

ETHICS PROGRAM INSPECTION REPORT

Agency: Department of Defense Office of Inspector General (DoD OIG)

Report No.: 16-28I

Date: March 17, 2016

Period Covered by Review: January 2014-November 2015

**UNITED STATES OFFICE OF
GOVERNMENT ETHICS**


Preventing Conflicts of Interest
in the Executive Branch

1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	1,536
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	1
1.4	Number of non-PAS public financial disclosure reports required to be filed	23
1.5	Number of confidential financial disclosure reports required to be filed	398
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	General Counsel
1.7	Grade level of DAEO	SES
1.8	Title of Alternate DAEO (ADAEO)	Deputy General Counsel
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Associate General 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	0
1.13	Current number of part-time ethics officials	16
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	1
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	During the period under review, all PAS officials 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	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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
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 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 5 C.F.R. § 2634.804.</i>	<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 5 C.F.R. § 2634.805.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
<p><u>Comments:</u> (3.1-3.3) The Inspector General (IG) was the DoD OIG's only PAS official at the time of OGE's review. The IG complied with his ethics agreement in 2013, which is outside the period covered by this review. (3.5) DoD OIG uses the electronic Financial Disclosure Management (FDM) application to administer its financial disclosure system. The IG's ethics agreement is kept separately. However, ethics officials have access to the IG's ethics agreement and related documentation, are aware of the commitments required by the ethics agreement and consider these commitments when reviewing the IG's public financial disclosure report.</p>				

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 5 U.S.C. app. IV, § 402(d)(1).</i>						
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.3	Public financial disclosure reports are securely maintained. <i>See OGE/GOVT-1.</i>				<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 5 C.F.R. § 2634.603(g)(1).</i>				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See 5 C.F.R. § 2634.201(b).</i>				100%		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See 5 C.F.R. § 2634.201(a).</i>				100%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See 5 C.F.R. § 2634.201(e).</i>				100%		
4.8	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 PA-11-04.</i>				43%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See 5 C.F.R. § 2634.201(a).</i>				100%		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See 5 C.F.R. § 2634.201(e).</i>				N/A		
4.11	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 5 C.F.R. § 2634.605(a).</i>				100%		
COMMENTS							
<p><u>Comments:</u> (4.2) DoD OIG did not have any filers subject to the late filing fee in 2015. (4.10) There were no PAS termination reports filed in 2015. <u>Concerns:</u> (4.4) OGE found that DoD OIG had retained some public reports beyond the six-year retention period. Ethics officials subsequently assured OGE that all public reports older than six years had been destroyed in accordance with applicable retention requirements. (4.8) To evaluate timeliness of certification, OGE examined 23 non-PAS public financial disclosure reports that were filed in 2015. The certification of 13 (57%) of these reports occurred more than 60 days after receipt. Certification of reports more than 60 days after the date of filing may still be considered timely if ethics officials requested and were waiting for additional information from the filer. According to</p>							

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ethics officials, they had conducted timely initial reviews of the reports that were certified more than 60 days after receipt and, based on those initial reviews, asked filers to amend their reports or provide additional information. Ethics officials further stated that they were waiting to certify the reports until additional information had been provided and the amendments had been made. However, there was no documentation to support the passage of time between the initial review of the reports, the requests for additional information from ethics officials to filers or the receipt of responses from filers to ethics officials' requests.

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 type="checkbox"/>	<input checked="" 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).	20%		
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 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).	85%		

COMMENTS

Comment:
(5.3) DoD OIG does not have an alternative confidential financial disclosure system.

Concerns:
(5.4) OGE found that DoD OIG had retained some confidential reports beyond the six-year retention period. Ethics officials subsequently assured OGE that all confidential reports older than six years had been destroyed in accordance with applicable retention requirements.
(5.5) To evaluate timeliness of filing of new entrant confidential reports, OGE examine 20 new entrant reports. Sixteen of these reports appeared to have been filed late. Ethics officials explained that prior to August 2015 they were relying on managers to identify new entrant filers. Before each new filing season commenced, ethics officials requested OIG component organization managers to update their FDM organizational charts. Ethics officials generally became aware of new entrant filers only through these annual updates, often resulting in the late collection of new entrant reports. Ethics officials then explained that an action plan was put in place to establish a more robust identification process and correct this problem. Accordingly, in August 2015 they began receiving an entrance-on-duty (EOD) list from the Human Capital Advisory Services every other week. The EOD list provides names, position titles, position description numbers, pay plans, series and grades of new employees. Ethics officials coordinate with the Component Ethics Coordinators to verify which employees from the list should file a confidential financial disclosure report. Ethics officials believe this EOD process will help ensure they are more timely notified when employees are appointed to positions whose incumbents are required to file a confidential financial disclosure report.

