



# Ethics Program Review

U.S. Department of State

Report No. 20-34  
June 30, 2020



The United States Office of Government Ethics (OGE) conducted a review of the United States Department of State (State) ethics program between September and December 2019. This review resulted in seven recommendations for program improvement in the areas of financial disclosure and ethics training, and is summarized below.

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## Objectives, Scope and Methodology

**Objectives:** OGE provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. The Ethics in Government Act gives OGE the authority to evaluate the effectiveness of executive agency ethics programs.<sup>1</sup> OGE uses this evaluation authority largely to conduct reviews of agency ethics programs. The purpose of a review is to identify and report on the strengths and weaknesses of an ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program.

**Scope:** OGE’s review focused on elements of State’s ethics program that were identified as weaknesses during OGE’s prior review, which concluded in January 2017. Specifically, this review examined program administration, financial disclosure, education and training, and special government employees (SGE).

**Methodology:** OGE conducted the review of State’s ethics program from September to December 2019. As part of its review, OGE examined a variety of documents provided by State ethics officials, including the department’s response to OGE’s 2019 Annual Agency Ethics Program Questionnaire, written procedures for administering the program, samples of public and confidential financial disclosure reports filed in 2018, ethics training materials, and documents related to SGE financial disclosure and training. In addition, OGE held discussions with agency ethics officials to clarify the information gathered, follow up on issues identified during the review, and discuss ethics program operations in further detail.

## Agency Background

State is the lead foreign affairs agency within the executive branch and the lead institution for the conduct of American diplomacy. It is headed by the Secretary of State, who is

<sup>1</sup> See title IV of the Ethics in Government Act, 5 U.S.C. app. § 402 and 5 C.F.R. part 2638.

nominated by the President and confirmed by the Senate. State's global presence constitutes more than 275 embassies, consulates, and other posts maintaining diplomatic relations with 191 countries. As of September 2019, State was comprised of over 76,000 employees.

## **Program Administration**

A primary ethics office at headquarters in Washington, DC, largely administers State's ethics program. A variety of officials throughout the department provide this office with secondary support.

### *Primary Ethics Office (L/EFD)*

State's Designated Agency Ethics Official (DAEO) is one of State's four Deputy Legal Advisers. The DAEO oversees five offices responsible for a variety of legal functions. One of these offices, the Office of Ethics and Financial Disclosure (L/EFD), primarily manages State's ethics program. An Assistant Legal Adviser manages the day-to-day operations of L/EFD and serves as the Alternate DAEO (ADAEO). L/EFD is responsible for providing ethics counseling, conducting training, certifying all financial disclosure reports, and performing other duties necessary to administer State's ethics program.

L/EFD is comprised of 14 employees. In addition to the ADAEO, L/EFD employs seven attorney advisers, a financial disclosure program manager, one ethics program specialist, two paralegal specialists, an office management specialist, an ethics program assistant, and one contract administrative assistant. The ethics program specialist, who coordinated the ethics vetting for the department's 200+ PAS positions and handled a large financial disclosure load of her own, retired in March, 2018. An eighth attorney had been assigned to L/EFD from the fall of 2016 through spring 2018 to assist with the surge in nominee work associated with the Presidential transition. While the State Department's nominee vetting continued at an elevated level in 2018, that attorney was not replaced after rotating out of the office in spring 2018. In addition, an employee of another bureau who worked part time on financial disclosure for the ethics program retired at the end of 2017. L/EFD has indicated that, with a hiring freeze lifted, it is now filling the vacant ethics specialist position and creating new ethics specialist and attorney positions as well.

### *Secondary Support*

State's size and worldwide geographic distribution present challenges for its ethics program. In an effort to address these challenges, State has assigned various ethics responsibilities to officials outside its ethics office, primarily to bureau Executive Directors at domestic locations and to Management Officers overseas. These officials' ethics responsibilities include approving attendance at widely attended gatherings, providing information to employees on gift rules, consulting with L/EFD attorneys on non-routine and complex ethics matters, identifying employees who need to file financial disclosure reports, and conducting an initial review of financial disclosure reports. The Department's Human Resources staff, both in the central Bureau of Human Resources (subsequently renamed the Bureau of Global Talent Management) and dispersed in the bureaus and at posts around the world, also plays an important

role in assisting with ethics-related aspects of onboarding new employees, identifying employees who are required to file financial disclosure reports, and documenting SGE status on personnel records.

