

## ETHICS PROGRAM INSPECTION REPORT

Agency: National Relations Labor Board

Report No.: 15-48I

Date: July 22, 2015

Period Covered by Review: January – December 2014

UNITED STATES OFFICE OF  
GOVERNMENT ETHICS

Preventing Conflicts of Interest  
in the Executive Branch

1.0 AGENCY DATA		
<b>EMPLOYEES</b> (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	1,601
1.2	Number of agency special Government employees	0
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	8
1.4	Number of non-PAS public financial disclosure reports required to be filed	103
1.5	Number of confidential financial disclosure reports required to be filed	27
<b>ETHICS PROGRAM</b>		
1.6	Title of Designated Agency Ethics Official (DAEO)	Vacant
1.7	Grade level of DAEO	N/A
1.8	Title of Alternate DAEO (ADAEO)	Chief of Staff to the Chairman
1.9	Grade level of ADAEO	Non-career SES
1.10	Title of the primary, day-to-day ethics program administrator	Special Ethics 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	5
1.13	Current number of part-time ethics officials	1
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	N/A
<b>COMMENTS</b>		
<p><u>Comment:</u> (1.6) In 2014, NLRB's DAEO was the Associate General Counsel for the Division of Legal Counsel (SES position). The DAEO retired effective April 3, 2015. To date, the Special Ethics Counsel is serving as interim Acting DAEO.</p>		

2.0 LEADERSHIP				
<b>COMPLIANCE REQUIREMENT</b>		<b>Yes</b>	<b>No</b>	<b>N/A</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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
<b>COMMENTS</b>				
None				

3.0 ETHICS AGREEMENTS				
<b>COMPLIANCE REQUIREMENT</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>
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"/>
<b>COMMENTS</b>				
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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).	80%		
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 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).	100%		
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%		
<b>COMMENTS</b>				
<p><u>Comments:</u>                      (4.5) There was no indication that additional information was required regarding PAS reports and no evidence that ethics officials would not respond promptly if additional information were required.                      (4.6) OGE examined five non-PAS new entrant public reports filed in 2014. Of the five new entrant reports examined, OGE identified one report that was not filed timely.</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"/>
<b>DATA ANALYSIS</b>			<b>%</b>			
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).			14%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).			80%		
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%		
<b>COMMENTS</b>						
<p><u>Comments:</u>                      (5.3) NLRB does not have an alternative confidential financial disclosure system.                      (5.6) OGE examined five annual confidential reports filed in 2014. One report was filed late.</p> <p><u>Concern:</u>                      (5.5) Of the seven new entrant confidential reports OGE examined, six were filed late. During the inspection, NLRB ethics officials acknowledged timely identifying new entrant filers has been a challenge for the agency. OGE recommends that NLRB implement corrective action to ensure that new entrant confidential reports are filed timely. This corrective action may require increased coordination with NLRB's hiring officials and the Office of Human Resources.</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"/>
<b>DATA ANALYSIS</b>			<b>%</b>			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.			98%		
<b>COMMENTS</b>						
<p><u>Comment:</u>                      (6.3) Two new employees failed to complete initial ethics orientation within the 90 days despite multiple requests from ethics officials. The two employees ultimately completed the orientation.</p>						

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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 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"/>
	<b>DATA ANALYSIS</b>	%		
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).	95%		
<b>COMMENTS</b>				
<p><u>Comments:</u> (7.4) Of the 22 confidential filers required to complete annual training, 21 completed it. The confidential filer that did not complete annual training was on administrative leave.</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"/>
<b>COMMENTS</b>				
None				

9.0 RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	5.5	<p><u>RECOMMENDATION:</u> Implement corrective action to ensure that new entrant confidential reports are filed timely. This corrective action may require increased coordination with the NLRB's hiring officials and the Office of Human Resources.</p> <p><u>AGENCY RESPONSE:</u> On July 9, 2015, the NLRB's Ethics Officials met with the Director of Administration to share OGE's recommendations concerning new entrant confidential reports and to discuss how we might obtain information about new hires and promotions from the Office of Human Resources more efficiently to ensure compliance with new entrant confidential reporting requirements. In addition, we discussed how to obtain information about terminations and retirements so that all information relevant to ethics reporting and training obligations could be obtained in a more efficient manner.</p>	1/22/2016

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On July 13, 2015, the Director of Administration convened a meeting with Ethics Officials and the Office of Human Resources. During this meeting, the Office of Human Resources informed the Ethics staff that it would be able to assist them with more timely status information by generating a biweekly report. This report will contain all changes in employee status (new hires, separations, transfers, reassignments and promotions) and will be generated specifically to address the Ethics Office's needs. The first distribution of this report was sent to the Ethics staff on July 17th. Specifically with respect to new entrant confidential reports, this new reporting schedule will inform the Ethics staff of any individual who has been hired for, or promoted to, a position within one pay period of their hire date or change in status. This biweekly report will also give the Ethics staff enough time to notify the employee of their obligation to file either a confidential or public financial disclosure report and inform the employee of the option of an extension to the filing due date if needed. In addition, the Office of Human Resources agreed to add Senior Ethics Specialist Kathy Burow to the New Hire Orientation email distribution. This will ensure that she has the information she needs to notify new hires of their obligations to file the first day of employment at the agency. Even with the new reporting system in place, the Ethics staff will still continue to engage Agency management when they become aware of vacancies in positions where there is a filing requirement. This will assist the Ethics staff in obtaining information about promotions of current employees prior to receiving the biweekly report.

While OGE did not request changes to the termination reporting process, the Ethics staff has always felt that more timely notification of planned retirements would make the management of off-boarding senior employees more manageable for the Ethics Office. After explaining to the Director of Administration and to Human Resources post-employment obligations, the termination reporting requirements, and the requirement to report any negotiations pursuant to Section 17 of the STOCK Act, Human Resources officials agreed to notify the Ethics staff when a finalized retirement package for any Administrative Law Judge or SES employee is received by their office. In return, the Ethics Office agreed to keep this information confidential, and will only use it to provide timely instruction to an employee who is terminating employment to complete all required tasks prior to the employee's last day at the Agency. Human Resources has committed to sending this information via email on the 1st and 15th of every month.

Lastly, during our discussions with Human Resources we suggested including a couple of updates to the Onboarding Comprehensive Checklist and New Hire Checklist so that new hires, their managers, and Human Resources would have an easy way to remember that there is an Ethics component to the onboarding process.

- The following language has been added to the Onboarding Comprehensive Checklist:
  - On page 4 under New Hire - Complete New Hire Ethics Orientation within 90 days of your start date.  
[https://apps.nlr.gov/skillportssso/default.aspx?coursename=\\_scorm12\\_sppubnlrb\\_ethics\\_orientation&courseaction=launch](https://apps.nlr.gov/skillportssso/default.aspx?coursename=_scorm12_sppubnlrb_ethics_orientation&courseaction=launch)
  - On page 5 under Human Resources - Notify Ethics staff of new hire start date.
- The following language has been added to the New Hire Checklist:
  - On page 1 under New Hire - Complete New Hire Ethics Orientation within 90 days of your start date.  
[https://apps.nlr.gov/skillportssso/default.aspx?coursename=\\_scorm12\\_sppubnlrb\\_ethics\\_orientation&courseaction=launch](https://apps.nlr.gov/skillportssso/default.aspx?coursename=_scorm12_sppubnlrb_ethics_orientation&courseaction=launch)