

**UNITED STATES DEPARTMENT OF DEFENSE  
VALUES-BASED ETHICS PROGRAM – PHASE II**

**RECOMMENDATIONS FOR PROGRAM DESIGN & IMPLEMENTATION**

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Prepared for:

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Office of the Director  
Defense Procurement and Acquisition Policy

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FINAL REPORT

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## Executive Summary

In 2005, the US Department of Defense (DoD) committed to Congress that it would integrate a values-based ethics program (VBEP) into its existing rules-based compliance program. This report recommends steps to accomplish that task. If approved, the implementation plan described herein will enable the DoD to develop a best-in-class program that:

- Fulfills DoD's commitment to Congress;
- Builds a strong culture of integrity based on shared ethical values;
- Reduces the risk of inappropriate conduct by DoD employees;
- Raises the bar for ethics programs among executive branch agencies within the federal government;
- Matches and surpasses VBEP programs currently in place within defense contracting organizations; and
- Utilizes existing DoD personnel and resources to maintain cost efficiency.

DoD has already established a rigorous and pervasive compliance-based ethics program, and while necessary to the function of the agency, there are limitations to this rules-based effort in guiding employee conduct. The current program is useful in telling employees what they *should not* do in certain circumstances, but the existing ethics program is generally unable to help employees identify the activities that they *should* engage in every day. By introducing a clear philosophical underpinning, a VBEP helps employees to do the right thing, even in instances that are unclear or not covered by the rules.

There are several primary reasons that DoD should adopt a VBEP approach:

1. Given its role and visibility, DoD has a responsibility to the public to set the highest possible standard for integrity;
2. Employee surveys indicate a need for systemic reinforcement of DoD's strong commitment to integrity. For example:

- Ten percent of employees in the federal government (including DoD) said their agency has a strong culture, compared to 82 percent of employees in the private sector defense industry;
  - Sixty-seven percent of DoD employees said that meeting objectives was a top priority for DoD; only 16 percent said that observing ethics was a top priority;
  - Nearly one third (29 percent) of DoD employees say they fear retaliation if they report their supervisor/commander for engaging in misconduct.
3. Research has shown that best-in-class VBEPs provide the best approach to communicating a commitment to integrity and improving organizational culture;
  4. An effective VBEP reduces the risk of misconduct that leads to scandal, and it increases accountability when wrongdoing does occur; and
  5. Recent studies have shown that the majority of DoD’s contractors and subcontractors have more effective ethics/compliance programs than the DoD. This is problematic because:
    - DoD is less effective in encouraging employee adoption of its standards of integrity than the organizations it hires;
    - Contractors working directly alongside DoD employees on Department projects (i.e., the “blended workforce”) are held accountable to a higher standard of conduct than the Department; and
    - Debarment officials within the DoD are enforcing the implementation of VBEPs that the Department does not apply to itself.

Based on extensive analysis and information gathering in Phase II, an implementation plan for the development of a DoD-wide VBEP is proposed. The proposed approach has several distinct features:

- Introduction of “integrity” as the prevailing term to refer to the VBEP as an expansion of the current rules-based ethics program;

- Adoption of a set of DoD-wide values to bridge the different military values and to guide conduct in the organization;
- Establishment of an independent office to coordinate the activities of the integrity and ethics programs;
- Appointment of a high-level official to provide oversight to the integrity and ethics programs, reporting to the Secretary of Defense and serving as a member of the senior leadership team; and
- Implementation of a program that contains all the elements of a best-in-class VBEP.

The following specific recommendations are detailed in this report.

Recommendation 1 – Commit to the Establishment of a DoD-wide Integrity Program

Recommendation 2 - Broaden the Scope of SOCO to Include Oversight of the Integrity Program

Recommendation 3 – Hire a Chief Integrity and Ethics Officer (CIEO) to Oversee the Program

Recommendation 4 – Establish Committees to Integrate the Integrity Program Across DoD

Recommendation 5 – Gather Additional Baseline Data

Recommendation 6 - Adopt a Set of Core Values Representing All of DoD

Recommendation 7 – Develop a Values Statement

Recommendation 8 – Develop a Mechanism for Receiving All Reports of Misconduct

Recommendation 9 – Build and Maintain a Culture of Integrity

Recommendation 10 – Assess and Mitigate Culture and Compliance Risks

Recommendation 11 – Conduct Annual Core Values Training for All DoD Employees

Recommendation 12 – Develop Performance Metrics for Evaluation of Leadership

Recommendation 13 – Periodically Measure Program Effectiveness

Recommendation 14 – Establish a Means to Receive Ongoing Independent Advice on VBEPs

### **Acronyms Used Frequently in this Report**

CIEO – Chief Integrity and Ethics Officer

DAEO – Designated Agency Ethics Official

DII – Defense Industry Initiative

DoD – Department of Defense

ERC – Ethics Resource Center

OGC – Office of the General Counsel

OIG – Office of the Inspector General

OISC – Office of Integrity & Standards of Conduct

OSD – Office of the Secretary of Defense

SOCO – Standards of Conduct Office

VBEP – Values Based Ethics Program

## I. Introduction

In 2005, the US Department of Defense (DoD) pledged to Congress that it would integrate a values-based ethics program (VBEP) into its existing rules-based compliance programs.<sup>1</sup> DoD's Panel on Contracting Integrity, tasked with the fulfillment of this commitment, has initiated a multi-phased effort to design and implement a best-in-class VBEP.<sup>2</sup>

Phase I of the initiative involved an assessment of the DoD ethics culture. A survey of military and civilian personnel was distributed and a report of findings was completed in August of 2010.

Phase II commenced in September 2011. Contractors for this portion of the project have been asked to make recommendations for a DoD transition to “an overall, holistic values-based program.”<sup>3</sup> Phase II also includes the development of a training program with supporting materials for the implementation of employee training on DoD core values.

Specifically, Phase II of the project has accomplished the following objectives:

- Compare Phase I survey results to research, benchmarks and best practices;
- Identify priorities for a DoD VBEP;
- Develop an implementation plan including recommendations for program design and communications; and
- Develop and pilot test training materials for employee training.

This report details the recommendations and implementation plan for the transition of the DoD ethics program to a VBEP. Training materials and other deliverables involved in the completion of Phase II have been provided to DoD separate from this report.

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<sup>1</sup> In 2007 the John Warner National Defense Authorization Act (NDAA), Public Law 109-364, Section 813 directed DoD to establish a Panel on Contracting Integrity consisting of senior leaders representing a cross-section of the Department. The Panel's purpose is twofold: review progress made by DoD to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur; and recommend changes in law, regulations, and policy to eliminate the areas of vulnerability. As a part of its regular reporting requirement, the Panel on Contracting Integrity pledged to Congress in 2005 that DoD would create a values-based ethics program. <http://www.govtrack.us/congress/bills/109/hr5122/text>. Subtitle B, Section 813.

<sup>2</sup> Panel on Contracting Integrity 2010 Report to Congress. [http://www.acq.osd.mil/dpap/cpic/cp/docs/PCI\\_RTC\\_2010.pdf](http://www.acq.osd.mil/dpap/cpic/cp/docs/PCI_RTC_2010.pdf), p. 13.

<sup>3</sup> Solicitation HQ0034-11-R-0070. Pg. 28.

<sup>4</sup> As evidenced in the findings of the Phase I survey, comparing DoD to a database of other government agencies.

## II. Project Team

The US Department of Defense (DoD) contracted with EthicsOne, Inc. and the Ethics Resource Center (ERC) to carry out the Performance Work Statement (PWS) for Phase II of the VBEP initiative.

### *EthicsOne, Inc.*

EthicsOne is a training development company, focusing on the design and implementation of programs in the ethics and compliance industry. EthicsOne works with some of the world's leading corporations and government agencies to create engaging, effective ethics learning programs. The organization approaches learning as a two-way conversation that must engage participants in a meaningful and relevant experience. EthicsOne programs change people, culture, and organizations through ethics education.

### *Ethics Resource Center (ERC)*

The Ethics Resource Center is America's oldest nonprofit organization dedicated to independent research and the advancement of high ethical standards and practices in public and private institutions. Among its primary activities, ERC produces the biennial *National Business Ethics Survey*<sup>®</sup> which provides the US benchmark on ethics in the workplace. The center also produced the 2007 *National Government Ethics Survey*. ERC regularly works with public and private sector organizations to assess the effectiveness of their ethics and compliance programs and to develop strategies to build a strong ethical culture.

## III. Best-in-Class Values-Based Ethics Programs

A substantial difference exists between the DoD ethics program currently in place and the best-in-class VBEP the Department has agreed to implement. DoD's current program is consistent with government ethics programs in other executive branch agencies,<sup>4</sup> focusing on implementation of regulatory requirements as articulated by the US Office of Government Ethics. Ethics at DoD is statutorily defined; it is much narrower in scope than the concept of ethics that undergirds a VBEP. The Standards of Ethical Conduct for Employees of the Executive Branch<sup>5</sup> emphasize compliance – obedience to regulations prohibiting such things as conflicts of

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<sup>4</sup> As evidenced in the findings of the Phase I survey, comparing DoD to a database of other government agencies. Overall, DoD was found to be "average." However, when DoD responses were compared to ERC's database of employee responses from organizations with values-based programs, DoD fell below the norm. See *Making the Case* report, previously submitted under this contract.

<sup>5</sup> U.S. Office of Government Ethics. (June 2009). *The Standards of Ethical Conduct for Employees of the Executive Branch 5 C.F.R. Part 2635*. Retrieved from <http://www.oge.gov/Laws-and-Regulations/Employee-Standards-of-Conduct/Employee-Standards-of-Conduct>

interest, post-government employment restrictions, and misuse of public office for private gain. While training on such rules is important and should continue, discussion of a larger set of core values and principles is also important.

