

ETHICS PROGRAM INSPECTION REPORT

Agency: Commission of Fine Arts

Report No.: 15-34I

Date: May 4, 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	10
1.2	Number of agency special Government employees (SGE)	7
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	1
1.5	Number of confidential financial disclosure reports required to be filed	8
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	Secretary
1.7	Grade level of DAEO	SES
1.8	Title of Alternate DAEO (ADAEO)	Assistant Secretary
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Assistant Secretary
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%.)	2%
1.15	Number of reporting levels between the DAEO and the agency head	0
COMMENTS		
None		

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	All officials currently in PAS positions have 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	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"/>	<input type="checkbox"/>	<input checked="" 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"/>	<input type="checkbox"/>	<input checked="" 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"/>	<input type="checkbox"/>	<input checked="" 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"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
<u>Comment:</u> (3.1 – 3.5) CFA has no PAS officials.				

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.1.2	• Review/evaluation of public financial disclosure reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports	<input type="checkbox"/>	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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).	N/A		
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.	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 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				
<p><u>Comments:</u> (4.2) CFA did not have any public financial disclosure filers subject to the late filing fee during the period under review. (4.5) CFA has no PAS officials. (4.6, 4.8) CFA did not have any non-PAS new entrant or termination public financial disclosure filers during the period under review. (4.10 – 4.12) CFA has no PAS officials.</p> <p><u>Concern:</u> (4.1.1 – 4.1.3) For the period under review, CFA's written procedures for public financial disclosure did not address the collection, review/evaluation, and public availability of the OGE Form 278-T (Periodic Transaction Report). During the course of the inspection, CFA provided updated written procedures for public financial disclosure that fully addressed the collection, review/evaluation, and public availability of the OGE Form 278-T. Therefore, OGE is not issuing a recommendation for corrective action.</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 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 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).				N/A		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).				88%		
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).				100%		
COMMENTS							
<p><u>Comments:</u> (5.3) CFA does not use an alternative confidential financial disclosure system. (5.5) CFA did not have any confidential new entrant report filers during the period under review.</p> <p><u>Concern:</u> (5.6) One non-SGE employee filed an annual confidential financial disclosure report using an alternative due date established by CFA for SGEs, rather than the February 15 due date for non-SGE confidential filers. During OGE's inspection CFA promptly collected, reviewed, and certified a supplemental financial disclosure from the employee to cover the additional reporting necessary to return the employee to the proper non-SGE filing cycle for 2015.</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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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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<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).			0%		
7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).			0%		
COMMENTS						
<p><u>Comment:</u> (7.1.5) CFA does not have agency supplemental standards.</p> <p><u>Concern:</u> (7.2 – 7.4) Although CFA instructed its confidential financial disclosure filers to review the annual ethics training material, CFA had no mechanism to record completed training. CFA's only public financial disclosure filer did not fully complete annual ethics training as required by 5 C.F.R. § 2638.704(a).</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						
<p><u>Suggestion:</u> (8.1) Given CFA's small staff, infrequent need for ethics-related counseling, and the resulting challenge for part-time ethics officials to remain proficient over a broad range of ethics laws and regulations, CFA ethics officials should consult with their OGE Desk Officer whenever addressing potential ethics matters.</p>						

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9.0 RECOMMENDATION(S)

#	Element	RECOMMENDATION	Compliance Due
1	5.6	<p><u>RECOMMENDATION:</u> Ensure non-SGE, annual confidential financial disclosure filers submit their reports in accordance with the due date established by 5 C.F.R. § 2634.903(a).</p> <p><u>AGENCY RESPONSE:</u> The submission date for the one non-SGE, annual confidential financial disclosure report has been rescheduled to comply with the due date of 15 February established by 5 C.F.R. 2634.903(a) for all future filings. For this year this individual has filed a supplemental report to cover the time between the previous alternative date filing in November 2014 to April 2015.</p>	2/15/16
2	7.2 – 7.4	<p><u>RECOMMENDATION:</u> Ensure public and confidential financial disclosure filers complete annual ethics training in accordance with 5 C.F.R. § 2638.704 and 705.</p> <p><u>AGENCY RESPONSE:</u> The agency will institute new calendaring mechanisms to insure the scheduling of ethics training and for the documentation of the participation of staff and SGEs in future annual ethics training as required by 5 C.F.R. 2638.704(a).</p>	1/1/16