



National Geospatial-Intelligence Agency

INSTRUCTION

NGAI 5400.1

Administrative Update 1, 11 September 2015

Office of the Director, NGA

SUBJECT: NGA Ombudsman

References: (a) Title 5, US Code, Part I, Chapter 5, Subchapter IV, Section 571-584
(b) DoD Directive 5145.5, "Alternative Dispute Resolution," April 22, 1996

1. PURPOSE. This Instruction establishes roles of the NGA Ombudsman in compliance with professional standards of independence, neutrality, informality, and confidentiality and responsibilities of NGA officials in support of this role.

2. APPLICABILITY. This Instruction applies to all civilians, military, and contractors assigned or attached to NGA.

3. POLICY.

a. It is NGA policy to support an independent Ombudsman to provide an informal, neutral, and confidential forum to hear concerns about NGA policies, programs, and practices, and to identify patterns and systemic issues confronting NGA.

b. The Ombudsman shall engage employees to discover alleged improprieties, identify complaint patterns and systemic trends, explore non-adversarial approaches for resolving concerns, promote better communication, foster constructive dialogue, increase collaboration, improve transparency, and facilitate equitable outcomes.

c. NGA does not tolerate any form of reprisal against employees who exercise their right to use or decline formal and informal conflict resolution procedures.

4. RESPONSIBILITIES. See Enclosure.

5. EFFECTIVE DATE. This Instruction is effective on the date of signature.


Regina A. Genton
Chief Operating Officer

Enclosure
Responsibilities
Glossary

ENCLOSURE
RESPONSIBILITIES

1. Director, NGA (D/NGA), in support of References (a) and (b).

a. Appoints the NGA Ombudsman and authorizes him or her to:

(1) Independently utilize broad and flexible resolution techniques, conduct informal inquiries, issue reports, and provide recommendations for positive organizational change in a manner free from interference by any NGA employee or official.

(2) Access all NGA civilian, military, and contractor personnel in performance of official duties as well as facilities and records, including documents, reports, computer databases, or other information, regardless of where or how stored, relating to NGA programs, operations, and contracts. This authority includes the right to make or receive copies of such records.

(3) Actively engage Department of Defense (DoD), Intelligence Community (IC), and Federal officials, to include ombudsman partners, to address issues of common concern that transcend organizational boundaries.

b. Promotes cooperative responses to conflict throughout the agency to infuse diversity of viewpoints, value, flexibility, and adaptability into business decisions.

c. Encourages employee participation and mandates cooperation with the NGA Ombudsman by NGA supervisors and leaders.

2. The Chief of Staff.

a. Provides administrative support via the Office of the Executive Secretariat (ONE) to the NGA Ombudsman, to include access to independent legal counsel.

b. Supports independence of the NGA Ombudsman's role and operations, whereby the NGA Ombudsman:

(1) Operates independently from the organizational structure and is authorized to address issues at all levels within NGA.

(2) Has direct access to the Director of NGA, Deputy Director of NGA, Component Directors, and all NGA personnel.

(3) Shall only be assigned duties, roles, or responsibilities that are consistent with the responsibilities established within this Instruction and related professional ombudsman code of ethics and standards of practice.

(4) Exercises sole discretion to accept or decline to act on employee complaints, concerns, or questions.

(5) Does not serve in formal compliance or oversight functions.

c. Supports and protects broad and mandatory confidentiality of communications between the NGA Ombudsman and NGA personnel in accordance with Reference (a), other related laws, and generally accepted professional standards to the maximum extent permissible by law.

3. The NGA Ombudsman.

a. Serves as a designated conflict resolution practitioner for NGA employees and external consumers of NGA products that provides independent, impartial, informal, and confidential mechanisms to informally facilitate resolution of individual and systemic problems.

b. Strive for impartiality, fairness and objectivity in the treatment of people and the consideration of issues. The Ombudsman shall not advocate for any individual or group. Neutrality does not preclude the Ombudsman from advocating for changes deemed necessary to improve working environments.

c. Hold all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard both anonymity and confidentiality, whereby the Ombudsman will:

(1) Protect the identity of any individual contacting the Ombudsman, to include taking no action that would reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman, without that individual's explicit permission. Action on the information may be taken when done in a manner that safeguards the identity of the individual contacting the Ombudsman.