Ethics in a VBEP involves a much larger concept. It is “doing the right thing”- not only observing the law, but also upholding a set of ethical principles in order to achieve high standards of conduct. The fundamental difference, then, between the current DoD ethics program and a VBEP is that the current effort focuses on compliance, while a VBEP builds on compliance to incorporate guiding principles (values) that help employees understand what good conduct looks like. A VBEP also helps management focus on the establishment of an environment that promotes innovation and teamwork.

While many organizations have VBEPs, only one in three are best-in-class programs.<sup>6</sup> At present, no federal government agency has a comprehensive best-in-class VBEP.<sup>7</sup>

Best-in-class VBEPs have several defining characteristics. They:

- Contain elements of an effective compliance and ethics program as outlined by Federal Sentencing Guidelines for Organizations (FSGO);<sup>8</sup>
- Receive oversight from the governing authority (or the equivalent) in the organization;

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<sup>6</sup> In 2011, 36.6% of employees said their companies had best-in-class VBEP. Ethics Resource Center. (2011). *2011 National Business Ethics Survey*, 34. Retrieved from <http://www.ethics.org>.

<sup>7</sup> While many government agencies have robust compliance programs, few have publicly acknowledged their implementation of a values-based effort. One agency that has conducted presentations on its program is the FBI. The agency implemented a values-based program in 2007. The contractors in this project met with FBI leadership and reviewed publicly available materials. It is our finding that while the FBI program has made a laudable effort to implement a VBEP, the agency is in early stages of program implementation. Greater emphasis is still placed on compliance than on core values. Moschella, E. (2012, March/April). DOJ Review: FBI’s Integrity and Compliance Program. *Compliance and Ethics Professional*, 36.

<sup>8</sup> Elements of an effective program as defined in FSGO include: oversight of the program at the highest level of the organization; designation of a single individual responsible for day-to-day operation of the program; implementation of a means for employees to seek advice and report misconduct anonymously or confidentially; annual training of all employees; periodic measurement of program effectiveness; promotion of an ethical culture; provision of adequate resources to the program; assessment of organization risk for noncompliance; and investigation and discipline of employees who violate standards or the law. US Sentencing Commission. (2011). *Federal Sentencing Guidelines for Organizations*. Retrieved from [http://www.ussc.gov/Guidelines/2011\\_guidelines/Manual\\_HTML/Chapter\\_8.htm](http://www.ussc.gov/Guidelines/2011_guidelines/Manual_HTML/Chapter_8.htm)

- Designate a Chief Ethics and Compliance Officer (or the equivalent) with a direct reporting relationship to the highest-ranking senior official in the organization;<sup>9</sup>
- Organize all communications and activities around a set of core values that reflect the unique priorities and culture of the entire organization;
- Annually provide training (by immediate supervisors to their direct reports) for all employees on organizational core values, ethical decision-making, and ways to report concerns;
- Prioritize building an ethical culture;
- Encourage employees to report misconduct and protect whistleblowers from retaliation;
- Implement ethical leadership performance goals for managers;
- Provide incentives to employees who uphold the organization’s standards of integrity; and
- Hold employees accountable for violating the standards of conduct.

#### **IV. The Need for the Approach Recommended in This Report**

The implementation plan outlined in this report is designed to help the DoD create a best-in-class VBEP. There are four primary reasons for this approach:

1. Given its role and visibility, DoD has a responsibility to set the highest possible standard for integrity;
2. An effective VBEP reduces the risk of scandal and increases accountability when wrongdoing does occur.

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<sup>9</sup> In some cases, the Chief Ethics and Compliance Officer (CECO) reports directly to the board of directors, with a dotted line to the chief executive officer (or the equivalent). In other cases, the opposite reporting relationship exists. Regardless, a common theme among best-in-class programs is the placement of the CECO in such a way that a reporting relationship exists to the highest authorities in the organization. See Recommendation 3.

3. Research has shown that best-in-class VBEPs provide the most effective approach to improving employee conduct;
4. Presently, DoD lags behind even common practice. The majority of DoD's contractors and subcontractors have more effective ethics/compliance programs than the DoD.

Each of these reasons will be addressed in greater detail.

*Given Its Role and visibility, DoD Has a Responsibility to Set the Highest Possible Standard.*

By its very nature DoD is a standard-setter. Nonetheless, the attributes that set DoD apart are also the responsibilities that impel the Department to implement a best-in-class values-based program:

- DoD is the largest employer in the United States.<sup>10</sup> Longitudinal research has shown that, on average, half of all employees in the US workforce observe misconduct each year.<sup>11</sup> Only a portion of that misconduct is reported to management. However, when an effective values-based program is in place in an organization, levels of misconduct are reduced by more than 50 percent and employee reporting increases by 61 percent.<sup>12</sup> As an employer, DoD is at greater risk for higher levels of unreported misconduct until it implements a VBEP.
- As the largest single department of the U.S. government, DoD is entrusted with the largest budget among Executive Branch agencies. While these funds are necessary to help DoD fulfill its essential role of ensuring the security of our country,<sup>13</sup> DoD's receipt of substantial public funds means that the Department is accountable to Congress and to the public. A best-in-class VBEP will enable the Department to quantitatively show that it is taking preventative steps to reduce the risk of fraud, waste, and abuse of public funds. The Department will also be able to communicate that it is building an organizational culture where upholding the public trust is a central core value.

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<sup>10</sup> As stated on DoD's website, "with over 1.4 million men and women on active duty, and 718,000 civilian personnel, we are the nation's largest employer." Retrieved from [www.defense.gov](http://www.defense.gov).

<sup>11</sup> In 2011, 45 percent of employees in business observed misconduct. Historically employees in government have observed similar amounts; the most recent measurement of employees in government was in 2007, when 56 percent of employees observed misconduct. Ethics Resource Center. (2011). *2011 National Business Ethics Survey*, 22. Retrieved from <http://www.ethics.org>.

<sup>12</sup> Ethics Resource Center. (2009). *2009 National Business Ethics Survey*, 14. Retrieved from <http://www.ethics.org>.

<sup>13</sup> The mission of the Department of Defense, as stated on its website. Retrieved from [www.defense.gov](http://www.defense.gov).

- DoD issues the largest contracts of all federal agencies. Therefore, as it guards against fraud, waste and abuse among its contractors, the Department has a responsibility to show that it is holding itself to a similar standard. Yet as detailed below, DoD's current program lags behind many of its contractors.

*A VBEP Reduces the Risk of Scandal and Increases Accountability.*

DoD has received a great deal of public scrutiny for incidents that have occurred, both at home and abroad. Several prominent examples include:

- Mistreatment of prisoners at Abu Graib;<sup>14</sup>
- Dismemberment and dumping of human remains at Dover Air Force Base;<sup>15</sup>
- Massacre of civilians at Haditha;<sup>16</sup>
- Burning of the Qur'an in Afghanistan;<sup>17</sup>
- Mistreatment of enemy bodies in Afghanistan;<sup>18</sup>
- Sexual harassment of DoD employees;<sup>19</sup> and
- Abuse of procurement and contracting rules and violation of post-government employment restrictions.<sup>20</sup>

As evidenced by the recent massacre of Iraqi civilians by a soldier acting alone, the risk of a single act of misconduct can jeopardize the entire Department's mission.<sup>21</sup> Not only have these

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<sup>14</sup> Abu Ghraib. *The New York Times*. Retrieved from

[http://topics.nytimes.com/topics/news/international/countriesandterritories/iraq/abu\\_ghraib/index.html](http://topics.nytimes.com/topics/news/international/countriesandterritories/iraq/abu_ghraib/index.html)

<sup>15</sup> Caulfield, P. (2011, December 8) Air Force dumped hundreds of remains of dead soldiers from Dover base into landfill. *NY Daily News*. Retrieved from [http://articles.nydailynews.com/2011-12-08/news/30492638\\_1\\_body-parts-dover-air-base-landfill](http://articles.nydailynews.com/2011-12-08/news/30492638_1_body-parts-dover-air-base-landfill)

<sup>16</sup> Slosson, M. (2012, January 23) Marine pleads guilty, ending final Haditha trial. *Reuters*. Retrieved from <http://www.reuters.com/article/2012/01/23/us-marine-haditha-idUSTRE80M1U620120123>

<sup>17</sup> Falk, R. (2012, March 9). Quran burning: Mistake, crime, and metaphor. *Al Jazeera*. Retrieved from <http://www.aljazeera.com/indepth/opinion/2012/03/20123785644715832.html>

<sup>18</sup> Bates, D. & Moran, L. (2012, January 12). 'Disgusting' video is 'recruitment tool for the Taliban': Outrage across the world after footage emerges showing U.S. troops 'urinating on dead Afghan bodies'. *MailOnline*. Retrieved from <http://www.dailymail.co.uk/news/article-2085378/US-troops-urinating-dead-Afghan-bodies-video-used-Taliban-recruitment-tool.html>

<sup>19</sup> Wright, A. (2012, March 23). Marines, Navy and DOD Sued Again for Rape of Military Women. *OpEdNews*. Retrieved from <http://www.opednews.com/articles/Marines-Navy-and-DOD-Sued-by-Ann-Wright-120323-655.html>

<sup>20</sup> US vs Patrick Seidel, see: <http://www.oge.gov/displaytemplates/modelsub.aspx?id=2147484966>, Item 5; Betancourt case, see: <http://www.oge.gov/OGE-Advisories/Legal-Advisories/DO-08-036--2007-Conflict-of-Interest-Prosecution-Survey/>, Item 1; also Markon, J. & Merle, R. (2004, November 16). Ex-Boeing CFO Pleads Guilty in Druyun Case. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/wp-dyn/articles/A51778-2004Nov15.html>

<sup>21</sup> Abu Ghraib. *New York Times*. Retrieved from [http://topics.nytimes.com/topics/news/international/countriesandterritories/iraq/abu\\_ghraib/index.html](http://topics.nytimes.com/topics/news/international/countriesandterritories/iraq/abu_ghraib/index.html)

actions reportedly undermined confidence in the Department’s leadership and its people, in some instances, they have complicated mission fulfillment and weakened foreign alliances.<sup>22</sup>

A new approach to integrity as embodied in a best-in-class VBEP will not prevent all scandals from taking place. But by focusing DoD personnel on values and by taking steps to educate, reward and support employees in upholding Departmental standards, DoD will build an ethical culture. Research has shown that in ethical cultures:

- High-risk employees are more likely to be identified and provided support;
- Individual actors are discouraged by peers from engaging in egregious activities;
- Misconduct is reported when it occurs;
- A shared expectation is generated that violators will be held accountable for their actions.<sup>23</sup>

VBEPs stimulate greater awareness and vigilance. In a values-driven environment, those who suspect potential wrongdoing feel a greater responsibility to intervene before inappropriate behavior occurs.