## **Financial Disclosure**

Title I of the Ethics in Government Act requires that agencies administer public and confidential financial disclosure systems. Financial disclosure serves to prevent, identify, and resolve conflicts of interest by providing for a systematic review of the financial interests of officers and employees. The financial disclosure process also offers an opportunity for ethics officials to provide ethics-related counseling to report filers.

To evaluate the State's financial disclosure systems, OGE examined the required written procedures for administering the systems, including the required written notices, and a sample of public and confidential financial disclosure reports that were required to be filed by State employees.

### **Financial Disclosure Written Procedures**

Each executive branch agency must establish written procedures for collecting, reviewing, evaluating, and where applicable, making publicly available financial disclosure reports filed by the agency's officers and employees.<sup>2</sup> OGE examined State's written procedures and determined that they met applicable requirements.

### **Notices to DAEO**

The lead human resources official is required to notify the DAEO of all appointments to positions that require incumbents to file public or confidential financial disclosure reports no later than 15 days after the appointment.<sup>3</sup> The lead human resources official must also notify the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports no later than 15 days after termination.<sup>4</sup> These notifications help to ensure the timely collection of financial disclosure reports.

State's Bureau of Human Resources (HR) has granted the ADAEO and Financial Disclosure Program Manager access to the Department's electronic HR database so that L/EFD can generate reports of new personnel appointments and departures independently, rather than having to receive notices from the Bureau of HR.

Based on an evaluation of State's written procedures and a sample of public financial disclosure reports, OGE determined there is reasonable assurance that L/EFD can promptly identify appointments to and terminations from public filing positions. Most new employees who will be joining the Department in a filing position undergo an ethics clearance and complete their New Entrant financial disclosure reports before joining the Department. However, as discussed

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<sup>2</sup> See Section 402(d)(1) of the Ethics in Government Act.

<sup>3</sup> See 5 C.F.R. § 2638.105(a)(1).

<sup>4</sup> See 5 C.F.R. § 2638.105(a)(2).

in the confidential financial disclosure section below, State has encountered systemic challenges that have prevented the timely identification of employees who take on new duties that necessitate the filing of new entrant confidential financial disclosure reports, and this has delayed the filing of their financial disclosure reports.

## Public Financial Disclosure

Within 30 days of assuming a covered public filing position, an individual must file a public financial disclosure report.<sup>5</sup> The individual must subsequently file an annual report by May 15 each year and a termination report within 30 days of departing the public filing position.<sup>6</sup> The reports are required to be reviewed for potential conflicts of interest and certified within 60 days of receipt by the ethics office, unless additional information is being sought from the filer or remedial action is being taken.<sup>7</sup>

To evaluate the administration of State’s public financial disclosure system, OGE examined a sample of 40 new entrant, 40 annual, and 40 termination reports that were required to be filed beginning in 2018 up to the date of OGE’s onsite review. Table 1 below presents the results of OGE’s examination.

**Table 1. OGE Examination of Public Financial Disclosure Reports**

	New Entrant		Annual		Termination		Total	
<b>Reports Examined</b>	40		40		40		120	
<b>Filed Timely</b>	35	(88%)	38	(95%)	34	(85%)	107	(89%)
<b>Reviewed Timely</b>	35	(88%)	36	(90%)	29	(73%)	100	(83%)
<b>Certified Within 60 Days</b>	28	(70%)	26	(65%)	24	(60%)	78	(65%)

OGE’s examination of the sampled reports indicated that they were generally filed and reviewed timely. In particular, filing timelines of termination reports (85%) improved significantly in comparison to the 70% timeliness rate observed during OGE’s prior review of State, which concluded in January 2017. However, the rates for certifying reports within 60 days continues to require improvement, as was also observed during OGE’s prior review. State’s ADAEO explained that final certifications during the period covered by OGE’s current review were negatively impacted by workload challenges created by a hiring freeze that began in January 2017 and extended into 2018. Additionally, the ethics office also experienced the rotation of experienced attorney advisors during 2018.

OGE’s examination of the sampled reports also identified five instances where late filing fees could have been assessed because of delayed filing. The fee was assessed in one instance and fee waivers were granted in the remaining four instances.