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"/>

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6.1.2	<ul style="list-style-type: none"> 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				

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	<ul style="list-style-type: none"> Current contact information of relevant ethics official(s) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> Review of the criminal conflict of interest statutes 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> Review of the Standards of Ethical Conduct 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> Review of the 14 Principles 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> Review of any agency supplemental standards 	<input type="checkbox"/>	<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"/>	<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).	100%		
COMMENTS				
<p><u>Concerns:</u> (7.1.2 & 7.1.5) OGE noted that the criminal conflict of interest statutes and the DoD supplemental standards were not reviewed during the annual training provided in 2014 and 2015. During the course of the inspection, DoD OIG updated its 2015 annual ethics training material to meet OGE's compliance requirements. Additionally, the ethics office sent an email to all employees providing supplemental information to meet content requirements. Therefore, OGE is not issuing a recommendation for improvement.</p> <p><u>Model Practices:</u> (7.2) DoD OIG made annual ethics training mandatory for all employees. (7.2) In 2015 the IG sent an email to all DoD OIG employees emphasizing the importance of ethics. The email contained a link to annual ethics training and the contact information for the primary ethics program administrator.</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>Model Practice:</u> (8.1) The IG News, a monthly newsletter published on the DoD OIG intranet, routinely includes ethics-related articles.</p>				

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9.0 RECOMMENDATIONS			
#	Element	RECOMMENDATION	Compliance Due
1	4.8	<p><u>RECOMMENDATION:</u> Implement corrective action to ensure that non-PAS public financial disclosure reports are certified within 60 days of receipt and document any efforts to contact the filers when additional information is being sought.</p> <p><u>AGENCY RESPONSE:</u> We have implemented corrective action to ensure that non-PAS public financial disclosure reports are certified within 60 days of receipt and will document all efforts to contact the filers when additional information is being sought. The DAEO will closely monitor the 2016 certification process to ensure all Form 278s are certified within 60 days of receipt and ensure appropriate resources are dedicated to the effort. We have created a metrics report for our bi-weekly DAEO meeting to report statistics during the OGE Form 278 filing season, to include certification times. We will use these metrics in the 2016 season. We have converted to INTEGRITY in 2016 for our OGE Form 278 filers. The DAEO will ensure all contacts with filers and other relevant information is appropriately documented in INTEGRITY by reviewing a sample of 278s during the review process.</p>	July 30, 2016
2	5.5	<p><u>RECOMMENDATION:</u> Implement corrective action to ensure that new entrant confidential financial disclosure reports are filed timely in accordance with 5 C.F.R. § 2634.903(b).</p> <p><u>AGENCY RESPONSE:</u> In August 2015, after attending an OGE training session, we determined it would be productive to establish a more robust process for identifying new entrant confidential financial disclosure report filers. We began receiving an entrance-on-duty (EOD) list from our Human Capital Office as of August 5, 2015. The EOD list provides names, position titles, position description numbers, pay plan, series and grade of new employees. We then coordinate this list with our Component Ethics Coordinators, who identify employees that should file a confidential report. While this EOD process helped ensure a more timely notification of employees appointed to a position requiring confidential reporting, there was lag time in the initial implementation of the process.</p> <p>As of March 7, 2016, we have started an additional means of identifying new entrants required to file an OGE Form 450. In addition to the EOD list, OGC participates in the Human Capital Office-sponsored Entry-On-Duty (EOD) Orientation Class. This orientation is for employees on their first day of duty. OGC now gets a list of the new entrants before the orientation, which allows us to identify required filers before their first duty day, and to confirm their filer status at the (EOD) Orientation. This will permit us to ensure that new entrant confidential financial disclosure reports are timely filed.</p>	July 30, 2016