

ETHICS PROGRAM INSPECTION REPORT

Agency: Office of the Director of National Intelligence

Report No.: 18-06I

Date: October 24, 2017

Period Covered by Review: January 1, 2016 through December 31, 2016



1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	Classified Information
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	5
1.4	Number of non-PAS public financial disclosure reports required to be filed	192
1.5	Number of confidential financial disclosure reports required to be filed	177
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	Acting General Counsel
1.7	Grade level of DAEO	SNIS
1.8	Title of Alternate DAEO (ADAEO)	Associate Deputy General Counsel (Ethics & Administrative Law)
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Associate Deputy General Counsel (Ethics & Administrative Law)
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-15
1.12	Current number of full-time ethics officials	1
1.13	Current number of part-time ethics officials	7
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%.)	25%
1.15	Number of reporting levels between the DAEO and the agency head	1
COMMENTS		
(1.1): This information is considered classified.		

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						

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UNITED STATES OFFICE OF
GOVERNMENT ETHICS

Preventing Conflicts of Interest
in the Executive Branch

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"/>
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						
(3.1 – 3.3) During the period under review, the Office of the Director of National Intelligence (ODNI) did not have any PAS officials who were required to take reportable actions to comply with their ethics agreements or any PAS officials who were required to notify OGE of their ethics agreement compliance.						

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)						
COMPLIANCE REQUIREMENT				Yes	No	N/A
4.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).					
4.1.1	• Collection of public financial disclosure reports			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.2	• Review/evaluation of public financial disclosure reports			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%		
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).			53%		
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).			90%		
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.			92%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).			100%		
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).			100%		
COMMENTS						
<u>Concern</u> (4.5) OGE examined 15 new entrant public financial disclosure reports that were filed in 2016. Of the 15 reports examined, 7 were identified						

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as having been filed late. ODNI ethics officials stated that each year all ODNI employees are reviewed as part of the Career Advisory Board. Generally, all promotions to SNIS (SES-level) resulting from this review are announced in the spring and have the same effective date. This effective date is followed by a promotion ceremony. In 2016, some newly promoted SNIS were provided the promotion ceremony date, May 12, as the new entrant date. The actual effective date for those promoted in 2016 was April 17. To address this issue in 2017, ODNI ethics officials stated that they confirmed the effective date with the Human Resources office as soon as promotions were announced and then sent an email to newly promoted SNIS instructing them to file within 30 days of the effective date. ODNI ethics officials added that this procedure will be continued going forward. OGE recommends that ODNI continue to implement corrective action to ensure that new entrant public reports are filed timely. OGE will conduct a follow-up review to assess the effectiveness of the action taken.

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).	20%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	95%		
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).	97%		
COMMENTS				
<p>(5.3) ODNI does not have an alternative confidential financial disclosure system.</p> <p><u>Concern</u> (5.5) OGE examined 15 new entrant confidential financial disclosure reports that were filed in 2016. Of the 15 reports examined, 12 were identified as having been filed late. All late reports were filed by newly certified Contracting Officer Technical Representatives (COTRs). According to ODNI ethics officials, the ODNI Ethics Office, in conjunction with the ODNI Head of Contracting Activity, are currently working to implement additional procedures to ensure newly certified COTRS timely file a new entrant confidential report. Information regarding the confidential disclosure filing requirements will be included in the COTR certification materials provided on ODNI's internal website. The contracts office also now includes information regarding confidential filing on the checklist required to be completed in order to be certified as a COTR. Additionally, the Ethics Office will receive monthly reports from the contracts office showing the certification dates for new COTRS.</p> <p>Confidential filers have also been moved to the same electronic filing system used by public filers. This will allow monthly reminders to be sent automatically from within the system to component organization ethics officials regarding the confidential new entrant requirement. The monthly reminders will include information on how to identify which types of positions should file a confidential report to capture those new entrant filers who are not Contracting Officers or COTRS. OGE recommends that ODNI continue to implement corrective action to ensure that new entrant confidential reports are filed timely. OGE will conduct a follow-up review to assess the effectiveness of the action taken.</p>				

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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							
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	• 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).				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>(7.1.5) ODNI does not have an agency supplemental regulation promulgated by the title 5 supplementary process. However, OGE is aware that ODNI has additional agency rules which require ODNI employees to obtain prior approval for outside employment. This directive stems from the requirement in Section 102A(u) of the National Security Act of 1947, as amended, that calls for the Director of ODNI to consult with OGE on the issuance of regulations prohibiting an officer or employee of an Intelligence Community element from engaging in outside employment if such employment creates a conflict of interest or appearance thereof. In 2013, ODNI consulted with OGE on the development of the Intelligence Community Directive 117, Outside Employment (ICD 117). As a result of the consultation process, OGE had no objections to the issuance of ICD 117.</p>							

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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(S)			
#	Element	RECOMMENDATION	Compliance Due
1	(4.5)	<u>RECOMMENDATION:</u> Ensure that new entrant public financial disclosure reports are filed timely. <u>AGENCY RESPONSE:</u> Following the Career Advisory Board in 2017, 100% of newly promoted SNIS filed in a timely manner. Going forward ODNI ethics will continue the process used in 2017 to coordinate with Human Resources to ensure new entrant SNIS file within 30 days of the effective date.	January 2018
2	(5.5)	<u>RECOMMENDATION:</u> Ensure that new entrant confidential financial disclosure reports are filed timely. <u>AGENCY RESPONSE:</u> ODNI ethics has coordinated with ODNI contracts to implement additional procedures to ensure newly certified COTRs file new entrant confidential reports in a timely manner. As an example, ODNI ethics has already implemented monthly reminders to Organization Ethics Officials on identifying new entrant filers. ODNI ethics will continue to coordinate with ODNI contracts to identify new entrant confidential filers and ensure timely filing.	January 2018