<sup>5</sup> See 5 C.F.R. § 2634.201(b).

<sup>6</sup> See 5 CFR § 2634.201(a) and (e).

<sup>7</sup> See 5 CFR § 2634.605.

## Recommendation

1. Improve final certification timeliness of public financial disclosure reports.

### **Confidential Financial Disclosure**

Within 30 days of assuming a covered confidential filing position, an individual must file a confidential financial disclosure report.<sup>8</sup> The individual must also subsequently file an annual report by February 15 each year.<sup>9</sup> The reports are required to be reviewed for potential conflicts of interest and certified within 60 days of receipt by the ethics office, unless additional information is being sought from the filer or remedial action is being taken.<sup>10</sup>

To evaluate the administration of State’s confidential financial disclosure system, OGE examined a sample of 30 new entrant and 30 annual reports that were required to be filed in 2018. Table 2 below presents the results of OGE’s examination.

**Table 2. OGE Examination of Confidential Financial Disclosure Reports**

	New Entrant		Annual		Total	
<b>Reports Examined</b>	30		30		60	
<b>Filed Timely</b>	16 <sup>a</sup>	(53%)	23	(77%)	39	(65%)
<b>Reviewed Timely</b>	29	(97%)	30	(100%)	59	(98%)
<b>Certified Within 60 Days</b>	23	(77%)	25	(83%)	48	(80%)

<sup>a</sup>In their initial response to OGE’s draft report, L/EFD officials agreed with OGE’s analysis of the sample of new entrant reports and acknowledged the need for improvement. However, L/EFD officials also “calculated that 1,028 of the 1,404 new entrant reports from 2018 were submitted timely, which is 73%.” OGE did not attempt to recreate L/EFD’s calculations.

OGE’s review of the sample of State’s confidential reports indicates that improvements are still needed in filing timeliness of new entrant reports. Current new entrant filing timeliness (53%) did not improve from the 55% timeliness rate observed during OGE’s prior review of State. State’s ADAEO explained that new entrants are an institutional challenge because of the unusually high number of employees who rotate from position to position at State. For example, State’s Foreign Service Officers are constantly rotating, which creates challenges in capturing a previously non-filing employee who has rotated into a filing position. Similarly, duties often change without an accompanying personnel action. For example, a Foreign Service Officer overseas or an employee serving domestically may take on a role in a grant program as a portion of their portfolio. Additionally, according to ethics officials, the hiring freeze resulted in an increased number of non-filing employees being temporarily assigned to filing positions, and often without a clear expectation of how long the temporary assignment would last. Finally,

<sup>8</sup> See 5 C.F.R. § 2634.903(b).

<sup>9</sup> See 5 C.F.R. § 2634.903(a).

<sup>10</sup> See 5 C.F.R. § 2634.605.

because of the hiring freeze HR was understaffed, which hampered its ability to issue filing requirement notifications to new filers in a timely manner.

### Recommendation

2. Develop and implement strategies to address State's institutional challenges in timely identifying and notifying rotational employees who are required to file confidential reports.

## **Education and Training**

Each executive branch agency must carry out a government ethics education program to teach employees how to identify government ethics issues and obtain assistance in complying with government ethics laws and regulations. The training program is required to include: briefings for certain presidentially appointed, Senate-confirmed (PAS) employees; notices for prospective employees and newly appointed supervisors regarding their ethics-related obligations; initial ethics training for new employees; and annual ethics training for public and confidential financial disclosure report filers and certain other employees.<sup>11</sup> An ethics education program is essential to raising awareness among employees about the ethics laws and rules that apply to them and the availability of agency ethics officials to provide ethics counseling.

### **Ethics Briefing for Certain Agency Leaders**

Certain PAS officials must complete an ethics briefing to discuss their immediate ethics obligations no later than 15 days after their appointment, unless the DAEO grants an extension. Any extension of more than 15 days requires the DAEO to make a written determination that extraordinary circumstances make it necessary to provide the briefing at a later date.<sup>12</sup>

Within 15 days of appointment, an ethics attorney meets individually with State PAS appointees and discusses the ethics rules, as well as the additional required material. OGE confirmed that in 2018, all 29 of the covered PAS employees received the ethics briefing within 15 days of appointment.

