

## ETHICS PROGRAM INSPECTION RESULTS

Agency:	Federal Communications Commission		
Report No:	15-201	Date:	March 20, 2015
Review Period:	January through December 2013		

### 1.0 AGENCY DATA

	EMPLOYEES	Data
1.1	Number of full-time agency employees, as reported in the most recent Annual Questionnaire	1,759
1.2	Number of agency SGEs, as reported in the most recent Annual Questionnaire	8
1.3	Number of PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	7
1.4	Number of non-PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	88
1.5	Number of confidential financial disclosure reports required to be filed by employees, as reported in the most recent Annual Questionnaire	1,261
ETHICS PROGRAM		
1.6	Name of DAEO	Jonathan Sallet
1.7	Title of DAEO	General Counsel
1.8	Grade level of DAEO	SES
1.9	Name of ADAEO	Patrick Carney
1.10	Title of ADAEO	Assistant General Counsel
1.11	Grade level of ADAEO	SL
1.12	Name of the primary, day-to-day ethics program administrator	Patrick Carney
1.13	Title of the primary, day-to-day ethics program administrator	Assistant General Counsel
1.14	Grade level of the primary, day-to-day ethics program administrator	SL
1.15	Current number of full-time ethics officials	6
1.16	Current number of part-time ethics officials	2
1.17	Average 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%.)	57.5 % (app. 20% for DAEO and 95% for ADAEO)
1.18	Number of reporting levels between the ethics office/program and the agency head	1

### 2.0 LEADERSHIP

	COMPLIANCE REQUIREMENT	Yes	No
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"/>
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"/>

### 3.0 ETHICS AGREEMENTS

	COMPLIANCE REQUIREMENT	Yes	No
3.1	All officials currently in PAS positions have complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804. ( <input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.2	All officials currently in PAS positions complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804. ( <input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.3	For all officials currently in PAS positions, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015. ( <input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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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"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.5	All PAS officials' ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805. ( <input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### 4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)

COMPLIANCE REQUIREMENT		Yes	No
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"/>
4.1.2	• Review/evaluation of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports	<input checked="" 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"/>
4.3	Public financial disclosure records are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" 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"/>
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 type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>%</b>	
4.6	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	100%	
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).	100%	
4.9	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt (unless additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.	100%	
4.10	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%	
4.11	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A	
4.12	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt (unless additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).	100%	

#### 5.0 CONFIDENTIAL FINANCIAL DISCLOSURE

COMPLIANCE REQUIREMENT		Yes	No
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"/>
5.1.2	• Review/evaluation of confidential financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2	Confidential financial disclosure records are securely maintained. <i>See</i> OGE/GOVT-2.	<input checked="" 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 type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" 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"/>

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	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).	100%
5.7	Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt (unless additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).	100%

6.0 INITIAL ETHICS ORIENTATION			
	COMPLIANCE REQUIREMENT	Yes	No
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).		
6.1.1	<ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.1.2	<ul style="list-style-type: none"> <li>Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or</li> <li>Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep</li> </ul>	<input checked="" 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"/>
	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%	

7.0 ANNUAL ETHICS TRAINING			
	COMPLIANCE REQUIREMENT	Yes	No
7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).		
7.1.1	<ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> <li>Review of the criminal conflict of interest statutes</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> <li>Review of the Standards of Ethical Conduct</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> <li>Review of the 14 Principles</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> <li>Review of any agency supplemental standards (<input type="checkbox"/> Not Applicable: see OGE comment section below)</li> </ul>	<input checked="" 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"/>
	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).	N/A	

8.0 ETHICS ADVICE AND COUNSEL			
	COMPLIANCE REQUIREMENT	Yes	No
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"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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#	Element	CONCERN AND SUGGESTION
1	7.4	<p><b>CONCERN:</b> Under the provision of 5 C.F.R. § 2638.705(c)(1), confidential financial disclosure filers at FCC were required to receive written training to satisfy the annual training requirement in calendar year 2013. Although the Ethics Office did not require confidential filers to certify training completion in writing, OGE was assured by agency ethics officials that all confidential filers required to be trained in calendar year 2013 were trained. Outgoing emails sent by the Ethics Office to confidential filers with links to the written training material were the only evidence of training confirmation.</p> <p><b>SUGGESTION:</b> Considering that annual ethics training is an integral component of ensuring that employees remain free of conflicts of interest, it's important that the Ethics Office track training completion to ensure that confidential filers have reviewed the written training made available to them. Therefore, OGE suggests as a good management practice that in the years in which written training is provided to confidential filers to satisfy the annual training requirement, the Ethics Office should have confidential filers certify in writing that they completed their annual training. While OGE does not prescribe a specific method for tracking training completion, this could be accomplished in a variety of ways. For example, ethics officials could instruct confidential filers to email the Ethics Office when annual training is completed and have the email serve as a self-certification record or issue self-certification forms to filers to complete and submit back to the Ethics Office.</p> <p>OGE is aware that for calendar year 2014, both public and confidential filers received in-person training to satisfy the annual training requirement and sign-in sheets were used to certify training completion.</p> <p><b>AGENCY RESPONSE:</b>                      Beginning with our training cycle for this year, a year in which confidential filers will receive written training, we have arranged for the "FCC University," the office at the Commission that has primary responsibility for employee training, to monitor receipt and completion of ethics training by all confidential filers. The Commission's DAEO will continue to distribute training material to all filers throughout CY-2015. At the end of the year, the "FCC University" will send all confidential filers electronic links to all of the ethics material distributed during the year and will require filers to certify that they have received and read the material, confirming their completion of their annual ethics training requirement. This process will be followed for all years in which confidential filers receive written ethics training.</p>

## COMMENTS

### OGE Comments

(4.11) No PAS termination reports were required to be filed in calendar year 2013.

(5.3) FCC, with OGE's concurrence, has issued supplemental ethics regulations which supplement both OGE's standards of conduct and financial disclosure requirements. FCC's supplement to the standards of conduct, found at 5 C.F.R. part 3901, requires professional employees to obtain approval before engaging in certain outside activities. The supplemental financial disclosure requirement, at 5 C.F.R. part 3902, applies to all employees required to file either a public or confidential financial disclosure report and requires them to also file a supplemental report--FCC Form A54A. The purpose of the FCC Form A54A is to require disclosure of income and interests in property and assets valued below the minimum reporting limits for the OGE Form 278 and OGE Form 450 in order to meet the separate requirements of section 4(b) of the Communications Act of 1934, at 47 U.S.C. § 154(b). This form is required to be filed no later than 30 days after a new covered employee enters on duty and annually thereafter at the same time the employee submits his or her public or confidential report. These forms are examined by the DAEO or ADAEO.