*Best-in-Class VBEPs Are Most Effective in Improving Employee Conduct.*

It is important to note that the Standards of Conduct and other regulations currently enforced by DoD are essential to the operation of the organization. Compliance is necessary to clarify the activities that are prohibited. Yet rules and regulations have limitations. Literature suggests that at best rules are a reflection of violations that have occurred, and, although they are useful in telling employees what they *should not* do, they are generally unable to help employees identify the activities that they *should* engage in.<sup>24</sup> Evidence of this challenge for DoD employees appeared in responses to the Phase I survey; more than one in five (22 percent) employees indicated that DoD’s current ethics guidelines are not clear enough to resolve most of the ethical questions they face in their work. One quarter (25 percent) said that, when they need to act quickly, they would be more likely to do what the situation required rather than

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<sup>22</sup> PTI. (2012, March 23). US soldier to be charged with 17 counts of murder of Afghans. *Hindustan Times*. Retrieved from <http://www.hindustantimes.com/world-news/Americas/US-soldier-to-be-charged-with-17-counts-of-murder-of-Afghans/Article1-829649.aspx>.

<sup>23</sup> Ethics Resource Center. (2011). *2011 National Business Ethics Survey*, 19, 20, 34, 35, 41. Retrieved from <http://www.ethics.org>.

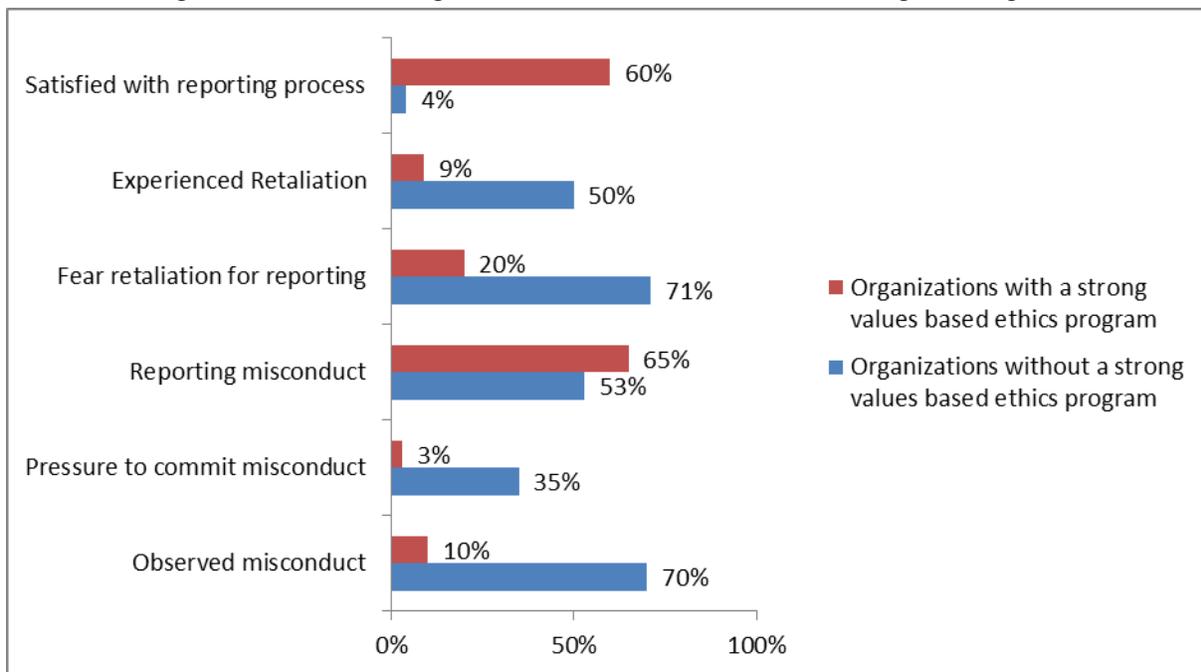
<sup>24</sup> Michael, M. L. (2006). Business Ethics: The Law of Rules. *Business Ethics Quarterly*, 16.4, 475-504.

sticking to a guideline or policy. Forty percent of employees said that they would like further guidance from the Department with regard to ethics and ethical conduct.<sup>25</sup>

By introducing a clear philosophical underpinning, a values-based approach guides employees to do the right thing, even in instances that are either unclear or not covered by written rules. An additional benefit of an effective VBEP is that it is strongly linked to the growth of an ethical culture, which in turn, is correlated to a reduction of misconduct, increased reporting when wrongdoing occurs, and a reduction in the number of employees who feel pressure to cut corners in order to perform their jobs.<sup>26</sup>

As shown in the following chart, outcomes are far better when an organization has a values-based effort in place, compared to organizations where a VBEP is absent.

Figure 1: Outcomes in Organizations with Best-in-Class vs. Other Program Designs<sup>27</sup>



<sup>25</sup> Council of Ethical Organizations, and Human Resources Research Organization. (2010). *United States Department of Defense Survey Report*. For ERC analysis of the Phase I survey, please see previously submitted *Making the Case* report.

<sup>26</sup> Ethics Resource Center. (2009). *2009 National Business Ethics Survey*, 15. Retrieved from <http://www.ethics.org>.

<sup>27</sup> See *Making the Case* report, previously submitted under this contract.

*DoD Lags Behind Its Contractors in the Scope and Effectiveness of Its Ethics Program.*

For more than 25 years, private sector organizations throughout the defense industry have adopted values-based ethics programs.<sup>28</sup> In fact, 100 percent of organizations in the Defense Industry Initiative on Business Ethics and Conduct have such programs in place (representing approximately 80 percent of the US workforce employed in defense contracting organizations). Most of these programs are based on Federal Sentencing Guidelines for Organizations<sup>29</sup> and demonstrate greater effectiveness than the DoD’s current ethics program.

Figure 2: Defense Contractors Are More Effective in Encouraging Ethical Conduct Than DoD<sup>30</sup>

Metric	DoD	Defense Industry <sup>31</sup>
Feel pressured to compromise standards	24%	6%
Senior officials support me in following ethics	60%	81%
Fear retaliation for reporting misconduct	29%	20%

These findings suggest several challenges for DoD:

- DoD is less effective in encouraging employee adoption of its standards of integrity than the organizations it hires;
- Contractors working directly alongside DoD employees on Department projects (i.e., the “blended workforce”) are held accountable to a higher standard of conduct than the Department;<sup>32</sup>
- Debarment officials within the DoD are enforcing the implementation of VBEs that the Department does not apply to itself.<sup>33</sup>

<sup>28</sup> Largely in response to the defense procurement scandals of the 1980s, private sector organizations in the defense industry established the Defense Industry Initiative on Business Ethics and Conduct (DII). Organizations belonging to the DII are required to implement a values-based ethics program. Presently, 85 defense organizations are members of the DII. See <http://www.dii.org>

<sup>29</sup> See footnote 8 on page 10.

<sup>30</sup> See *Making the Case* report, previously submitted under this contract.

<sup>31</sup> Data in the Defense Industry benchmark is based on employee survey data representing more than 80% of defense contracting organizations.

<sup>32</sup> Jones, Y.D. (2009, April 22). *Sustained Attention to Strategic Human Capital Management Needed*. Retrieved from <http://www.gao.gov/new.items/d09632t.pdf>

<sup>33</sup> United States Air Force. (Winter 2010). *Compliance, Ethics and Contractor Responsibility, Fraud Facts*, 7. Retrieved from <http://www.safgc.hq.af.mil/shared/media/document/AFD-100217-008.pdf>

Adoption of a best-in-class values-based approach would better align the Department with its partners in the defense contracting industry, which has long set the pace for values-based ethics and compliance initiatives in the private sector.

## V. Goals for the DoD VBEP

Given the need to address the concerns raised above, the recommendations that follow are intended to enable the DoD to implement a best-in-class VBEP that accomplishes the following goals:

- Identify and promote DoD core values;
- Build and maintain an ethical culture;
- Identify and mitigate risks to integrity and compliance; and
- Promote departmental standards of conduct.

If successful, DoD will be able to show marked improvement in the following outcomes:<sup>34</sup>

- Increased employee awareness of DoD commonly shared ethical values;
- Stronger perceptions of management's commitment to integrity;
- Increased peer support in maintaining a culture of integrity;
- Widely-held perceptions of accountability to DoD standards at all levels;
- Reduced pressure to compromise standards in order to do the job;
- Increased employee reporting of observed misconduct; and
- Reduced experiences of retaliation for reporting misconduct or assisting investigations.