(2) Protects information provided to him/her "in confidence," which means information that is provided with the expressed intent of the source that it not be disclosed, or under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed. The "in confidence" standard exists for the effectiveness of NGA's Ombudsman program as a whole, not just for individual cases. Employees often give the Ombudsman broad permission to widely share their concerns (and their names), including to the agency head. However, the NGA Ombudsman has a duty to protect information provided "in confidence" (including the standard itself) to maintain the integrity of the program.

(3) Pursue systemic issues in a way that safeguards the identity of individuals.

(4) Keep no official records containing identifying information on behalf of NGA.

(5) Maintain information that does not constitute a record (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including management), and has a consistent and standard practice for the destruction of such information.

(6) Prepare any data and/or reports in a manner that protects anonymity, which may include generally accepted ombudsman reporting categories.

(7) Prevent voluntarily disclosure, either through discovery or a compulsory process, of any dispute resolution communication or any communication provided in confidence to the Ombudsman, with the exception of imminent harm or full admission or direct evidence of criminal conduct.

(8) Resist testifying as a witness in any formal process either inside or outside of NGA, even if given permission or requested to do so.

d. Observe exceptions to confidentiality, including instances where:

(1) In the Ombudsman's sole determination, there appears to be imminent risk of serious harm and there is no other reasonable option; or

(2) There is a full admission or direct evidence of criminal conduct, rather than a general allegation of fraud, waste, or abuse.

(3) In the above instances, the Ombudsman will encourage the visitor to raise the issue with the appropriate authority. If necessary, the Ombudsman will raise the issue to the appropriate authority without identifying the individual who provided the information.

e. Help NGA employees explore options and develop new ways to solve problems themselves to the maximum extent appropriate.

f. Identify issues, trends, and systemic issues, and provide recommendations for responsibly addressing them to appropriate agency leaders.

g. Supplement, but not replace, other avenues of redress. Employee use of the Ombudsman is voluntary, and is not a required step in any grievance, complaint, or investigatory process.

h. Observe the following limitations, whereby the NGA Ombudsman shall not:

(1) Serve as part of any formal grievance or complaint process.

(2) Participate in or conduct any formal investigative or adjudicative procedures. Matters requiring a formal investigation shall be forwarded to the Office of Inspector General.

(3) Serve as a witness or testify in any formal process.

(4) Accept notice on behalf of, or act as an agent for NGA.

(5) Make binding decisions, mandate policies, or adjudicate issues for NGA.

(6) Compel anyone to take specific action to resolve a workplace issue.

i. Act in accordance with generally accepted professional ombudsman standards of practice and ethical guidelines.

j. Consider the legitimate concerns and interests of all employees affected by a matter under consideration or review.

k. Remain neutral in any matter within the Ombudsman's purview and avoids taking, or appearing to take sides in any dispute, conflict, or disagreement.

l. Refrain from official, financial, or personal conflicts of interest with respect to any issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the Ombudsman may serve.

m. Share information on both informal and formal means available to address complaints or concerns, such as the administrative grievance process, equal employment opportunity (EEO), and Merit Systems Protection Board, as applicable. When appropriate, individuals will be referred to the appropriate place where formal notice of an alleged violation can be made. Individuals specifically raising allegations of discrimination will be advised to make timely contact with the Office of Diversity Management and EEO to preserve their rights under EEO complaint processing guidelines. Issues pertaining to task orders and procurement integrity will be referred to the individual designated to handle those types of concerns.

n. Assess the appropriateness of the dispute resolution process and ensures all parties are able to participate effectively and in good faith. Processes to facilitate dialogue and early resolution are generally not appropriate in cases when:

(1) A definitive or authoritative resolution of the matter is required;

(2) The matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made; and

(3) A full public record of the proceeding is important.