### **Notices to Prospective Employees**

An agency must provide written offers of employment for positions covered by the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) which include: a statement regarding the agency's commitment to government ethics; notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes; information on how to obtain additional information on applicable ethics requirements; and, where applicable, notice of the time frame for completing initial ethics training and information regarding the filing of new entrant financial disclosure reports.<sup>13</sup>

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<sup>11</sup> See 5 C.F.R. Part 2638 Subpart C.

<sup>12</sup> See 5 C.F.R. § 2638.305.

<sup>13</sup> See 5 C.F.R. § 2638.303.

Based on its review of the procedures established by State to provide notices to prospective employees and its review of a sample of notices that were sent in 2018, OGE determined that there was reasonable assurance that prospective State employees received the required information along with their written offers of employment during the period under review.

### **Notices to New Supervisors**

An agency must provide each employee upon initial appointment to a supervisory position with certain written materials within one year of appointment. The written materials must include: contact information for the agency's ethics office and the text of the regulation specifying the government ethics responsibilities of supervisors; a copy of, a hyperlink to, or the address of a web site containing the Principles of Ethical Conduct; and such other information as the DAEO deems necessary for new supervisors.<sup>14</sup>

Based on its review of the procedures established by State to provide notices to new supervisors and its review of a sample of notices that were sent in 2018, OGE determined that there was reasonable assurance that new supervisors received the required information during the period under review.

### **Initial Ethics Training**

Each new employee subject to the Standards of Conduct must complete initial ethics training within three months of appointment, unless excluded by the DAEO. The training must be interactive and focus on government ethics laws and regulations that the DAEO deems appropriate. The training must address: financial conflicts of interest, impartiality, misuse of position, and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and, instructions for contacting the agency's ethics office.<sup>15</sup>

In 2018, new State employees were provided initial ethics training both through live seminars and on-line distance learning courses created by L/EFD. Links to sign up for the on-line training courses were automatically sent to all new civil service and foreign service employees. Additionally, civil service and foreign service employees were provided live training as part of their new employee orientation sessions. Ambassador candidates and PAS officials attended seminars that included ethics training in addition to the individual ethics briefings they received within 15 days of appointment.

OGE reviewed the materials State used to provide initial ethics training in 2018 and determined that the materials met applicable content requirements. OGE also reviewed training records and determined that State provided the training to over 80% of new employees within three months, as required.

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<sup>14</sup> See 5 C.F.R. § 2638.306.

<sup>15</sup> See 5 C.F.R. § 2638.304.

## Annual Ethics Training for Public Filers

Generally, an agency must provide live training each calendar year to each employee whose pay is set at Level I or Level II of the Executive Schedule. The agency must also provide live training to other employees who are required to file public financial disclosure reports pursuant to 5 C.F.R. § 2634.201(a) every other year, with interactive training provided in the intervening years. The training presentation, whether live or interactive, must focus on government ethics laws and regulations that the DAEO deems appropriate. The training must address financial conflicts of interest, impartiality, misuse of position, and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and, instructions for contacting the agency's ethics office.<sup>16</sup>

OGE reviewed the materials State used to provide annual ethics training in 2018 and determined that the materials met applicable content requirements. State's Level I and Level II Executive Schedule employees, the Secretary and the Deputy Secretary, received personalized in-person briefings from the DAEO and ADAEO. State's primary method of rendering annual training to its other public filing officials, including its PAS officials, was through its online interactive training module. State's ADAEO stated that PAS officials would be provided with live training during 2019.

OGE's examination of State's 2018 training completion records for public filers indicated that 70% of required PAS employees received training, while 59% of required non-PAS public filers received training. According to State ethics officials, the annual training completion rates were impacted by the furloughs caused by the federal government shutdown that lasted from December 22, 2018, until January 25, 2019. Through Department Notices, meetings with senior leaders and Executive Directors of State's bureaus and offices, and targeted emails, filers are repeatedly reminded of their obligation to complete annual training. Notwithstanding these reminders and the availability of online and in-person training, a number of State filers did not complete annual training. Because the annual training is available to employees at a time of their choosing and the deadline is December 31, L/EFD indicated that many employees wait until the end of the year. According to L/EFD, almost 1,000 employees took the online training course between Christmas and New Year's Eve in 2017. However, in 2018, employees who had not completed training prior to the start of the furloughs were unable to access the online training during the shutdown. State believes that, as a result, the number of employees who completed the online annual training course was significantly lower than in the preceding year. State attempted to mitigate the effects of the furlough by circulating electronic written versions of the online training to those employees exempted from the furlough.

