

ETHICS PROGRAM INSPECTION REPORT

Agency: Pension Benefit Guaranty Corporation

Report No.: 16-23I

Date: February 18, 2016

Period Covered by Review: January 2015 through December 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	975
1.2	Number of agency special Government employees	6
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	2
1.4	Number of non-PAS public financial disclosure reports required to be filed	43
1.5	Number of confidential financial disclosure reports required to be filed	187
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	Deputy General Counsel
1.7	Grade level of DAEO	SL
1.8	Title of Alternate DAEO (ADAEO)	Deputy Assistant General Counsel
1.9	Grade level of ADAEO	GS-15
1.10	Titles of the primary, day-to-day ethics program administrators	Deputy Assistant General Counsel and Management Information Specialist
1.11	Grade level of the primary, day-to-day ethics program administrators	GS-15 and G-13
1.12	Current number of full-time ethics officials	0
1.13	Current number of part-time ethics officials	9
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%.)	32%
1.15	Number of reporting levels between the DAEO and the agency head	2
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 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"/>
COMMENTS				
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).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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"/>
DATA ANALYSIS				%			
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).				100%		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				100%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				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</i> PA-11-04.				100%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				N/A		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				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</i> 5 C.F.R. § 2634.605(a).				N/A		
COMMENTS							
<p><u>Comment</u> (4.8) To evaluate timeliness of certification, OGE examined 29 non-PAS public financial disclosure reports that were filed in 2015. The certification of seven public reports occurred more than 60 days after receipt because ethics officials were waiting for additional information from the filers. (4.9) PBGC did not have any PAS annual reports filed in 2015. (4.10) PBGC did not have any PAS termination reports filed in 2015.</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).				47%		
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).				100%		
COMMENTS							
<p><u>Comment:</u> (5.3) PBGC does not have an alternative confidential financial disclosure system. (5.7) To evaluate timeliness of certification, OGE examined 39 confidential financial disclosure reports that were filed in 2015. The certification of five confidential reports occurred more than 60 days after receipt because ethics officials were waiting for additional information from the filers.</p> <p><u>Concern:</u> (5.5) Of the 19 new entrant confidential reports OGE examined, 10 were filed late. During the inspection, PBGC ethics officials acknowledged having difficulties timely identifying new entrant filers who are not new to the agency but have been assigned new duties and thus are now required to file a confidential report. OGE recommends that PBGC implement corrective action to ensure that new entrant confidential reports are timely filed. Corrective action may require increased coordination with the agency's human resource office.</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							
<p><u>Model Practice:</u> New employees are provided a copy of the PBGC Ethics Handbook, which is an agency-developed desk reference</p>							

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guide for ethics-related issues.

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 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).	98%		
7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).	96%		
COMMENTS				
<u>Comment</u> (7.1.5) PBGC does not have supplemental standards.				

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				
None				

9.0 RECOMMENDATION

#	Element	RECOMMENDATION	Compliance Due
1	5.5	<p><u>RECOMMENDATION:</u> Implement corrective action to ensure that new entrant confidential reports are timely filed. Corrective action may require increased coordination with the agency's human resource office.</p> <p><u>AGENCY RESPONSE:</u> PBGC appreciates the time and effort taken by OGE to complete the Ethics Program Inspection. Based on discussions during the site visit, and the subsequent OGE recommendation to increase coordination with PBGC's human resources department (HRD), PBGC's OGC reached out to the PBGC HRD in January 2016. OGC is coordinating directly with an HR Specialist who will provide OGC with a monthly list of employee promotions. This list, in combination with a list of new PBGC employees that HRD had already been providing, will improve OGC's ability to recognize new entrant filers as well as ensure that new entrant reports are timely filed.</p>	8/16/2016

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	OGC received the first of the promotion/new employee lists at the beginning of February 2016. Additionally, OGC is ensuring that the new entrant date of appointment reflects the date the filer became a new entrant filer and not the date the employee became a PBGC employee.	
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