o. Utilize informal means such as listening, providing and receiving information, identifying and reframing issues, developing a range of responsible options, and engaging the parties in a third-party intervention. The Ombudsman primarily serves as the neutral conflict resolution practitioner and may also utilize alternative dispute resolution (ADR) and related techniques such as, but not limited to those cited in Enclosure 2. The Ombudsman may utilize an external third party neutral option as

needed or upon request by the individual. Such options include, but are not limited to, the Defense Office of Hearings and Appeals, Center for ADR, and the Health and Human Services Sharing Neutrals Program.

p. Ensure ADR sessions are conducted with the utmost integrity and in accordance with best practices, including legal and regulatory timeframes. This may include making parties fully aware of the process, advising on right to representation, obtaining agreement to proceed, and coordinating draft settlement agreements with agency officials with a legitimate need to know in order to effect the agreement, such as, but not limited to, Human Development and Office of General Counsel.

q. Remain conscious of professional conduct needed to maintain high trust levels to serve in the position of Ombudsman. Maintain professional competency by pursuing continuing education, and providing opportunities for staff to pursue professional training.

r. Serve as an NGA representative on the Department of Defense ADR Coordinating Committee, Interagency ADR Working Group, Coalition of Federal Ombudsman, and Intelligence Community Ombuds Forum.

4. Directors, Supervisors, and Managers.

a. Encourage a positive dispute resolution climate through appropriate conflict management practices consistent with NGA, DoD, and IC policies.

b. Cooperate and share information with the NGA Ombudsman within the confines of law and security requirements.

c. Promote voluntary use of the NGA Ombudsman and make policies, procedures, and related materials available to employees upon request.

d. Encourage employees to address conflicts early and at the lowest possible level.

e. Prohibit retaliation against employees for seeking NGA Ombudsman assistance.

5. Employees.

a. Will resolve disputes in good faith in a manner that reflects NGA's core values of excellence, accountability, respect, teamwork, and honesty.

b. May bring the full scope of organizational issues to the NGA Ombudsman, including, but not limited to the mission, organization, strategies, policies, and procedures.

c. Will be free to use other avenues of redress at any time, as applicable.

GLOSSARYDEFINITIONS

The Ombudsman may utilize the following techniques such as, but not limited to:

Conciliation	A process in which a third party helps restore damaged relationships between disputing parties by bringing them together, clarifying perceptions, and pointing out misperceptions. This process often is used prior to other processes such as facilitation and mediation.
Conflict Coaching	Assisting individuals to determine behaviors and actions that will help them reach their objectives in terms of how they approach and resolve specific problems or overarching conflict.
Facilitated Self-Assessment	A large group process that identifies shared interests, differences, problems, and opportunities for resolution and/or positive organizational change. Employees are typically asked three broad questions: what is working well (and why); what isn't working well (and why); and what changes should be made. While maintaining confidentiality, this method highlights organizational successes, areas of concern, and specific recommendations from staff. Further, it is a proactive way to bring issues to the forefront and allow leadership to address problems before they escalate.
Group Facilitation	A variety of techniques to help work groups clarify goals, improving the flow of communication, and achieving specific group objectives.
Informal Inquiry	An informal fact-finding process to help gain a general understanding of the situation, where the Ombudsman gathers the range of perceptions by the affected parties, helps analyze the complex issues, identifies trends, underlying systemic problems, and provides recommendations about possible resolution options. An informal inquiry is not an investigation process, which determines facts that serve as the basis of proving or disproving wrongdoing by a preponderance of evidence.
Mediation	A facilitated negotiation to allow parties to reach an acceptable resolution of issues in dispute.
Negotiation	A give and take process between two parties with different goals and viewpoints seeking to discover common ground to reach an agreement to settle a matter of mutual concern or resolve a conflict.

Other	The NGA Ombudsman may develop and implement new, unique, interest-based approaches as needed.
Partnering	An agreed method of working together as a team, based upon mutual trust, sharing risks and rewards. Used to improve working relationships by seeking to prevent disputes before they occur.
Shuttle Diplomacy	Serving as an intermediary between involved parties in dispute without those individuals being in direct contact with one another (e.g., a mediator “shuttling” back and forth).
Training/Education	Educating parties on the causes of conflict and using experiential opportunities to teach practical skills for handling resolution in a respectful and positive way.