While OGE acknowledges State's efforts to mitigate the effects of the furlough on employee ethics training, OGE also reiterates the importance of ensuring that all required employees are appropriately trained according to regulatory requirements. As such, OGE

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<sup>16</sup> See 5 C.F.R. § 2638.308.

recommends that State ensure that all required employees receive annual ethics training per regulatory requirements. OGE also suggests that State consider implementing measures that encourage employees to complete training earlier during the year.

### **Annual Ethics Training for Confidential Filers**

Generally, interactive training is required to be provided each calendar year to employees who are required to file a confidential financial disclosure report<sup>17</sup>; employees appointed by the President and employees of the Executive Office of the President; contracting officers described in 41 U.S.C. § 2101; and, other employees designated by the head of the agency. The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate and must address financial conflicts of interest, impartiality, misuse of position, and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and, instructions for contacting the agency's ethics office.<sup>18</sup>

State's confidential filing employees were trained through its online interactive training module and OGE's review of State's annual training material determined that they met applicable content requirements. However only 48% of employees required to receive the training completed it<sup>19</sup> According to State ethics officials, as with the training for public filers, the low training completion rate for confidential filers was largely due to the government shutdown.

### Recommendation

3. Ensure that all required employees receive annual ethics training.

### **Special Government Employees**

A special government employee (SGE) is an officer or employee of the executive or legislative branch retained, designated, appointed, or employed to perform official duties, full-time or intermittently, for not more than 130 days in any 365-day period. SGEs are required to file financial disclosure reports and receive ethics training.<sup>20</sup>

L/EFD officials stated that the decentralized nature of many of State's HR functions presents ongoing challenges to the SGE designation and tracking process. They added that bureau HR staff require additional training on State's updated SGE designation and tracking policies. L/EFD also stated that procedural improvements are needed to ensure that multi-year SGEs are properly reappointed or re-designated. Improvements are also required in the

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<sup>17</sup> See 5 C.F.R. § 2634.904.

<sup>18</sup> See 5 C.F.R. § 2638.307.

<sup>19</sup> According to State ethics officials, another 111 confidential filers (2%) received electronic written training.

<sup>20</sup> See 18 U.S.C. § 202(a).

identification and audit process for determining instances when employees who should have been designated as SGEs were not.

## Financial Disclosure

In 2018, there were 22 active Federal Advisory Committee Act (FACA) committees at State. L/EFD provided ethics services for four of these committees which employed a total of 55 SGEs. Members of two of these committees, the Cultural Property Advisory Committee (CPAC) and the U.S. Advisory Commission on Public Diplomacy (USACPD), employed SGEs who were required to file financial disclosure reports.<sup>21</sup> There were also 8 State SGEs not affiliated with any advisory committee who were required to file financial disclosure reports in 2018. Table 3 below presents the results of OGE’s examination of the SGE financial disclosure reports.

**Table 3. OGE Examination of SGE Financial Disclosure Reports**

	USACPD	CPAC	Non-Affiliated	Total
<b>Reports Selected for Examination</b>	3	11	8	22
<b>Filed Timely</b>	3 (100%)	5 (45%)	6 (75%)	14 (64%)
<b>Reviewed Timely</b>	0 (0%)	1 (9%)	6 (75%)	7 (32%)
<b>Certified Within 60 Days</b>	1 (33%)	3 (27%)	6 (75%)	10 (45%)

OGE found that while all three members of the USACPD submitted timely financial disclosure reports in 2018, only 5 of the 11 members of the CPAC submitted timely financial disclosure reports. Three of the late reports were filed over 3 months late. L/EFD officials stated that follow-up with these late filers was delayed by the government furlough, which began on December 22, 2018, and ended on January 25, 2019.

OGE also found that six of eight required filings by the SGEs not on any advisory committees were timely. OGE was informed that although the two remaining non-affiliated SGEs performed work in 2018 beyond their would-be reappointment dates, neither of the two SGEs were reappointed or filed financial disclosure reports. L/EFD officials stated that the financial disclosure reports for the two SGEs were erroneously not collected because the SGEs were winding down their service to the Department, performed only a small amount of unpaid work that was not tracked through State’s time-and-attendance system, and because of the SGEs’ intermittent and independent schedules. (Because the reports were not filed, OGE counted them as not being filed, reviewed, or certified timely.)

