

October 4, 2006

Via Email

Acquisition Advisory Panel
Laura Auletta
Designated Federal Officer
c/o General Services Administration
1800 F Street, NW.
Room 4006
Washington, DC 20405

Re: Comments to the Acquisition Advisory Panel
Regarding Conflicts of Interest-Related
Recommendations

Dear Ms. Auletta and Acquisition Advisory Panel Members:

The Office of Government Ethics (OGE) is submitting the following comments concerning the recommendations provisionally adopted by the Acquisition Advisory Panel (Panel) during its August 10 and August 29, 2006 public meetings (Recommendations).

1. OGE Support

As you know, on May 17, 2005, Marilyn L. Glynn, OGE Acting Director, appeared before the Panel to discuss certain emerging issues involving potential conflicts of interest of contractor employees. On May 16, 2006, Steve Epstein, Standards of Conduct Office, Office of General Counsel, Department of Defense, delivered a similar presentation about ensuring integrity in Government in light of increased contractor involvement. We are pleased to see that the Recommendations address many of these issues and concerns, and urge the Panel to adopt these (or similar) Recommendations in its final report, except as discussed below.

2. OGE Assistance

Recommendation 5 (Review of Existing Rules), Recommendation 5-2 (Personal Conflicts of Interest (PCIs)), and Recommendation 5-4 (Training), would require the Federal Acquisition Regulations (FAR) Council to identify potential PCIs and develop Government-wide policy, clauses and other techniques that agencies could use to address them. In the transcripts of the August 2006 public meetings, we noted the discussion about whether these Recommendations should specify

a role for organizations other than the FAR Council, such as OGE. While OGE is not a Governmental authority on Federal procurements, we believe that our experience preventing and resolving conflicts of interest on the part of executive branch employees has given OGE valuable insight into what types of conflicts individuals may have and how they can affect public confidence in Governmental processes. Accordingly, we would be happy to serve as a resource to the FAR Council in connection with any action item where our ethics expertise can be of assistance.

3. Contractor Training on Government Ethics Rules

Recommendation 7-1 provides that "consideration should be given to a requirement that would make receipt of the agency's annual ethics training (same as given to Civil Servants) mandatory for all service contractors operating in the blended workforce environment."

This Recommendation raises numerous issues which should be reviewed before additional requirements are imposed. For example, the Recommendation itself does not specify who would be required to prepare and deliver this training. However, the transcript of the Panel's August 29, 2006 public meeting suggests that agency ethics officials would be expected to provide this training. One issue that would need to be resolved is whether agency ethics offices have sufficient personnel and other resources to prepare, host or otherwise deliver, and track the training of contractor employees.

In addition, we want to clarify that only a subset of Government employees receives ethics training every year, and that this training may be in person, electronic, or otherwise. Accordingly, there are not necessarily existing agency mechanisms that could easily be used to train contractor employees. In light of issues such as these, we believe that Recommendation 7-1 should be modified. Specifically, we recommend that contractor employees working in the blended workforce receive some form of annual training on Government ethics, but that this training requirement should be implemented in consultation with OGE.

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4. Conclusion

OGE appreciates the opportunity to provide these comments and is available to provide additional information or comments as you may require.

Sincerely,

Robert I. Cusick
Director