The new initiative will maximize cost-effectiveness and minimize internal disruption by leveraging existing personnel and resources. By design, it will complement ongoing efforts of the Office of the General Counsel (OGC) and the Office of Inspector General (OIG) and will support those offices in fulfilling their broad range of responsibilities.

## VI. Input Informing the Recommendations

The recommendations that follow draw upon the following sources of information gathered in Phase II:

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<sup>34</sup> Some metrics are based on measures from the Phase I survey. Additional outcome measures are included. See Recommendation 13.

- *Findings from the Phase I survey* of military and civilian employees;
- *Benchmarks from similar surveys of employees*, including the Ethics Resource Center’s National Government Ethics Survey (NGES), National Business Ethics Survey (NBES), and survey data representing 80 percent of private sector defense contractors;<sup>35</sup>
- *Input received from selected members of the Panel on Contracting Integrity*;
- *Benchmarks from other government agency ethics/compliance programs*; and
- *Information regarding best practices* based upon the experience of the project team and as available through ethics and compliance associations such as the Defense Industry Initiative (DII), the Ethics and Compliance Officer Association (ECO), and the Society of Corporate Compliance and Ethics (SCCE).

## VII. Briefings for Senior Officials

The Project Team also conducted briefings for selected DoD officials during the first few weeks of the contract. Briefings consisted of a review of results from the Phase I survey and an overview of the Phase II project. The following senior officials participated in these initial briefings:

- Department of Defense General Counsel;
- General Counsel of the Army;
- General Counsel of the Navy;
- General Counsel of the Air Force;
- The Judge Advocate General, USA;
- The Judge Advocate General, USAF;
- The Deputy Judge Advocate General, USN;
- The Staff Judge Advocate to the Commandant of the U.S. Marine Corps;
- Several DoD Deputy Designated Agency Ethics Officials and Ethics Counselors; and
- Key Members of the Panel on Contracting Integrity.

## VIII. Recommendations

Based on data analysis and the input received from DoD senior leadership, the following recommendations outline steps involved in DoD’s implementation of a best-in-class VBEP.

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<sup>35</sup> See *Making the Case* report, submitted previously under this contract.

*Recommendation 1 – Commit to the Establishment of a DoD-wide Integrity Program*

A VBEP will succeed only if it is adopted and led by senior officials at the highest levels of the organization.<sup>36</sup> Merely creating a new organizational structure and delegating responsibility is not sufficient. Senior officials at the highest levels of the organization should approve and personally commit to the new effort. It is essential that the initiative apply to all military and civilian employees, at all levels.

1.1 – Adopt the Term “Integrity” to Refer to the VBEP

The VBEP will be integrated with the existing government ethics program; current activities of the existing rules-based ethics program will continue. In order to avoid confusion, DoD should use the term “integrity” to identify activities related to the VBEP. “Ethics” will continue to refer to programs ensuring compliance with the Conflict of Interest Laws and the Standards of Conduct.

1.2 – Announce the DoD’s Establishment of the VBEP

The Secretary of Defense should formally announce the commitment of senior leadership to the establishment of the integrity program, its objectives, and the appointment (or search for) personnel that will be responsible for its day-to-day implementation.

*Recommendation 2 - Broaden the Scope of SOCO to Include Oversight of the Integrity Program*

The current OSD Standards of Conduct Office (SOCO) should be rebranded as the Office of *Integrity & Standards of Conduct* (OISC). The change makes clear that the Department is shifting from a narrow focus on compliance with written rules to a more holistic commitment to integrity and the implementation of the VBEP.

OISC should be given full responsibility for implementation and ongoing management of the Integrity Program, including:

- Identification and communication of DoD core values;
- Building and preserving a strong culture of integrity throughout DoD;
- Oversight of DoD compliance with the existing laws and the Federal Standards of Conduct;
- Coordination of DoD-wide assessment of culture and compliance risks;
- Training and communications regarding integrity and ethics;
- Implementation and management of a helpline;

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<sup>36</sup> Ethics Resource Center. (2005). *2005 National Business Ethics Survey*, 89. Retrieved from <http://www.ethics.org>.

- Development of performance evaluation metrics; and
- Coordination of a peer review process to evaluate DoD ethics programs.

These responsibilities will be detailed in the recommendations that follow.

OISC also should be given policymaking authority to task personnel with the implementation of portions of the integrity program (see Recommendation 4).

2.1 – Make the OISC an Independent Office

The OISC should be moved out from under the OGC and made an independent office. See a proposed organizational chart on page 21.

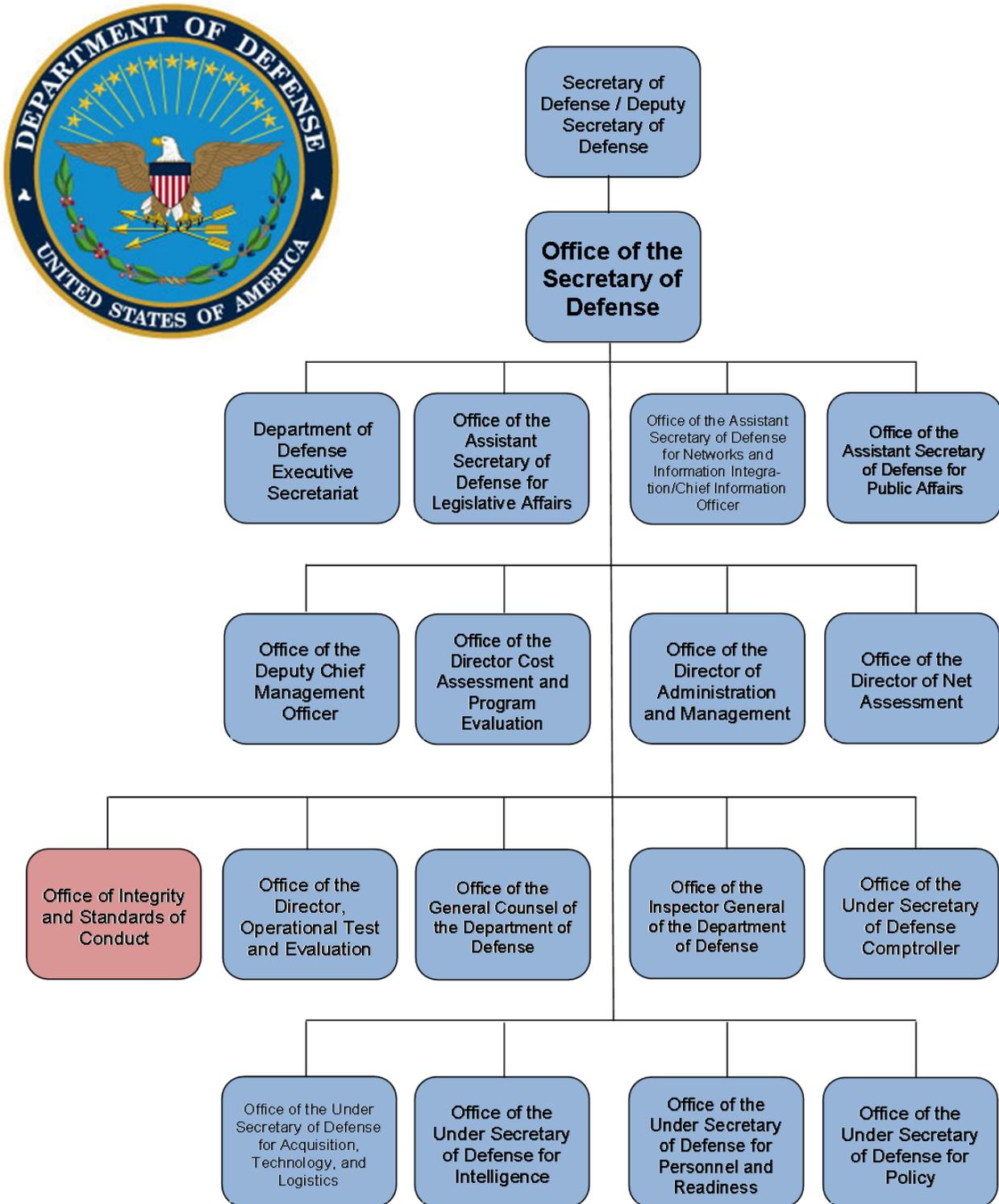
2.2 – Modify the Reporting Structure in OSD to Create a Direct Line on VBEP Matters for D-DAEOs to OISC

In order to integrate all aspects of the program, personnel supporting the current ethics program must be placed under the direction of the office responsible for the integrity program. Current OSD Deputy DAEOs (D-DAEOs) should, therefore, report directly to the OISC on matters related to the VBEP.

2.3 – Task the OISC with Planning the Replication of the OSD Program Throughout DoD

The ethics offices in each of the military branches and defense agencies should be renamed and refocused to mirror the change in the OISC structure – including the designation of a CIEO for each component and department. Given the complexity of the DoD organizational design, OISC should be tasked with conducting a study and making recommendations for the establishment of a parallel program structure in the military departments and defense agencies. The goal should be to establish a coordinated structure between OSD and the other portions of DoD. Once established, OISC should be assigned oversight for the coordinated effort.

## Proposed Organizational Chart Including the OISC



*Recommendation 3 – Hire a Chief Integrity and Ethics Officer (CIEO) to Oversee the Program*

The need for high-level oversight for the day-to-day operation of the integrity program is firmly established in Federal Sentencing Guidelines for Organizations.<sup>37</sup> The designation of a Chief Ethics and Compliance Officer (or the equivalent) has become the de facto standard among private sector organizations.