<sup>21</sup> The Advisory Committee on Historical Diplomatic Documentation and the Advisory Committee on International Law were excluded from filing financial disclosure reports because the DAEO determined that the duties of members of these committees were such that the possibility of a real and apparent conflict of interest was remote, in accordance with 5 C.F.R. § 2634.904(b).

OGE determined that 15 of the 22 reports were not reviewed timely, based on the tracking data automatically recorded by the electronic filing system State uses. OGE also found that 12 of the 22 reports (55%) were certified late. L/EFD again stated that certification of the reports was delayed because of the government furlough. However, OGE took into account the 35 calendar days employees were furloughed and still found that reports were certified late.

#### Recommendations

4. Improve financial disclosure report filing timeliness for CPAC SGEs.
5. Ensure that non-affiliated SGEs are properly tracked and file timely financial disclosure reports.
6. Improve review and certification timeliness of SGE financial disclosure reports.

#### **Ethics Training**

According to L/EFD, to meet the initial ethics training requirements in 2018, new SGEs were provided written ethics guidance packets that summarized the topics of gifts, conflicts, impartiality, and misuse of position and were instructed to take the online training at OGE's website. The SGEs were also required to certify training completion. When OGE removed the online training from its website, SGEs continued to receive the training in written form. Ethics officials developed live training specifically for FACA advisory committee SGE's. OGE's review of the live training materials determined that they met the content requirements. However, although L/EFD officials stated that live training was provided to the advisory committee SGEs, OGE could not determine from its review of State's SGE training completion records whether USACPD or CPAC SGEs received the live training during 2018.

State obtained the written training provided to the SGEs from OGE. OGE had received the training from another agency and had posted it on OGE's website as a resource for ethics officials. OGE subsequently issued revised training regulations that require agencies to provide certain employees, including most SGEs, with interactive training that focuses on ethics laws and regulations that the DAEO deems appropriate for the employees being trained.<sup>22</sup> OGE deleted the training from its website after the revised regulations were issued. The training provided by State is marginally interactive and general in nature. OGE encourages State to invest greater effort in providing more meaningful training to SGEs in order to protect agency programs from inadvertent conflicts of interest on the part of the SGEs who often wield significant influence on government decision making.

#### **Agency Comments**

OGE invites agency comments on its ethics program review reports. State's comments were provided in the attached letter.

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<sup>22</sup> See 5 C.F.R. § 2638, Subpart C.

(Attachment)



United States Department of State

*Washington, D.C. 20520*

June 29, 2020

Emory A. Rounds, III  
Director, U.S. Office of Government Ethics  
1201 New York Avenue, N.W., Suite 500  
Washington, DC 20005

Dear Mr. Rounds:

We appreciate the opportunity to review and comment on the U.S. Office of Government Ethics (OGE) Ethics Program Review Report for the U.S. Department of State covering calendar year 2018. We also appreciate the professionalism and collegial approach of Jaideep Mathai and Michael Scott, the team that has carried out the review since last fall. The Department of State is committed to maintaining a strong culture of ethics among all employees, aided by an effective ethics and financial disclosure program. We will use this report to guide continued improvement in our efforts.

The last Program Review for the Department of State was released in January 2017, and the years since then have been marked by both challenges and significant enhancements in the Department of State's ethics program. This current report focuses only on those aspects of the ethics program for which the 2017 review included Recommendations, and therefore it does not paint a comprehensive picture of the program's activities or accomplishments. For example, the Ethics and Financial Disclosure Office maintains a robust guidance and counseling program, with a team of attorneys answering wide-ranging ethics questions from staff around the world in a timely and effective fashion, and working with Civil Service and Foreign Service colleagues to support programming initiatives here in Washington and around the world. The ethics program has also expanded ethics training for bureaus and posts to best meet their needs in ways that go well beyond the annual training and initial ethics orientation for employees that are addressed in the Program Review. With regard to financial disclosure, the Department of State is home to well over 200 Presidentially-appointed, Senate-confirmed positions, and in the time period covered by this Program review, the Ethics and Financial Disclosure Office reviewed more than 80 nominee reports to help fill critical leadership positions. In short, the Ethics and Financial Disclosure Office has been attuned to the needs of the Department's employees and responsive to the agency's priorities in ways that go beyond the measured data reflected in the Program Review Report.

