Joseph E. Gangloff

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Abstract:

This presentation will focus on benefits and difficulties inherent to the structural design for administering the ethics program in the executive branch of the United States government, particularly in the context of training, monitoring, and day-to-day administration. The discussion will identify positive and negative consequences that must be balanced in developing and maintaining an ethics program structure designed to implement a consistent, fair, and equitable ethics program that promotes public confidence in the integrity of governmental decision-making processes.

In the United States, the foundation for the executive branch's ethics program is a web of rules-based requirements established by statutory criminal and civil laws, administrative regulations, and Presidential Orders. Requirements set out the parameters for administering the ethics program as well as laws and rules of conduct for government employees. Administering the program requires long-term planning and monitoring, as well as attention to routine day-to-day matters.

The United States Office of Government Ethics, headed by a Director appointed by the President, is the headquarters component that establishes policies, provides advice and training, and monitors implementation of relevant laws and regulations. Broadly stated, program activities are designed to prevent conflicts of interest on the part of executive branch employees and to ensure uniform interpretation and application of ethics laws and rules. The Office of Government Ethics focuses on administration of the ethics program at the agency level, rather than on investigation of and enforcement against individuals. The centralized structure is designed to foster consistent implementation of a basic program reaching about four million employees throughout the approximately 130 components of the executive branch.

While oversight of the program is centralized, the head of each agency has ultimate responsibility for carrying out the ethics program at the agency level; day-to-day implementation of the program and support to employees is provided by the agency. Each component head is accountable for the success of the program within the agency, and regulations require that a qualified individual in the agency be designated to handle the routine responsibilities of the agency's program. Depending upon the size of the agency and other relevant factors, an agency's ethics staff may number as few as two or as many as hundreds of employees.

In all, a network of approximately five thousand ethics officials throughout the executive branch works in partnership with the Office of Government Ethics to administer the program. Most routine headquarters' activities are directed at guiding and supporting the ethics officials who, in turn, are responsible for directly assisting employees and carrying out the requirements of the program at the agency level.

Among the most important and high-profile headquarters' responsibilities is the administration of a comprehensive financial disclosure system. For the highest level officials, these reports are made publicly available. A particularly notable feature of the system is the requirement that financial disclosure reports of Presidentially-appointed, Senate-confirmed officials must be reviewed and certified by the Office of Government Ethics as part of the nomination process.

A keystone of the basic framework is onsite program review and evaluation of program implementation. The oversight approach of the Office of Government Ethics to agency monitoring integrates traditional statutory and regulatory compliance requirements into a more comprehensive framework of ethical culture, moving from a "command and control" posture to a more cooperative, less confrontational approach that fosters ownership of ethics programs at the agency level. The emphasis is to encourage agencies to adopt a strategic, rather than reactionary, approach to their programs. The driving principle is that the implementation and maintenance of an effective ethics program requires careful, ongoing assessment of the program, an appreciation of challenges and solutions faced by other agencies, and the development of agency-specific strategies. This oversight approach is referred to as "consultative monitoring" to distinguish it from more traditional, audit-based models. Consultative monitoring views compliance within the broader context of enhancing the overall ethics program by promoting dialogue, disseminating model practices, and focusing on the ethical culture of an organization.

Because enduring program effectiveness can be achieved only by building and maintaining an ethical organizational culture that recognizes the importance of compliance, technical assessments can tell only part of the story. Program goals must reach beyond mere compliance with minimum requirements. Monitoring and assessment efforts are complemented by a range of activities designed to maintain an effective and cohesive ethics community to foster an ethical culture within each agency.

In brief, the work of the Office of Government Ethics is concentrated on achieving four critical functions; first, developing and disseminating clear standards; second, providing day-to-day guidance, advice, and other support to officials responsible for administering the program; third, providing training courses, instructional materials, and awareness-building products to enhance the program; and fourth, monitoring and assessing implementation of relevant laws and regulations.

Because leadership commitment is essential to a successful ethics program at the agency level, the Office of Government Ethics is also committed to raising the level of discourse between the leadership of executive branch agencies and the ethics community. Concrete actions by agency leadership in support of an agency's ethics program ensure that agency employees appreciate the importance of the ethics program, understand their responsibilities, and are held accountable for compliance with ethics laws and regulations. Simply put, while a strong, formal program structure is required, concerted leadership support is critical.