In 2007, a group of leading nonprofit organizations in the ethics and compliance industry authored a joint statement asserting that:

Implementing an [integrity] and compliance program without designating an individual to oversee it risks the possibility that the function will fail for lack of leadership. Similarly, talking about the importance of [integrity] without creating a formal function to uphold and promote organizational standards may be perceived as hypocritical. Philosophically, if an organization desires that its employees and agents operate with the highest standards...it must do so by creating an [integrity] and compliance function and designating high-level oversight. It is the right thing to do.<sup>38</sup>

Furthermore, the statement observed that best-in-class programs position program leadership in such a way that it can ensure:

- Accountability to the [highest] authority to carry out that authority's fiduciary responsibilities for the integrity program;
- Independence to raise matters of concern without fear of reprisal or a conflict of interest;
- Connection to [organizational] operations in order to build an ethical culture that advances the overall objectives of the [organization]; and
- Authority to have decisions and recommendations taken seriously at all levels of the organization.<sup>39</sup>

In order to meet this standard, DoD should conduct a nation-wide search to hire a Chief Integrity and Ethics Officer (CIEO) to oversee the operation of the OISC.<sup>40</sup>

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<sup>37</sup> United States Sentencing Commission. (2011). *Federal Sentencing Guidelines for Organizations*, §8B2.1. Retrieved from [http://www.ussc.gov/Guidelines/2011\\_guidelines/Manual\\_HTML/Chapter\\_8.htm](http://www.ussc.gov/Guidelines/2011_guidelines/Manual_HTML/Chapter_8.htm)

<sup>38</sup> Ethics Resource Center. (2007). *Leading Corporate Integrity: Defining the Role of the CECO*, 16. Retrieved from [http://www.ethics.org/files/u5/CECO\\_Paper\\_UPDATED.pdf](http://www.ethics.org/files/u5/CECO_Paper_UPDATED.pdf). Note: Given the different definition of the term "ethics" in executive branch agencies, the term "integrity" was substituted in brackets throughout the quote where the word "ethics" appeared in the original report.

<sup>39</sup> Edited with terms in brackets to reflect the difference between government agencies and private sector organizations.

<sup>40</sup> Ethics Resource Center. (2007). *Leading Corporate Integrity: Defining the Role of the CECO*. Retrieved from [http://www.ethics.org/files/u5/CECO\\_Paper\\_UPDATED.pdf](http://www.ethics.org/files/u5/CECO_Paper_UPDATED.pdf).

3.1 – Hire a CIEO as an SES Tier III with the Title OSD DAEO

At DoD, assigning this responsibility to a permanent government employee is intended to ensure continuity in the application of the program and limit the impact of political shifts and turnover of the Executive Branch from one party to another. The CIEO should be an SES Tier III.

The CIEO also should carry the title of OSD Designated Agency Ethics Official (OSD DAEO) to make clear the linkage between the new values-based integrity program and ongoing efforts to comply with procurement and other government ethics rules. Vesting authority for both in the same office sends a clear signal that the two missions are equally important and mutually supportive of one another.

3.2 – Ensure That CIEO Reports Directly to the Secretary of Defense

Establishing a direct reporting link from the CIEO to the Secretary is similarly designed to communicate that integrity efforts are part of the *permanent* agenda for the Department's most senior leadership. On a day-to-day basis the CIEO may have a dotted line reporting relationship to the Deputy Secretary of Defense, but the CIEO should ultimately report to the very highest official in DoD so that the program meets the best-in-class criteria.

3.3 – Include the CIEO in Critical Meetings of the Senior Leadership Team

Senior officials make decisions every day involving the core values of the organization. For this reason, the CIEO should be considered a member of the senior leadership team and should be included in critical meetings about strategic operations. For example, the CIEO should be considered as a regular attendee in the following kinds of meetings:

- Daily Briefing;
- Budget Objectives;
- Strategic Objectives;
- Implementing Efficiencies and Cutting Waste;
- Planning Groups; and
- Business Rules.

Including the CIEO in these processes will help communicate to the rest of DoD that the CIEO has the authority to help make decisions and also helps to ensure that DoD's core values are fully honored by senior officials.

*Recommendation 4 – Establish Committees to Integrate the Integrity Program Across DoD*

While the CIEO and the OISC will have day-to-day responsibility for the implementation of the VBEP, the success of the program will depend on leadership involvement and the integration of the program across all of DoD. Therefore, OISC should coordinate an effort among senior officials and other personnel who can assist in assimilating the program into DoD's culture.

Three committees should be established to implement the new program and to unite DoD functions around the common goal of integrity:

- An *Oversight Committee*, convened by the Secretary of Defense and comprised of the Deputy Secretary of Defense; the DoD General Counsel; the DoD Inspector General; the OSD CIEO and the CIEO for each component and department (once identified); and the component and department DAEOs (if separate from the CIEOs, once identified). The purpose of this committee is to set priorities for DoD senior leadership in communicating a tone from the top; to review and identify high-priority risks (both compliance and culture risks); and to provide oversight of the integrity and ethics program.
- An *Integrity Committee* of military and civilian leaders responsible for identifying culture risks and implementing culture change strategies. This committee will be convened by the OISC to regularly monitor the DoD culture and to develop strategies to mitigate any key risks to the success of the VBEP. The Integrity Committee also should focus on the development of resources and strategies to support middle and front line managers throughout DoD.
- A *Standards of Conduct Committee* composed of D-DAEOs and Coordinators for the current SOCO as well as the military branches. This Committee will be coordinated by the OISC and will focus on the identification of compliance risks, and the implementation of the Standards of Conduct. For detail about committee activity around the identification of culture and compliance risks, see Recommendation 9.

Each of the groups should meet at least once each quarter. The committees should be coordinated by OISC, which would retain final authority for finalizing and implementing committee recommendations.

*Recommendation 5 – Gather Additional Baseline Data*

Once communications and training are underway and the program is being implemented, it will be important to periodically measure progress in order to fine tune the program (see

Recommendation 13). Shortly after the creation of the VBEP, DoD should take steps to gather baseline data and information so that it is able to accurately measure change over time.

In Phase I of the VBEP initiative, DoD conducted a survey of military and civilian employees to assess the DoD culture. This survey provided some important data that can be used as baseline information:

- Employee awareness of DoD ethics program elements;
- Perceptions of senior officials' commitment to the ethics standards;
- Perceived pressure to compromise ethics standards in order to do the job;
- Employee willingness to raise issues to management or the OIG; and
- Fear of retaliation if an employee reported misconduct or assisted investigations.

While these metrics will be useful for gauging the ongoing health of the *ethics* program, they are insufficient as baseline measures of the VBEP. The survey did not address:

- Support for DoD core values;
- Outcome measures (i.e. actual observed misconduct, reporting, and retaliation); or
- Perceptions of the strength of the ethical culture of DoD.

Therefore, before rolling out the VBEP, DoD should conduct a short survey of a sample of DoD employees in order to gather additional data along these lines. DoD also should consider conducting focus groups to gain a more in-depth understanding of employees' thoughts about ethics and integrity.<sup>41</sup>

#### *Recommendation 6 – Adopt a Set of Core Values Representing All of DoD*

DoD's VBEP can effectively achieve its goals only if its values are applied organization-wide to all personnel, military as well as civilian. At the same time, the program must recognize and honor the values already established and communicated within the military branches, each of which (along with their academies) train their personnel to operate in accord with a clear set of principles.

The new set of values must be fully compatible with the codes of the military branches and provide a unified underpinning for the Department's ethical culture and integrity initiative. If introduced successfully and embraced widely, adoption of core values can help build a certain

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<sup>41</sup> While focus groups are invaluable for their generation of detail about an organization's culture, they are limited in their generalizability. In order for DoD to have complete baseline data, a survey will be necessary. Since it will be a supplement to the Phase I survey, DoD can reduce costs by drawing a sample rather than conducting a census survey of all military and civilian employees.

*esprit de corps* among DoD's employees and also bridge divides that may now separate civilian employees from their military colleagues.

Based upon our conversations with DoD personnel, a review of the existing military codes, analysis of survey data, and experience with the issues of ethics and integrity, three values emerge as fitting the Department's unique circumstances. The following should be the overarching values for the DoD VBEP.



Definitions for each value follow.

*Core Value: Integrity*

Integrity means consistently adhering to high moral and professional standards. It creates an open and trusting environment that enables Courage and Respect to thrive and in which employees can practice them consistently and with confidence. Integrity involves the application of DoD's core values to daily operations.

To demonstrate Integrity, DoD employees will:

- Communicate our core values both internally and externally;
- Practice these values in working with colleagues and stakeholders;
- Hold each other accountable to our values; and
- Support each other in applying our values to our daily decisions.

*Core Value: Courage*

Courage is having the fortitude to stand up for what is right in the face of opposition. It does not mean the absence of fear; rather, courage means stepping forward despite reservations. If DoD's integrity is at risk, our commitment to courage compels us to ask clarifying questions and to voice our concerns to leadership. Courage can also mean supporting one another for doing what is right.

To demonstrate courage, DoD employees will:

- Provide information to management, even if it involves bad news;
- Ask questions when unsure of the proper course of action;
- Voice concerns to management;
- Report observed or suspected misconduct;

- Acknowledge our own mistakes; and
- Hold themselves accountable to their commitment to show Courage.

Core Value: Respect

Respect means treating others with dignity and mutual consideration. It means listening to others and honestly taking account of their input. Interacting in a respectful way builds an organization and culture marked by open and honest communication. Operating with mutual respect, DoD can produce the best results for stakeholders and enable individuals to fulfill their potential.

To promote respect, DoD employees will:

- Communicate in an open fashion;
- Appreciate uniqueness;
- Act with compassion;
- Show courtesy;
- Constructively accept and address the mistakes of others; and
- Listen to understand.

The following diagram exemplifies these core values and their connection to the military branches.