As the report notes, the Department of State faces challenges because of its world-wide workforce and the rotational nature of Foreign Service assignments. The Ethics and Financial Disclosure Office is a small but dedicated, talented, and professional team. The ethics program also relies on support from management officers and others in multiple bureaus and posts around

the world. Deepening the collaboration between the Ethics and Financial Disclosure Office, human resources, and other management staff will be critical for addressing the shortcomings identified in the Program Review. The report also notes that the Ethics and Financial Disclosure Office was short-staffed during the period covered by the review due to a hiring freeze. The Department's leadership has lifted that freeze and the ethics staff is now expanding, albeit modestly, which should provide significant help in addressing the Recommendations outlined in the report.

Turning to those Recommendations, we agree with the bottom line conclusions that our ethics program should strive for additional progress in the certification of OGE 278 reports, the timely identification of new entrant OGE 450 filers, annual ethics training compliance, and with regard to the designation and financial disclosure compliance of all Special Government Employees. Indeed, we are already working on measures that should further strengthen the ethics program.

**Certification of Public Financial Disclosure Reports:** We note that the vast majority of reports are reviewed for conflicts within 60 days, as required by 5 C.F.R. § 2634.605. The Ethics and Financial Disclosure Office has prioritized the ultimate certification of reports as well and will continue to implement strategies to improve the overall rate of certification.

**Identifying & Notifying Rotational Employees Who Are Required to File Confidential Reports:** As the Program Review notes, consistently identifying employees who take on new duties requiring the submission of a confidential financial disclosure report is a challenge for the Department of State because much of the work force rotates from position to position. This was exacerbated during the period covered by the Program Review because so many employees were serving in acting capacities or filling positions on a short-term basis due to staffing gaps. We do note that the small number of reports reviewed for the Program Review was not a representative sample and thus gives a somewhat skewed picture. Our review of over 1,000 new entrant confidential reports filed in 2018 indicates that 73% were filed timely—much better than the percentage reflected in the Program Review report, but still short of our expectations. The Ethics and Financial Disclosure Office will work with human resources and other management staff on training and implementation of best practices to identify employees who should file confidential reports in a more timely fashion.

**Annual Ethics Training:** We have been diligent about issuing training reminders via Department Notices, targeted emails, and announcements at meetings attended by the leaders and executive directors of the Department's constituent bureaus and offices. While annual training compliance is usually higher than in 2018, when the end-of-year federal government shutdown prevented approximately 1,000 employees from completing their training, we agree that improvement is still needed. We are moving towards adoption of an early "internal deadline" for annual training as suggested in the Program Review report and will consider additional strategies for increasing annual training compliance as well.

**Special Government Employees (SGEs):** The Department has made substantial progress since 2017 implementing regular financial disclosure processes for FACA advisory boards and vetting other new SGEs before they join the Department. While we regret that the Program Review

report does not address the positive changes since 2017, we agree that further progress is required to ensure that SGEs who serve more than a year are re-designated as a matter of routine and to encourage advisory board members to submit their financial disclosure reports in a timely fashion. We will work to improve coordination, enhance tracking, and increase communication with SGEs to make progress in these areas.

We respectfully disagree with the report's characterization of the ethics program's review of SGE financial disclosure reports once they are filed. As we pointed out during the review, the data in the report is incorrect in several important respects. We believe every SGE financial disclosure report filed in 2018 was reviewed in a timely fashion.

We appreciate OGE's commitment to supporting agency ethics programs. We thank the OGE program review team, and we look forward to continued constructive collaboration with OGE in the years ahead. Our ethics program has been focusing on many of the issues addressed in the Program Review report, and we will redouble our efforts in order to address the report's Recommendations and further enhance the strong culture of ethics and integrity at the Department of State.

Sincerely,

A handwritten signature in black ink, appearing to read "R. C. Visek", with a long horizontal flourish extending to the right.

Richard C. Visek  
Principal Deputy Legal Adviser &  
Designated Agency Ethics Official