

ETHICS PROGRAM REVIEW FOLLOW-UP REPORT

Agency: American Battle Monuments Commission

Follow-up to OGE Report Number: 18-30I

Report No.: 19-17IF

Date: April 11, 2019



As a result of its inspection of the American Battle Monuments Commission (ABMC) ethics program, the Office of Government Ethics (OGE) issued four recommendations in its May 2018 inspection report. OGE recently conducted a follow-up review to assess whether ABMC has taken sufficient action to resolve the deficiencies underlying these recommendations. The results of the follow-up review are summarized below.

	Recommendation	Agency Action and OGE Finding	Status
1	Ensure that financial disclosure reports are retained in accordance with the retention requirements.	ABMC's DAEO stated that the agency will comply with the General Records Schedule guidance for the retention of financial disclosure reports.	Closed
2	Ensure that public financial disclosure reports are certified timely.	Three of the four public financial disclosure reports OGE examined during its initial review were certified timely. Three of the four public financial disclosure reports OGE examined during its follow-up review were certified timely. OGE will perform a second follow-up review to determine whether ABMC public reports are certified timely during the 2019 annual filing cycle.	Open
3	Strengthen ABMC's written procedures for providing new employees timely initial ethics training.	ABMC supplemented its written procedures by implementing an electronic on-boarding system that tracks all actions required of a new employee, including initial ethics training. Additionally, a second electronic system notifies new employees to complete initial ethics training, among other tasks that the new employee is responsible for completing.	Closed
4	Ensure that all new agency employees receive initial ethics training within three months of employment.	ABMC hired 12 new employees during 2018 and all but 1 employee received initial ethics training within three months of employment.	Closed

Based on the results of OGE's follow-up review, three of the four recommendations are closed. OGE will perform a second follow-up review to assess whether ABMC has taken sufficient action to resolve the deficiencies underlying the remaining open recommendation.

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1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	76
1.2	Number of agency special Government employees (SGE)	11
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	0
1.4	Number of non-PAS public financial disclosure reports required to be filed	4
1.5	Number of confidential financial disclosure reports required to be filed	0
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	General Counsel
1.7	Grade level of DAEO	GS-15
1.8	Title of Alternate DAEO (ADAEO)	Chief of Human Resources
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	General Counsel
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-15
1.12	Current number of full-time ethics officials	0
1.13	Current number of part-time ethics officials	2
1.14	Average full-time equivalent (FTE) value of a part-time ethics official(s) (For example, if part-time ethics officials at the agency generally devote 10 hours per week to ethics work, the average FTE value is 25%.)	5%
1.15	Number of reporting levels between the DAEO and the agency head	1
COMMENTS		
(1.2) The President may appoint up to 11 members of the American Battle Monuments Commission (ABMC) who serve as SGEs. The number of ABMC members varied throughout 2016 and 2017.		

2.0 LEADERSHIP				
COMPLIANCE REQUIREMENT		Yes	No	N/A
2.1	OGE has received an up-to-date designation from the agency head naming the DAEO. <i>See</i> 5 C.F.R. § 2638.202(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2	OGE has received an up-to-date designation from the agency head naming the ADAEO. <i>See</i> 5 C.F.R. § 2638.202(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None				

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3.0 ETHICS AGREEMENTS				
	COMPLIANCE REQUIREMENT	Yes	No	N/A
3.1	During the period under review, all PAS officials complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.2	During the period under review, all PAS officials complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.3	During the period under review, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.4	For all officials currently in PAS positions, the agency maintains documentation of actions taken to comply with ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.5	For all officials currently in PAS positions, ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
(3.1 – 3.5) American Battle Monuments Commission (ABMC) does not have any PAS employees.				

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)				
	COMPLIANCE REQUIREMENT	Yes	No	N/A
4.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.1	• Collection of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.2	• Review/evaluation of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	N/A		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	100%		
4.8	Percentage of sampled non-PAS public financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.	75%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	N/A		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
4.11	Percentage of sampled PAS annual and termination reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).	N/A		
COMMENTS				
(4.4) ABMC did not retain public financial disclosure reports for the required retention period of six years. (4.5) No non-PAS new entrant public financial disclosure reports were required to be filed during the period covered by the inspection. (4.8) ABMC did not have documentation to indicate that the one termination report filed during the period covered by the inspection had been reviewed or certified.				

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5.0 CONFIDENTIAL FINANCIAL DISCLOSURE				
COMPLIANCE REQUIREMENT		Yes	No	N/A
5.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).			
5.1.1	• Collection of confidential financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.1.2	• Review/evaluation of confidential financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.3	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See</i> 5 C.F.R. § 2634.905(a).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DATA ANALYSIS		%		
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	N/A		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	N/A		
5.7	Percentage of sampled confidential financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).	N/A		
COMMENTS				
(5.1.1 – 5.7) AMBC does not have any confidential financial disclosure report filers. However, ethics officials are aware of the relevant requirements and would ensure compliance if this were to change in the future.				