Recommendation 7 – Develop a Values Statement

The DoD core values must be communicated frequently to all employees. To begin, DoD should develop a Values Statement that defines the core values, explains their purpose, and details how employees can uphold the values in their work. As a point of emphasis, the Values Statement should serve as a cover document for the Standards of Conduct and make it clear that integrity is a way of conducting oneself that goes beyond literal compliance with the Standards and other rules.

The Values Statement should be distributed annually to every employee, who should formally acknowledge receipt of the document.

The Values Statement should include:

- DoD core values and examples of the behaviors that demonstrate each value;
- Identification of integrity issues that exemplify violations of the values;

- Explanation of the reporting process when violations are observed (what to report and where to report it); and
- Links to policies and procedures that codify violations of integrity and ethics.

### Recommendation 8 – Develop a Mechanism for Receiving All Reports of Misconduct

Data collected in Phase I revealed that significantly more DoD employees fear retaliation for reporting misconduct than employees in other organizations.<sup>42</sup> Further, 36 percent of DoD employees are unaware of the presence of a place to report misconduct, and among those that are aware, 43 percent of DoD employees said that they would not be comfortable taking their concerns to the IG's office. Reporting is critical to any organization because it helps leadership identify problems and enables them to take action sooner rather than later. Addressing issues as early as possible reduces the odds that significant problems will fester and grow to crisis proportions.

The VBEP is designed to reduce instances of workplace misconduct and also to increase reporting of the misconduct that *does* take place. Research shows that employees usually report concerns to their direct supervisor, and the stronger the culture of the organization, the more likely employees are to trust management and come forward with reports.<sup>43</sup> Despite this reporting tendency, the presence of a helpline/hotline mechanism is still critical. When a helpline is not evident in a workplace, employees are less likely to report even to a member of management.

As the entity tasked with the promotion and maintenance of culture building, the OISC will have a direct link to management and can provide a safe place for employees to report concerns. The OISC should therefore establish a helpline/hotline mechanism with both phone and online options for reporting possible misconduct and for asking questions about integrity and compliance issues. The helpline/hotline should be promoted as a primary resource for all employees with any type of question; the OISC will refer calls to the right office for a response. Calls would be routed to Office of the General Counsel (OGC) and the Office of the Inspector General (OGC) as appropriate and all callers will receive some form of acknowledgement or action report.

#### 8.1 – Brand the Hotline/Helpline as a Resource for Employees & Contractors

Reporting mechanisms are only effective if employees and other possible users are fully informed about their availability and how the process works. Thus, the physical implementation of a helpline/hotline initiative must be complemented with an effective

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<sup>42</sup>Twenty-nine percent of DoD employees feared retaliation for reporting, compared to the US average of 14 percent. See *Making the Case* report, previously submitted under this contract.

<sup>43</sup>In fact, only 4 percent of employees report misconduct using a helpline, compared to 56 percent of employees who reported misconduct to a supervisor or other member of management. In government organizations, the finding was similar. Ethics Resource Center. (2011). *2011 National Business Ethics Survey*, 21. Retrieved from <http://www.ethics.org>. See also, Ethics Resource Center. (2007). *National Government Ethics Survey*, 7. Retrieved from <http://www.ethics.org>.

communications program to announce the system's creation and encourage its use. Considering the Department's constant interaction with outside stakeholders, the communication program also should be made available beyond the Department to its contractor community (both onsite and offsite) and to other organizations involved in the Department's processes.

### 8.2 – Receive All Calls Regarding Integrity, Ethics or Other Concerns

In order to avoid confusion as to what report should be made where, the OISC helpline should be communicated as a resource for all employees and able to receive all reports and questions. OISC should refer calls to the OGC and OIG as appropriate. OISC should maintain records of calls and follow up actions. OGC and OIG should do the same.

### 8.3 – Train Managers and Employees on the Reporting Process

Research has repeatedly shown that the two primary reasons employees do not report misconduct are that they do not believe action will be taken, and they fear retaliation for speaking up.<sup>44</sup> Therefore, the OISC should integrate information about the reporting process into its annual employee training. For more information about training, see Recommendation 11, p. 35.

In addition, the Department should develop targeted training and a toolkit for managers to help them recognize reports of misconduct and to respond appropriately.

### Recommendation 9 – Build and Maintain a Culture of Integrity

Research has shown that employees in the federal government are less likely than other US workers to perceive that their workplaces have strong ethical cultures.<sup>45</sup> This perception poses significant risk. When employees work in weaker ethical cultures, they are twice as likely to observe misconduct, less likely to report, and far more likely to feel pressure to compromise standards in order to do their jobs.<sup>46</sup>

Culture is a shared understanding about “the way we do things around here.” It is evidenced by the actions of leadership and management in setting a tone, and it is expressed by employees in their daily activities.<sup>47</sup> Culture cannot be imposed; neither can a single training program change the way an organization fundamentally works. Rather, culture begins to change when leadership makes a deliberate decision to change the tone and when several actions are consistently displayed in daily operations:

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<sup>44</sup> Ethics Resource Center. (2007). *2007 National Business Ethics Survey*, 6. Retrieved from <http://www.ethics.org>

<sup>45</sup> Ethics Resource Center. (2007). *2007 National Government Ethics Survey*, 23. Retrieved from <http://www.ethics.org>. Ten percent of government employees said their organizations have strong ethical cultures, compared to 82 percent of employees in the defense industry.

<sup>46</sup> Ethics Resource Center. (2009). *The Importance of Ethical Culture*, 6. Retrieved from <http://www.ethics.org>

<sup>47</sup> Treviño, L.K., Hartman, L.P., & Brown, M. (2000). Moral Person and Moral Manager: How Executives Develop a Reputation for Ethical Leadership. *California Management Review*, 42(4), 128-142. See also Ethics Resource Center. (2006). Critical Elements of an Organizational Ethical Culture. Retrieved from <http://www.ethics.org>.

- Leaders and managers talk about the importance of ethics;
- Leaders and managers model ethical conduct;
- Leaders and managers support and reward employees for upholding standards;
- All employees are held accountable for violating standards; and
- Coworkers support each other when raising difficult issues.<sup>48</sup>

While the Phase I survey did not ask specific questions about the DoD culture in these terms, several indicators highlighted the need for attention to culture within the Department:

- Employees expressed below-average confidence, compared to other government employees, in the commitment of DoD top leadership to ethical standards – 46 percent of respondents said DoD leaders would compromise on ethics;
- Forty percent (40 percent) of employees said that their top management does not support their following ethics standards;
- Nearly one quarter (24 percent) of employees indicated that they feel pressured to compromise standards in order to do their jobs;
- Sixty-seven percent of employees said that meeting objectives was the top priority for DoD; only 16 percent of employees said that observing ethics was a top priority.

Changing a culture and developing a new approach to integrity requires intentional action by senior leadership. Culture change initiatives also require ongoing support.

#### 9.1 – Coordinate and Perpetuate Integrity as the Tone from the Top

In Phase I, employees made clear that DoD is a very diverse organization, and there are many “tones” coming from many “tops.”<sup>49</sup> In other words, depending on where an employee is situated in the organization, the priorities and values of the Department vary widely.

The first step in building a strong culture of integrity is to communicate a consistent message of commitment to core values. This message must permeate formal communications and speeches by senior officials and should also be integrated into informal communications and decision-making strategies. Employees need to regularly hear:

- Leaders’ commitment to integrity;

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<sup>48</sup> Ethics Resource Center. (2009). *The Importance of Ethical Culture*, 14. Retrieved from <http://www.ethics.org>.

<sup>49</sup> Council of Ethical Organizations, and Human Resources Research Organization. (2010). *United States Department of Defense Survey Report*.

- Examples of situations where leadership looked to DoD core values to make tough decisions; and
- Stories of DoD personnel who exemplify the DoD core values and commitment to integrity.

OISC should work with communications departments throughout DoD to develop a core set of messages that can be regularly communicated by senior leaders, referencing DoD values and tying the values to strategic decisions. OISC also should work with the Oversight Committee (see Recommendation 4, p. 24) to develop strategies to support leaders in reinforcing key messages in day-to-day operations throughout the Department.

### 9.2 – Develop and Distribute a Toolkit for Managers

There are two primary drivers of culture: top management and immediate supervisors. While senior leaders set a tone for the culture of the organization, most employees take their cues about the workplace from the manager or commander with whom they have the most direct contact. Indeed, research has shown that in most organizations, immediate supervisors are the individuals who reinforce standards, and they are also the recipients of most reports of misconduct. In instances where employees do not feel their supervisor supports the values of the organization, they perceive the culture as weak.<sup>50</sup>

Data indicates that DoD should pay special attention to supervisors. For example, in the Phase I survey:

- Twenty percent of DoD employees said that the managers/commanders to whom they report do not respect DoD's ethics standards;
- Seventeen percent said that their immediate supervisor would not listen to their ethics concerns;
- Nearly one third (29 percent) of employees feared retaliation if they reported their supervisor/commander for engaging in misconduct;
- More than half (53 percent) of all DoD employees said that meeting objectives was the priority for their supervisor; while
- Only one in ten employees (10 percent) said that maintaining ethical standards was the highest priority for their supervisor/commander.

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<sup>50</sup> Ethics Resource Center. (2009). *The Importance of Ethical Culture*, 10. Retrieved from <http://www.ethics.org>.

Strategies that are undertaken for senior leaders also should be replicated for middle and front line supervisors. The OISC should work with communications personnel to develop messages that can be delivered by managers to their employees about the importance of integrity, and the ways the core values undergird daily decisions. Supervisors should receive training on accepting reports of misconduct, listening to employee concerns about integrity issues, and responding in an appropriate and timely fashion. OISC should develop a toolkit for supervisors, helping them to recognize opportunities to reinforce the tone from the top. And, finally, the Integrity Committee should be tasked with identifying new ways to empower managers to build a strong culture of integrity.

