

## ETHICS PROGRAM INSPECTION REPORT

Agency: Federal Labor Relations Authority

Report No.: 19-35I

Date: September 3, 2019

Period Covered by Review: January 1, 2018 – December 31, 2018

## UNITED STATES OFFICE OF GOVERNMENT ETHICS

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1.0 AGENCY DATA		
<b>EMPLOYEES</b>		
1.1	Number of full-time agency employees.	94
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	3
1.3	Number of non-PAS public financial disclosure reports required to be filed.	20
1.4	Number of confidential financial disclosure reports required to be filed.	6
<b>ETHICS PROGRAM</b>		
1.5	Title of Designated Agency Ethics Official (DAEO).	Solicitor
1.6	Grade level of DAEO.	SES
1.7	Title of Alternate DAEO (ADAEO).	Acting Deputy Solicitor
1.8	Grade level of ADAEO.	GS-14
1.9	Title of the primary, day-to-day ethics program administrator.	Acting Deputy Solicitor
1.10	Grade level of the primary, day-to-day ethics program administrator.	GS-14
1.11	Current number of full-time ethics officials.	0
1.12	Current number of part-time ethics officials.	2
1.13	Number of reporting levels between the DAEO and the agency head.	1
<b>COMMENTS</b>		
None		

2.0 LEADERSHIP					
<b>COMPLIANCE REQUIREMENTS</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. § 2638.107(a).	<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. § 2638.107(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>COMMENTS</b>					
(2.1) The DAEO position at the Federal Labor Relations Authority (FLRA) was vacant at the time of OGE's inspection.					

3.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278e, OGE Form 278-T)						
<b>COMPLIANCE REQUIREMENTS</b>				<b>Yes</b>	<b>No</b>	<b>N/A</b>
The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).						
3.1	• Collection of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.2	• Review/evaluation of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.3	• Public availability of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.4	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"/>		
3.5	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

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3.6	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.7	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.8	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after termination) notified the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>%</b>		
3.9	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	100%		
3.10	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
3.11	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	100%		
3.12	Percentage of sampled non-PAS public financial disclosure reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.13	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.14	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
3.15	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	100%		
3.16	Percentage of sampled PAS annual and termination reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.17	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
<b>COMMENTS</b>				
(3.4) There were no FLRA reports subject to the late filing fee during the period covered by the inspection. (3.6) OGE identified that there were reports retained beyond the retention period at the start of the inspection. In response to this finding, FLRA subsequently informed OGE that these reports had been destroyed.				

<b>4.0</b>	<b>CONFIDENTIAL FINANCIAL DISCLOSURE</b>			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).			
4.1	<ul style="list-style-type: none"> <li>• Collection of confidential financial disclosure reports.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2	<ul style="list-style-type: none"> <li>• Review/evaluation of confidential financial disclosure reports.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	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"/>
4.5	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"/>
4.6	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file confidential financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>%</b>		
4.7	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	100%		

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4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	50%
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%
4.10	Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. §§ 2634.605(a) and 2634.909(a).	100%
<b>COMMENTS</b>		
(4.4) OGE identified that there were reports retained beyond the retention period at the start of the inspection. In response to this finding, FLRA subsequently informed OGE that these reports had been destroyed.		
(4.8) Four annual confidential reports were filed during 2018. Two of these four reports were filed late; however, both late reports were submitted within two weeks of the filing due date.		

5.0 Notices to Prospective Employees					
COMPLIANCE REQUIREMENTS			Yes	No	N/A
Written offers of employment for positions covered by the Standards of Conduct provide: <i>See</i> 5 C.F.R. § 2638.303.					
5.1	<ul style="list-style-type: none"> <li>A statement regarding the agency's commitment to government ethics.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.2	<ul style="list-style-type: none"> <li>Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.3	<ul style="list-style-type: none"> <li>Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.4	<ul style="list-style-type: none"> <li>Where applicable, notice of the time frame for completing initial ethics training.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.5	<ul style="list-style-type: none"> <li>Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.6	The agency has established written procedures for issuing the notice to prospective employees. <i>See</i> 5 C.F.R. § 2638.303(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.7	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.303(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.8	The agency can demonstrate that there is an effective process for ensuring all covered employees receive the required information with their written offer of employment. <i>See</i> 5 C.F.R. § 2638.303.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>COMMENTS</b>					
None					

6.0 Notices to New Supervisors					
COMPLIANCE REQUIREMENTS			Yes	No	N/A
The agency must provide each employee upon initial appointment to a supervisory position with: <i>See</i> 5 C.F.R. § 2638.306.					
6.1	<ul style="list-style-type: none"> <li>Contact information for the agency's ethics office.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.2	<ul style="list-style-type: none"> <li>The text of 5 C.F.R. § 2638.103.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.3	<ul style="list-style-type: none"> <li>A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.4	<ul style="list-style-type: none"> <li>Other information the DAEO deems necessary.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
6.5	The agency has established written procedures for supervisory ethics notices. <i>See</i> 5 C.F.R. § 2638.306(d).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.6	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.306(d).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

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6.7	The agency can demonstrate that there is an effective process for ensuring that new supervisors receive the required information within one year of appointment. <i>See</i> 5 C.F.R. § 2638.306(b).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
None				

