

ETHICS PROGRAM INSPECTION REPORT

Agency: National Science Foundation

Report No.: 15-551

Date: September 8, 2015

Period Covered by Review: January – December 2014



1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	1,521
1.2	Number of agency special Government employees	59
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	3
1.4	Number of non-PAS public financial disclosure reports required to be filed	207
1.5	Number of confidential financial disclosure reports required to be filed	704
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	Assistant General Counsel
1.7	Grade level of DAEO	AD
1.8	Title of Alternate DAEO (ADAEO)	Assistant General Counsel
1.9	Grade level of ADAEO	AD-4
1.10	Title of the primary, day-to-day ethics program administrator	Legal Analyst
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-14
1.12	Current number of full-time ethics officials	4
1.13	Current number of part-time ethics officials	40
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%.)	10%
1.15	Number of reporting levels between the DAEO and the agency head	2
COMMENTS		
<p><u>Comment</u> (1.8) From May 2002 to May 2015, a Legal Analyst was appointed by the Director of NSF to serve as the agency's Alternate Designated Agency Ethics Official (ADAEO). On May 4, 2015, the Director delegated the ADAEO responsibilities to a newly hired Assistant General Counsel.</p>		

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						

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None				

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).						
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.5	Agency ethics officials respond promptly to requests by OGE for additional information regarding PAS annual and termination public financial disclosure reports. <i>See</i> 5 U.S.C. app. IV, § 402(d)(1). <i>See</i> 5 C.F.R. § 2638.203(b)(14).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
4.6	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).				76%		
4.7	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				100%		
4.8	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				73%		
4.9	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.				35%		
4.10	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				N/A		
4.11	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				100%		
4.12	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).				100%		
COMMENTS							
<p><u>Concern</u> (4.9) OGE selected 65 non-PAS public reports to examine. Of those 65 reports, only 23 were certified within 60 days of receipt.</p> <p><u>Comments</u> (4.2) The process for collecting or waiving the late fee is documented in NSF's written procedures governing financial disclosure. In 2014, NSF granted 10 waivers of the late filing fee.</p> <p>(4.10) No PAS annual reports were required to be filed in CY2014.</p>							

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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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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).			100%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).			85%		
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).			90%		
COMMENTS						
<p><u>Comment</u> (5.3) NSF uses various confidential financial disclosure forms for different categories of employees. Regular NSF employees use the standard confidential financial disclosure form (OGE Form 450), while special Government employee (SGE) members of NSF's general advisory committees, as well as peer review panelists, file OGE-approved alternative confidential forms in lieu of the OGE Form 450.</p>						

6.0 INITIAL ETHICS ORIENTATION						
COMPLIANCE REQUIREMENT			Yes	No	N/A	
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).					
6.1.1	• Current contact information of relevant ethics official(s)			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.1.2	• Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or • Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2	The agency can demonstrate that it has an effective process to ensure that new employees receive initial ethics orientations. <i>See</i> 5 C.F.R. § 2638.703(c).			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS			%			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.			100%		
COMMENTS						
None						

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UNITED STATES OFFICE OF
GOVERNMENT ETHICS

Preventing Conflicts of Interest
in the Executive Branch

7.0 ANNUAL ETHICS TRAINING						
COMPLIANCE REQUIREMENT			Yes	No	N/A	
7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).					
7.1.1	• Current contact information of relevant ethics official(s)			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	• Review of the criminal conflict of interest statutes			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.3	• Review of the Standards of Ethical Conduct			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	• Review of the 14 Principles			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	• Review of any agency supplemental standards			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.2	The agency can demonstrate that it has an effective process to ensure that covered employees receive annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(c) and 705(c).			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%		
7.3	Public financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(a).				100%	
7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).				99%	
COMMENTS						
<p><u>Comment</u> (7.1.5) NSF's supplement to the standards of conduct regulation is found at 5 C.F.R. part 5301. (7.4) According to NSF's Annual Ethics Program Questionnaire for 2014, only three confidential filers did not receive annual training by the end of 2014.</p>						

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS						
None						

9.0 RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	4.9	<p><u>RECOMMENDATION:</u> Implement corrective action to ensure that non-PAS public financial disclosure reports are certified within 60 days of receipt.</p> <p><u>AGENCY RESPONSE:</u> Due to the long-term absence of the ethics official primarily responsible for reviewing financial disclosure reports, there were delays in the review and certification of financial disclosure reports during CY2014. To address this issue, the Office of General Counsel (OGC) contracted out the technical review of the public financial disclosure reports in 2014. Because of a backlog in the background investigation process, the contractor was not cleared to start until October 2014.</p>	

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Recognizing the significant workload pressures of carrying out these reviews, coupled with the additional requirements of transaction reporting, OGC requested and obtained an additional FTE for the ethics team during 2015. An experienced ethics attorney was hired in May 2015.

OGE RESPONSE: OGE will examine a sample of public financial disclosure reports filed in 2015 during its six-month follow-up review.