### 9.3 – Implement Performance Metrics for Managers

Since management behavior drives culture, managers should be evaluated on their actions in encouraging integrity. The most effective way to do this is to adopt performance goals for managers. For more information on performance metrics, see Recommendation 12, p. 36.

### Recommendation 10 – Assess and Mitigate Culture and Compliance Risks

Risk should be considered “an uncertain event or condition that, if it occurs, has the potential to affect the achievement of an organization’s strategies and objectives. Risk levels are a product of two things: the severity of a potential negative event and the likelihood of its occurrence.”<sup>51</sup> Risk assessment at the DoD will serve three purposes:

- Establish a bottom-up way of identifying emerging issues that should be addressed through the VBEP;
- Prioritize the allocation of limited program resources to highest risk areas; and
- Reduce key culture and compliance risks.

### 10.1 – Task OISC with the Coordination of a Risk Assessment and Mitigation Process

OISC should be responsible for overseeing a DoD-wide effort to identify, prioritize, and respond to key risk areas. Risk assessments should focus on:

- Compliance risks: Events/conditions that would deter employees from upholding regulatory requirements and the Standards of Conduct.

For example: Situations posing potential conflicts of interest in the procurement process; retirement trends increasing the potential for post-government

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<sup>51</sup> Ethics and Compliance Officer Association Foundation. (2008). *The Ethics and Compliance Handbook*, 15.

employment violations; and management practices pressuring employees to violate policy.

- Culture risks: Events/conditions that would alter the tone from the top or otherwise impede the actions of leaders and employees aiming to build a strong culture of integrity.

For example: Expected changes in political administration and senior leadership; military actions that overshadow regular communications; and changes in employee reporting patterns.

Presently, best-in-class programs in the private sector focus largely on compliance risks. By including culture risks, DoD will be setting a new standard of practice.

#### 10.2 – Leverage the VBEP Committee Structure for Risk Identification and Prioritization

OISC should work through its committee structure (see Recommendation 3, p. 22) to engage all DoD functions in the implementation of the risk assessment process.

- Integrity Committee: Coordinates outreach to the DoD functions to gather data about leading *culture* risks. Develops a list of priorities for review by the Oversight Committee.
- Standards of Conduct Committee: Coordinates outreach to the DoD functions to gather data about leading *compliance* risks from DoD functions. Develops a list of priorities for review by the Oversight Committee.
- Oversight Committee: Reviews leading compliance and culture risks presented by the Integrity and Standards of Conduct Committees. Identifies the *highest priorities* for response.<sup>52</sup>

#### 10.3 – Task DoD Functional Areas with Risk Mitigation Strategies

Once risks are identified by the DoD functions and prioritized by the OISC committees, DoD personnel throughout the organization should be tasked with the development of

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<sup>52</sup> Many organizations utilize software programs to gather input about risks from all areas of an organization. Risks can be identified and prioritized (low, medium, high), and “rolled up” into a dashboard for review by senior leaders.

action plans for the high-priority risks. The OISC committees should review and approve action plans, then personnel throughout DoD should implement approved action plans.

OISC should maintain responsibility for the development of a dashboard of risk areas being managed. Information about risk analysis and mitigation should be regularly reported to the Secretary of Defense.

*Recommendation 11 – Conduct Annual Core Values Training for All DoD Employees*

One purpose of training is to raise awareness, and, to the extent that DoD has conducted training on its Standards of Conduct, the training has been fruitful. The Phase I survey revealed that an impressive 95 percent of employees are aware of the Standards of Conduct, and 88 percent say that they have received ethics training.

Nonetheless, the current training efforts by DoD are focused on compliance with rules. In order for a VBEP to take hold, regular training on integrity *and* ethics is necessary for *all* DoD employees. Every employee at every level should understand the purpose and goals of the Integrity Initiative, how it affects them, and how they can support it.

Across the US in the private sector, 76 percent of employees indicate that they have participated in such an effort. Yet research indicates that not all training efforts are equally effective.<sup>53</sup> Among the different models for training,<sup>54</sup> by far the most effective is a live discussion-based training session.<sup>55</sup> Best-in-class programs have implemented training designs in which employees participate in case-based discussions, led by managers with their direct reports. These sessions often begin with a video-based introduction from senior officials, reinforcing the importance of the core values and the desire of leadership to support employees when they face difficult situations. Best-in-class training programs also:

- Make the case for core values;
- Differentiate between rules and values, but also reinforce why both are necessary;
- Define and apply the core values of the organization to real-life situations that have taken place in the organization;
- Engage employees in interactive discussion about “the right thing to do” (ethical decision-making) in these situations;

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<sup>53</sup> Ethics Resource Center (2008). *Improving Ethical Outcomes: The Role of Ethics Training*. Retrieved from <http://www.ethics.org>.

<sup>54</sup> The most common training methods are eLearning/video based; expert-led training (where a member of a legal team or other expert conducts multiple sessions using the same content); train-the-trainer (where a team of trainers are prepped and they, in turn, go out and train employees); and cascaded training (where managers train their direct reports and so on down the organizational structure).

<sup>55</sup> Ethics Resource Center (2008). *Improving Ethical Outcomes: The Role of Ethics Training*, 11. Retrieved <http://www.ethics.org>.

- Introduce resources available to employees when they are uncertain about what they should do; and
- Detail the ways employees can report misconduct and how DoD will respond.

OISC should develop and implement an all-employee training effort immediately following the announcement of the VBEP. The training should be first conducted by the Secretary of Defense among his direct reports and subsequently cascade throughout the organization. As a part of Phase II, the contractors have developed a training design and supporting materials to launch the effort.

As a minimum standard, Federal Sentencing Guidelines for Organizations suggests that all employees be trained annually on the organizational ethics program. Consistent with this recommendation, DoD training on core values should be repeated each year. Best-in-class VBEPs modify their training content every other year.

*11.1 – Request a Waiver by OGE During the Initial Rollout of Core Values Training.*

In order to underscore the DoD's commitment to integrity and the importance of Core Values training, DoD should request that OGE waive its regulatory requirement for annual ethics training for the first year of Core Values training implementation. Doing so would enable DoD to emphasize the high priority of the core values, and to more effectively implement the rollout in the first year.

OISC should meet the requirements for notifying appropriate personnel of their obligations to observe post-government employment restrictions and other related rules usually covered by Standards of Conduct training for OGE.

*Recommendation 12 – Develop Performance Metrics for Evaluation of Leadership*

Workplace initiatives about integrity or any other attribute are most likely to succeed when leadership links them firmly to personal incentives such as career advancement and pay, or other rewards systems that matter to employees. Organizations that implement performance goals designed to promote ethical leadership grow cultures of integrity more effectively than other organizations. For example, within 5 years of establishing performance metrics, one organization changed employee perceptions about the strength of the ethical culture by 19 percent.<sup>56</sup>

Best-in-class VBEPs implement such metrics as:

- Regular communication about core values;
- Modeling integrity;
- Keeping commitments;
- Maintaining accountability among all direct reports;

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<sup>56</sup> Harned, P. (2010). Beyond Tone at the Top. *Director and Boards Briefings*, 39-40.

- Visible and consistent support for the OISC; and
- Personal performance that meets ethics standards.<sup>57</sup>

DoD should initiate performance evaluations for all managers, with metrics for leadership behaviors that are proven to build a culture of integrity. Employees' salaries and military merit awards should incorporate best-in-class standards for performance.

*Recommendation 13 – Periodically Measure Program Effectiveness*

Best-in-class VBEPs are dynamic; reflecting changes in organizational priorities, leadership, and culture. In order to keep the program attuned to the evolving needs of the organization, it must be periodically evaluated.<sup>58</sup> Additionally, the Department will want to know whether the shift to a values-based program is providing an appropriate return on the investment of both human and financial resources. Research has shown that effective programs are able to quantitatively and qualitatively demonstrate progress. Periodic measurement will enable DoD to collect data, compare to peer organizations, and fine-tune the program in the interest of continual improvement.

*13.1 – After 3 Years of Implementation (and Every 3 Years Thereafter), Initiate a Comprehensive Program Review*

The review should include the following:

- Evaluation of the *Program Design* to ensure that the program contains all the necessary elements to align with government standards and best practices;
- Measurement of *Program Impact* to determine the extent to which program efforts are modifying employee behavior and perceptions; and
- *Culture Assessment*, gauging employee perceptions of the strength of the culture and the extent to which the core values are relevant to the daily work of the DoD.

*Evaluation of Program Design*

The *process* by which the program is implemented should be periodically examined. An independent entity should review the activities of the Integrity and Ethics Programs and offer responses to the following questions:

- Have we identified the appropriate objectives for the program?
- To what extent do our systems and activities align with those objectives?

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<sup>57</sup> ERC's research has shown that these "ethics related actions" are directly tied to employees' perceptions of the strength of their ethical culture. These metrics have also been implemented in some private sector organizations, and have been shown to have a positive impact.

<sup>58</sup> Doing so also meets the minimum de facto standard set by Federal Sentencing Guidelines for Organizations that the program be "periodically measured for effectiveness," and also that the program be regularly audited. Retrieved from <http://www.ussc.gov>

- Are we in compliance with regulations governing our program?
- What refinements are needed to ensure that the DoD's program is considered best-in-class with regard to its program objectives and design?
- In what ways we can operate more efficiently?

#### Measurement of Program Impact

Program Design reviews (above) examine the *process* of the VBEP. The OISC should also evaluate the *outcomes* of the VBEP the extent to which the program is actually making a difference. While the Program Design evaluation considers efficiency and effectiveness, a review of program impact measures the change in employee perceptions and conduct.