7.0 Initial Ethics Training						
COMPLIANCE REQUIREMENTS				Yes	No	N/A
Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.						
7.1	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
7.2	The agency provided new employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
7.3	The agency has established written procedures for initial ethics training. <i>See</i> 5 C.F.R. § 2638.304(f).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
7.4	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.304(f).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<b>DATA ANALYSIS</b>				<b>%</b>		
7.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.				100%	
7.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See</i> 5 C.F.R. § 2638.304(b).				75%	
<b>COMMENTS</b>						
(7.6) FLRA reported that eight new employees entered on duty in 2018; six of these eight new employees received initial ethics training within three months of employment. The remaining two employees were special Government employee (SGEs) advisory committee members whose committees did not meet during 2018; therefore, these SGEs were not provided initial ethics training. However, both SGEs were provided annual ethics training during 2018.						

8.0 Annual Ethics Training						
COMPLIANCE REQUIREMENTS				Yes	No	N/A
Each calendar year, public filers, confidential filers, and certain other employees must complete ethics training which meets specified requirements. <i>See</i> 5 C.F.R. §§ 2638.307 and 2638.308.						
8.1	The training presentation(s) addressed concepts related to financial conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. §§ 2638.307(e)(1) and 2638.308(f)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8.2	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8.3	The agency's annual ethics training complies with the formatting requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(d) and 2638.308(e).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8.4	The agency's program for annual ethics training complies with the tracking requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(f) and 2638.308(g).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

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8.5	The agency can demonstrate it has an effective process for ensuring covered public filers, other than those whose pay is set at Level I or Level II of the Executive Schedule, complete live annual ethics training at least once every two years. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>Training Format</b>		
		<b>Live</b>	<b>Interactive</b>	
Percentage of public filers who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.308(a).				
8.6	• Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1).	NA		
8.7	• Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	67%		
8.8	• SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3).	93%		
Percentage of confidential filers and certain other employees who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.307(a)(d).				
8.9	• Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1).	40%	40%	
8.10	• Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	NA		
8.11	• Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	NA		
8.12	• Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3).	NA		
8.13	• Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4).	NA		
<b>COMMENTS</b>				
(8.7) Three FLRA PAS officials were required to receive annual ethics training during 2018; two of them received the training in 2018 and one received it in January 2019. FLRA's ADAEO stated that the delayed training for the one PAS official occurred in part because of the government shutdown. (8.9) Five confidential filers were required to receive annual ethics training during 2018; four of them received the training during 2018 and one received the training in March 2019.				

## 9.0 ETHICS ADVICE AND COUNSELING

<b>COMPLIANCE REQUIREMENT</b>		<b>Yes</b>	<b>No</b>	<b>N/A</b>
9.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations. <i>See</i> 5 C.F.R. § 2638.104(c)(4).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
(9.1) Compliance based on OGE's review of the agency's advice and counseling.				

## 10.0 Special Government Employees (SGE) Serving on Advisory Committees and Boards

### Confidential Financial Disclosure

10.1	Number of SGEs serving on Advisory Committees and Boards.	15
<b>DATA ANALYSIS</b>		<b>%</b>
10.2	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	73%
10.3	Percentage of sampled reports reviewed within 60 days of receipt but not later than the SGE's first meeting. <i>See</i> 5 C.F.R. § 2634.605(a).	100%
10.4	Percentage of sampled reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%

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### Ethics Training

COMPLIANCE REQUIREMENTS		Yes	No	N/A
Required ethics training must be provided to each SGE. <i>See</i> 5 C.F.R. §§ 2638.304 and 2638.307.				
10.5	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.6	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
10.7	Percentage of SGEs who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	N/A		
10.8	Percentage of SGEs who received initial ethics training timely. <i>See</i> 5 C.F.R. § 2638.304(b)(2).	N/A		
10.9	Percentage of SGEs who received annual ethics training. <i>See</i> 5 C.F.R. § 2638.307(d)(2).	57%		
COMMENTS				
<p>(10.1-10.2) For 2018, FLRA's 15 SGEs were assigned to 3 committees and filed confidential financial disclosure reports. These committee members consisted of 4 newly appointed SGEs and 11 who continued their services from prior years. The 11 returning SGEs filed annual reports. Two of the four newly appointed SGEs filed new entrant reports in 2018, one filed in May 2019, and one did not file prior to resigning in May 2019. None of these newly appointed SGEs' committees held meetings during 2018.</p> <p>(10.7-10.8) None of the newly appointed SGEs' committees held meetings during 2018. As a result, these SGEs did not receive initial ethics training and instead received annual ethics training in 2018.</p> <p>(10.9) Only one of the three FLRA committees held meetings during 2018. Of the seven SGE members of this committee, four received annual ethics training in 2018, two received the training in February 2019, and one did not receive the training. The term of service for the SGE who did not receive the annual ethics training expired on January 10, 2019.</p>				

### RECOMMENDATION(S)

#	Element	RECOMMENDATION	Compliance Due
1	8.7	<u>RECOMMENDATION:</u> Ensure that all PAS officials receive timely annual ethics training.	
2	10.2	<u>RECOMMENDATION:</u> Require returning SGEs to file new entrant financial disclosure reports, rather than annual reports.	
3	10.9	<u>RECOMMENDATION:</u> Ensure that all SGEs receive timely ethics training.	