

## ETHICS PROGRAM INSPECTION RESULTS



Agency:	International Boundary and Water Commission		
Report No:	15-17I	Date:	March 9, 2015
Review Period:	January – December 2013		

1.0	AGENCY DATA	
	<b>EMPLOYEES</b>	<b>Data</b>
1.1	Number of full-time agency employees, as reported in the most recent Annual Questionnaire	236
1.2	Number of agency SGEs, as reported in the most recent Annual Questionnaire	0
1.3	Number of PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	0
1.4	Number of non-PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	2
1.5	Number of confidential financial disclosure reports required to be filed by employees, as reported in the most recent Annual Questionnaire	58
	<b>ETHICS PROGRAM</b>	<b>Data</b>
1.6	Name of DAEO	Matthew A. Myers, Sr.
1.7	Title of DAEO	Chief Legal Counsel
1.8	Grade level of DAEO	GG-15
1.9	Name of ADAEO	Rebecca A. Rizzuti
1.10	Title of ADAEO	Assistant Legal Advisor
1.11	Grade level of ADAEO	GG-13
1.12	Name of the primary, day-to-day ethics program administrator	Matthew A. Myers, Sr.
1.13	Title of the primary, day-to-day ethics program administrator	Chief Legal Counsel
1.14	Grade level of the primary, day-to-day ethics program administrator	GG-15
1.15	Current number of full-time ethics officials	2
1.16	Current number of part-time ethics officials	1
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%.)	10%
1.18	Number of reporting levels between the ethics office/program and the agency head	1

2.0	LEADERSHIP		
	<b>COMPLIANCE REQUIREMENT</b>	<b>Yes</b>	<b>No</b>
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		
	<b>COMPLIANCE REQUIREMENT</b>	<b>Yes</b>	<b>No</b>
3.1	All officials currently in PAS positions have complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804. (☒ Not Applicable: see OGE comment section below)	<input 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. (☒ Not Applicable: see OGE comment section below)	<input 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. (☒ Not Applicable: see OGE comment section below)	<input 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. (☒ Not Applicable: see OGE comment section below)	<input 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. (☒ Not Applicable: see OGE comment section below)	<input 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. (☒ Not Applicable: see OGE comment section below)	<input 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). (☒ Not Applicable: see OGE comment section below)	<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).	N/A	
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).	N/A	
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).	N/A	

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). (☒ Not Applicable: see OGE comment section below)	<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"/>

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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).	0%
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	89%
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 type="checkbox"/>	<input checked="" type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> <li>Review of the Standards of Ethical Conduct</li> </ul>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/> Not Applicable: see OGE comment section below)</li> </ul>	<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"/>
	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).	85%	

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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## RECOMMENDATIONS

#	Element	RECOMMENDATION	Compliance Due
1	5.5	<p><b>CONCERN:</b> The agency had two new entrant confidential financial disclosure filers in CY 2013. Neither report was filed timely.</p> <p><b>RECOMMENDATION:</b> Ensure new entrant confidential financial disclosure reports are filed by the established deadline.</p> <p><b>AGENCY RESPONSE:</b> To ensure that new entrant confidential financial disclosure reports are timely filed, the USIBWC DAEO will meet with the HR representative immediately after each USIBWC weekly Executive Staff meeting to review the new hires, promotions, and new duty assignments within the agency. If any HR actions lead to the movement of an employee into a job position or duty that requires the filing of a new entrant confidential financial disclosure report, the DAEO will contact the employee within two weeks to brief the individual, provide a copy of the new entrant report form, and provide guidance on the completion of the form, including a deadline to complete the form. The DAEO will follow-up as often as necessary to ensure that the new entrant confidential financial disclosure report form is completed and filed with the DAEO within the established deadlines.</p> <p>The DAEO will also remind all Executive Staff members at each weekly staff meeting of the new entrant confidential financial disclosure requirement and will encourage the Executive Staff members to report any personnel changes to the DAEO so the new entrant report requirement can be reviewed for any and all personnel changes within the agency. The DAEO will implement this procedure immediately. By the end of February, the agency should have enough personnel changes to demonstrate compliance.</p>	6/1/15
2	7.1.2 – 7.1.3	<p><b>CONCERN:</b> The agency’s annual ethics training material for CY 2013 did not fully meet the content requirements of 5 C.F.R. § 2638.704(b).</p> <p><b>RECOMMENDATION:</b> Provide annual ethics training that fully meets the content requirements of 5 C.F.R. § 2638.704(b).</p> <p><b>AGENCY RESPONSE:</b> The agency will provide annual ethics training that fully complies with the content requirements of 5 C.F.R. § 2638.704(b) by using the PowerPoint slides provided by the OGE as a basis for the training. Each ethics training class will include a discussion of the 14 Principles of Ethical Conduct, Criminal Conflict of Interest Statutes, Standards of Ethical Conduct, and Ethics Official Contact Information, plus any additional information required by changes to the content requirements set forth in 5 C.F.R. § 2638.704(b).</p> <p>To ensure that all financial disclosure filers receive the training each year, the DAEO will conduct periodic training beginning in February of each year with additional training throughout the year. At this time, ethics training is scheduled for February 2015 and May 2015. All topics listed in 5 C.F.R. § 2638.704(b) will be covered during each training session. By the end of February, the first annual training will have been conducted.</p>	6/1/15

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## COMMENTS

### OGE Comments

- (3.1 – 3.5) Agency has no PAS officials.
- (4.1.1 – 4.1.3) The agency's written procedures did not address collection, review/evaluation, and public availability of the OGE Form 278-T. The agency provided updated procedures that fully addressed the OGE Form 278-T.
- (4.2) Agency received no late public financial disclosure reports in CY 2013.
- (4.5) Agency has no PAS officials.
- (4.6) The agency had no non-PAS new entrant public financial disclosure filers in CY 2013.
- (4.10 – 4.12) Agency has no PAS officials.
- (5.3) Agency does not have an alternative confidential financial disclosure system.
- (7.1.5) Agency does not have supplemental standards of conduct.
- (8.1) The agency's ethics staff experienced complete turnover following the review period of January – December 2013. Therefore, OGE sampled ethics advice and counsel provided by current ethics officials (beginning in June 2014) instead.