6.0 INITIAL ETHICS ORIENTATION				
COMPLIANCE REQUIREMENT		Yes	No	N/A
Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.				
6.1	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2	The agency provided new employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.3	The agency has established written procedures for initial ethics training. <i>See</i> 5 C.F.R. § 2638.304(f).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.4	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.304(f).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
6.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	100%		
6.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See</i> 5 C.F.R. § 2638.304(b).	40%		
COMMENTS				
(6.5 – 6.6) Although all of the 5 new employees who were required to receive initial ethics orientation during the period covered by the inspection received the training, only 2 (40%) received it within 3 months of appointment.				

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7.0 Annual Ethics Training							
COMPLIANCE REQUIREMENTS				Yes	No	N/A	
	Each calendar year, public filers, confidential filers, and certain other employees must complete ethics training which meets specified requirements. <i>See</i> 5 C.F.R. §§ 2638.307 and 2638.308.						
7.1	The training presentation(s) addressed concepts related to financial conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. §§ 2638.307(e)(1) and 2638.308(f)(1).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.2	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.3	The agency's annual ethics training complies with the formatting requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(d) and 2638.308(e).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.4	The agency's program for annual ethics training complies with the tracking requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(f) and 2638.308(g).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.5	The agency can demonstrate it has an effective process for ensuring covered public filers, other than those whose pay is set at Level I or Level II of the Executive Schedule, complete live annual ethics training at least once every two years. <i>See</i> 5 C.F.R. § 2638.308(e)(2).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				Training Format			
				Live	Interactive		
	Percentage of public filers who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.308(a).						
7.6	<ul style="list-style-type: none"> Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1). 				N/A		N/A
7.7	<ul style="list-style-type: none"> Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2). 				N/A		N/A
7.8	<ul style="list-style-type: none"> SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3). 				0%		100%
	Percentage of confidential filers and certain other employees who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.307(a)(d).						
7.9	<ul style="list-style-type: none"> Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1). 				N/A		N/A
7.10	<ul style="list-style-type: none"> Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2). 				N/A		N/A
7.11	<ul style="list-style-type: none"> Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2). 				N/A		N/A
7.12	<ul style="list-style-type: none"> Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3). 				N/A		N/A
7.13	<ul style="list-style-type: none"> Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4). 				N/A		N/A
COMMENTS							
<p>(7.2) The training materials ABMC provided to OGE to document the annual training provided to employees did not include the required summary of the Standards of Conduct. However, ABMC's DAEO stated that the complete text of the Standards of Conduct is given to employees as part of annual ethics training.</p> <p>(7.2) While OGE's inspection found that employees did not receive contact information for relevant ethics officials in the written materials portion of the annual ethics training, ABMC as a result of OGE's inspection finding included the current contact information for relevant ethics officials in the annual ethics training notices sent to employees in 2018.</p>							

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8.0 ETHICS ADVICE AND COUNSELING						
COMPLIANCE REQUIREMENT			Yes	No	N/A	
8.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations.			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS						
(8.1) No ethics-related written advice and counseling was provided by ABMC ethics officials during the period covered by the inspection.						

ISSUES IDENTIFIED AND RESOLVED DURING THE INSPECTION			
#	Element	ISSUE	
1	7.2	<p><u>ISSUE:</u> Employees required to complete annual ethics training did not receive current contact information of relevant ethics officials.</p> <p><u>AGENCY RESPONSE:</u> ABMC added contact information for ethics officials in the annual ethics training notice it sent to employees in 2018.</p>	
9.0 RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	4.4	<p><u>RECOMMENDATION:</u> Ensure that financial disclosure reports are retained in accordance with the retention requirements.</p> <p><u>AGENCY RESPONSE:</u> ABMC hired its first full-time records manager in 1Q 2017. She is developing updated, NARA-compliant, agency-wide retention schedules, which will include schedules for financial disclosure reports. Pending those updated schedules, the agency has suspended record disposal. Accordingly, disclosure reports are currently being retained indefinitely. DAEO will work with the records manager to ensure that agency retention schedules comply with OGE requirements. Furthermore, ABMC is relying on the Integrity system for retention of reports submitted through Integrity.</p>	November 30, 2018
2	4.8	<p><u>RECOMMENDATION:</u> Ensure that public financial disclosure reports are certified timely.</p> <p><u>AGENCY RESPONSE:</u> The one report that was not certified timely was the termination report of a former DAEO. That certification appears to have been overlooked in the transition of the DAEO assignment. Since then there have been no instances of untimely certifications.</p>	November 30, 2018
3	6.3	<p><u>RECOMMENDATION:</u> Strengthen ABMC's written procedures for providing new employees timely initial ethics training.</p> <p><u>AGENCY RESPONSE:</u> ABMC has instituted a more automated employee on-boarding process which will ensure timely initial ethics training.</p>	November 30, 2018

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4	6.6	<p><u>RECOMMENDATION:</u> Ensure that all new agency employees receive initial ethics training within three months of employment.</p> <p><u>AGENCY RESPONSE:</u> ABMC has instituted a more automated employee on-boarding process which will ensure timely initial ethics training.</p>	November 30, 2018
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