An independent assessor should be asked to gather data to answer the following questions:

- What difference has our program made in our workforce?
- To what extent are we a values-based organization in our daily operations?
- Are employees sufficiently aware of the resources that our program provides?
- To what extent have employees' perceptions of our organizational culture improved?
- Are we reducing misconduct and increasing reporting?
- Are we reducing our culture and compliance risks?

This type of measurement should be accomplished through a survey of employees and/or gathering of anecdotal information through focus groups. The metrics should include:

- Employee perception of DoD as a culture of integrity, including:
  - Management commitment to integrity
  - Management display of behaviors that drive culture
  - Coworker commitment to the core values
  - Perceptions of accountability at all levels
- Pressure to commit misconduct
- Observed misconduct
- Actual reporting of observed misconduct
- Perceived experiences of retaliation for having reported misconduct
- Extent to which employees are rewarded for upholding the core values

### Culture Assessment

It is essential that DoD periodically monitor employee perceptions of the organizational culture. This can be conducted as a part of the program impact review or it can be undertaken separately.

A culture assessment generally answers the following questions:

- What is the tone that employees receive from the top?
- To what extent are supervisors reinforcing the importance of integrity?
- Do employees perceive that DoD has a strong culture of integrity?
- What actions can we take to strengthen our overall culture?

Metrics should investigate the strength of the core components of ethical culture as follows:

- Ethical Leadership: tone at the top and belief that leaders can be trusted to act with integrity.
- Supervisor Reinforcement: individuals directly above the employee in the company hierarchy set a good example and encourage integrity.
- Peer Commitment to Ethics: actions of peers support employees who “do the right thing.”
- Embedded Ethical Values: values promoted through informal communication channels are complementary and consistent with DoD’s official values.

### 13.2 – Engage a Third Party to Conduct the Comprehensive Program Evaluation

Whenever possible, DoD should bring in an independent assessor (or assessors) to gather data and offer recommendations for program improvement.<sup>59</sup> External evaluators contribute credibility to the process, and they are often able to make recommendations that internal resources might not raise to leadership. External evaluators also have the knowledge and access to draw on the experiences of other organizations.<sup>60</sup>

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<sup>59</sup> While the US Office of Government Ethics (USOGE) does have a process in place to evaluate the ethics programs within agencies, the need for regular review of both the integrity program and the ethics program necessitate the need for additional evaluation by a third party.

<sup>60</sup> Ethics and Compliance Officer Association Foundation (2008). *The Ethics and Compliance Handbook*, 159.

### 13.3 – Initiate an Ongoing Peer Review of the Ethics Program

An ongoing peer review of the ethics program should be undertaken to ensure that the existing policies and controls are sufficient and to improve consistency of the program across DoD. OISC should coordinate a process by which D-DAEOs examine the program in other DoD functions. The peer review should answer such questions as:

- What are our best practices?
- In what ways can we improve the efficiency and effectiveness of the program?
- What are the practices that help our employees best understand and observe the Standards of Conduct?
- In what ways can we improve the thoroughness and accuracy of our records?
- How can we improve our training efforts?
- What new regulations are in need of our attention?

The review should be conducted by teams of 2-3 D-DAEOs who visit and evaluate a department within DoD. The review team should be guided by an evaluation framework that includes a review of documents and interviews with key staff. Some of the ethics program practices considered in the review might include:

- Policies and procedures for disclosure of conflicts of interest;
- Distribution of the Values Statement and Standards of Conduct and receipt of acknowledgements;
- Effectiveness and efficiency of training;
- Accuracy of helpline data;
- Departmental scanning of new, relevant laws and regulations impacting the ethics program.

Unlike the other evaluation practices, the peer review will need to be undertaken on an ongoing basis. Each year, several departments should be identified for peer review, and review teams should be rotated until every D-DAEO has participated on a team. While the peer review cycle may take several years to complete, the process should continue until every department's ethics program has been evaluated. The process should then be repeated.

### Recommendation 14 – Establish Mechanisms to Receive Ongoing Independent Advice

The integration of core values into Departmental operations requires sustained attention at the highest levels of the Department. Not only should a VBEP be established and implemented, but the Secretary and Deputy Secretary of Defense should ensure that on an ongoing basis, Departmental priorities are seamlessly connected to the fundamental values of the Integrity Program. Furthermore, as senior officials make complex and sensitive decisions on a daily basis, these leaders should have trusted advisors with whom they can surface, analyze and resolve difficult integrity issues.

Already the Defense Business Board provides independent advice and an external perspective, based on proven and effective practices in the private sector.<sup>61</sup> In order to provide support to the Secretary and Deputy Secretary of Defense with regard to integrity issues and the establishment of a culture of integrity, the Defense Business Board should be expanded to provide ongoing counsel from independent ethics/compliance experts.

#### 14.1 – Appoint an Ethicist to the Defense Business Board

At least one member of the Defense Business Board should have expertise in values-based ethics and culture change and experience in the design, implementation and/or evaluation of an effective VBEP.

#### 14.2 – Establish a DBB Task Group to Monitor and Assist the Implementation of the VBEP

A standing Task Group should be established to examine topics related to the DoD culture of integrity; the establishment and sustainment of the VBEP; or other emerging issues that pose risk to DoD's commitment to its core values. At minimum, the Task Group should include:

- The Chair of the Defense Industry Initiative Steering Committee;<sup>62</sup>
- A Chief Ethics and Compliance Officer (or the equivalent) from a corporation in the defense industry; and
- An individual with expertise in the design, implementation, or evaluation of a VBEP.

#### 14.3 – Participate in Ethics & Compliance Industry Groups

Over the past twenty years, a robust industry has been grown that provides resources and support to ethics and compliance practitioners. DoD personnel should take steps to become actively engaged in industry organizations. The CIEO should personally participate in, and encourage the involvement of OISC staff with, trade associations and other groups that encourage the sharing of best practices.

## **IX. Phases for Program Implementation**

Recognizing that the DoD VBEP will likely be implemented incrementally, certain activities should be given priority if the program is to be communicated and established in an effective

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<sup>61</sup> As indicated in the mission statement of the Defense Business Board. Retrieved from <http://dbb.defense.gov/>

<sup>62</sup> The Defense Industry Initiative Steering Committee is chaired by a Chief Executive Officer of one of the DII Signatory Companies. The Chair position rotates every 2 years. Retrieved from <http://www.dii.org>.

manner. The Phases I and II of the program have already been completed. Additional phases of the program development should be as follows.

Phase III:

- Create the OISC & Appoint a CIEO;
- Establish the DoD-wide Integrity Program;
- Establish Core Values & Develop a Values Statement;
- Gather Additional Baseline Data;
- Conduct focus group reviews of DoD wide communication plan, core values and values statement;
- Establish a Helpline to Receive Reports of Misconduct;
- Implement DoD Values Training; and
- Establish Mechanisms to Receive Independent Advice as a part of the Defense Business Board.

The first task is to ensure high-level commitment to the establishment of the VBEP, including the creation of the OISC and the appointment of a CIEO to provide day-to-day oversight of the program. Before any communications are sent out, however, DoD should collect the needed baseline data in order to measure change.

Also prior to formal communication of the program, the existing OSD SOCO helpline should be made ready for use DoD-wide, so that, as communications about the program are sent out, employees can begin to use the helpline to ask questions or report misconduct.

Once a helpline is in place, the Secretary of Defense should announce the establishment of the program. As next steps after its formal establishment, OISC should finalize the core values for DoD and distribute them to all DoD personnel in the form of the core values statement. Training should be implemented to reinforce the values, explain the reporting process, and train employees on ethical decision making. The Defense Business Board should also establish mechanisms for providing guidance to DoD senior officials.

Phase IV:

- Task the CIEO with the Establishment of a Parallel Structure for the Integrity Program;
- Establish Parallel Structure for the Integrity Program;
- Establish Committees to Integrate the Integrity Program Across DoD; and
- Initiate Culture Change Initiative.

After OISC is established and core values have been communicated, the OISC should begin establishing the framework for continued implementation of the program across DoD. This should start with OISC's study of the best way to implement a parallel structure in the military departments and the departmental agencies, along with the establishment of the oversight committees that will support the implementation of the integrity program across DoD. The first activities of the committees and the OISC offices should be the initiation of culture change activities.

Phase V:

- Assess and Mitigate Culture and Compliance Risks; and
- Develop Performance Metrics for Leadership.

The next phase should involve the identification and mitigation of culture and compliance risks. Also in this phase, DoD should develop performance metrics for evaluation of leadership.

Phase VI:

- Measure Progress.

After three years (and at three-year intervals thereafter), DoD should measure program effectiveness and modify the program to address any issues that surface.

## **X. Funding the VBEP**

The majority of activities involved in the establishment of the VBEP leverage existing personnel and resources. Therefore, the current annual budget for the DoD ethics program should cover the majority of costs for the VBEP. For example:

- The Office of Integrity and Standards of Conduct will be staffed by the current OSD Standards of Conduct Office;
- OISC activities will be undertaken by the current D-DAEOs;
- OISC will identify existing ethics personnel in the military departments and departmental agencies to staff the parallel structure;
- Oversight committees will be comprised of existing personnel;
- Core values have been studied, proposed, and defined under the Phase II contract;
- The current SOCO helpline can serve as the OISC helpline; and
- Training materials have been developed under the Phase II contract.

The following activities of the new VBEP may require a modest amount of additional funding:

- Gathering additional baseline data;
- Conducting a search for, and hiring, the CIEO;
- Printing and distributing a values statement;
- Communications campaign to make employees aware of the OISC helpline;
- Duplication and distribution of materials needed for risk assessment, peer reviews, and managers' toolkits;
- Periodic measurement of program progress;
- Addition of advisors to the Defense Business Board (if paid);
- Membership fees for participation in industry associations; and
- Support from contractors (if needed).